MECHANISMS TO IMPLEMENT UN SECURITY COUNCIL RESOLUTIONS BY USING MILITARY FORCE (LIBYAN CRISIS 2011 AS A MODEL) ANALYTICAL STUDY

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Abstract- The forms of international organizations varied according to the purpose of their establishment. These types of international military organizations were formed, which aim to defend by all means (even military ones) the security and safety of the members of these organizations. The North Atlantic Treaty Organization (NATO) is one of those military organizations that emerged after the end of the Second World War with the victory of the Allies over the Axis Powers, and then the Cold War between the allies of yesterday and today's adversaries. Most of the countries of the world are divided into supporters of this or that camp. The end of the Second World War marked the outbreak of another war called the Cold War between the two international poles: The Western pole led by the United States of America and the Eastern Pole led by the former Soviet Union. This Cold War has resulted in the emergence of international military organizations, and these international military organizations continued even after the demise of one of the two poles (the Soviet Union). The North Atlantic Treaty Organization (NATO) remains and its last intervention in the emerging crises was its intervention to topple Colonel Muammar Gaddafi's regime in 2011. Because no military force was established under the UN, The UN Security Council (as a principal organ of the United Nations responsible for the maintenance of international peace and security), in the implementation of its resolutions under Chapter VII of the United Nations Charter, It depends on states and international military organizations, including NATO ((Libyan Crisis 2011 as a model).

Key words- UN Security Council, The NATO, Libyan Crisis, Arab Spring Revolutions.

I. UN SECURITY COUNCIL[(1)]

The UN Security Council is one of the main organs of the United Nations in the first place - in terms of importance - although it was mentioned later in the General Assembly, and the basis of this importance is those powers vested in it. Article 24/1 of the Charter of the United Nations has affirmed that importance by stating that "the desire for the work of the United Nations to be swift and effective is that the members of that body entrust the Security Council with the main consequences of the maintenance of international peace and security and agree to this Council to act on its behalf in the performance of its duties imposed by these consequences." Accordingly, the Members of the United Nations agreed that the Security Council, when carrying out its duties under this responsibility, acted on their behalf. The UN Security Council consists of 15 members[(2)], five of whom are permanent members, each has veto power and 10 others are elected for two years by the General Assembly and among its members. The five permanent members are: United States - Russia - China - France – United Kingdom[(3)]. Non-permanent members are elected as follows[(4)]: 2 from Latin America, 5 from Asia and Africa, 2 from Western Europe and 1 from Eastern Europe. The non-permanent member may not be re-elected immediately after the expiry of its term in order to give the opportunity to represent other States. At the beginning of its composition, the Security Council consisted of 11 members, 5 permanent and 6 non-permanent. In 1956, States proposed to increase the number of non-permanent members of the Security Council to 8 in line with the increase of the number of the members of General Assembly. Consideration of that issue was deferred to a subsequent session although the proposal was initially supported by most States. But the issue was not decided until 1963, where the number of members of the General Assembly at that time raised to 112 members, and

(1) For more information see: David Malone, The UN Security Council: From the Cold War to the 21st Century, lynne rienner publishers, Inc, London, 2004. Sabine Hassler, Reforming the UN Security Council Membership: The Illusin of Representativeness, 1st edition, Routledge, new York, 2013. Peter Nadin, UN Security Council Reform, 1st edition, Routledge, new York, 2016. And Dimitris Bourantonis, The History and Politics of UN Security Council Reform, , 1st edition, , Routledge, new York, 2005.

(2) Susan Breau, Q & A Revision Guide International Law 2013 and 2014, 1st edition, oxford university press, U.K., 2013, p. 16.

(3) Benedetto Conforti, The Law and Practice of the United Nations, 3rd edition, martinus nijhoff publishers, leiden / boston, 2005, p. 61.

(4) Paul Taylor and A.J.R. Groom, United Nations at the Millennium: The Principal Organs, 1st edition, continuum, London and new York, 2000, p. 245.

then it was decided to raise the number of non-permanent members of the Security Council to 10[5].

II. THE BINDING UN SECURITY COUNCIL RESOLUTIONS

If the procedures set forth in Article 6 of the Charter fail to end international disputes[6], the conflict which continues to worsen until a conflict becomes a threat or a breach of international peace and security or a case of aggression has occurred, the Charter of the United Nations has set out a whole chapter which is Chapter 7 where the UN Security Council can issue binding decisions in accordance with this chapter which, in its content, carries an objective solution to the settlement and termination of the conflict. Therefore, if the UN Security Council decides that there is a threat to the peace, breach or aggression, the UN Security Council may issue such binding decisions as it deems appropriate. States do not have the right to challenge them. These decisions are:

A- Interim measures[7].

B- Non-military measures[8].

C- Military measures: The Security Council may, if it deems it necessary, and the measures already mentioned do not lead to the suppression of aggression, resort to the use of armed forces against the aggressor State or States in accordance with Article 42 of the Charter of the United Nations, which states: That the measures provided for in Article 41 are not sufficient or proven to have not been fulfilled, may be taken by the air, sea and ground forces for the maintenance or restoration of international peace and security". Accordingly, the adoption of repressive measures does not depend on the request or consent of the State being attacked, but the UN Security Council may proceed by itself to take such measures, which confirms that the maintenance of international peace and security is made with the entry into force of the United Nations Charter is a matter for the benefit of the international community and not limited to the parties to the conflict[9].

III. NORTH ATLANTIC TREATY ORGANIZATION (NATO)

On April 4, 1949, twelve countries signed the NATO Treaty[10]. NATO was established under Article 51 of the Charter of the United Nations[11].

On July 6, 1948, contacts began between the countries of Western Europe and the subsequent entry into the new alliance consecutively, on March 18, 1949, the provisions of the new charter were announced and the date of signature was set in April 1949 in Washington. But the Soviet Union has put pressure on the 12 countries that have announced their participation in the alliance, giving a note to each of them, describing their participation in the alliance as aggressive. However, they signed the North Atlantic Treaty Organization (NATO) on April 4, 1949, in Washington, and ratified by the parliaments of the signatories, within the five months following the signing, which came into force on 24 August. These countries are: United States, Canada, Britain, France, Italy, Norway, Denmark, Iceland, Portugal, Belgium, Netherlands, and Luxembourg. Then other countries gradually joined the alliance[12].

4. Arab Spring Revolutions[13]: The revolutions of the Arab Spring began first in Tunis, but did not stop

(5) Klaus Hüfner(Ed.), Agenda for Change: New Tasks for the United Nations, springer fachmedien Wiesbaden, 1995, p. 108.

(6) See: the article 6 of the UN charter, that about Recommendations of the UN Security Council. For more about this issues see: Renata Sonnenfeld, Resolutions of the United Nations Security Council, Martinus Nijhoff Publishers. 1988. Loraine Sievers and Sam Daws, The Procedure of the UN Security Council, 4th edition, oxford university press, 2014. And Bruce Cronin and Ian Hurd, The UN Security Council and the Politics of International Authority, 1st edition, , Routledge, new York, 2008.

(7) Jan Kittrich, The Right of Individual Self-Defense in Public International Law, Logos Verlag Berlin GmbH, 2008, p. 93.

(8) Erika De Wet, The Chapter VII Powers of the United Nations Security Council, Hart Publishing, Oregon, 2004, p. 185.

(9) See: Sean D. Murphy, Humanitarian Intervention: The United Nations in an Evolving World Order, University of Pennsylvania Press, 1996, p. 76. Shirley V. Scott and Charlotte Ku, Climate Change and the UN Security Council, Edward Elgar Publishing, Northampton, 2018, p. 27. Tarcisio Gazzini, The Changing Rules on the Use of Force in International Law, Manchester University Press, U.K., 2005, p. 7. And Neyire Akpinarli, The Fragility of the 'Failed State' Paradigm: A Different International Law perception of the absence of effective government, martinus nijhoff publishers, leiden / boston, 2010, P. 116.

(10) HARRY S. TRUMAN, on this date: Twelve Foreign Ministers Sign North Atlantic Treaty in Washington, available on: http://www.atlanticcouncil.org. last visiting at 12-10-2017.

(11) Article 5 of The North Atlantic Treaty, Washington D.C. - 4 April 1949, available on: http://www.nato.int. last visiting at 25-10-2017.

(12) NATO Information Service, The North Atlantic Treaty Organization: facts and figures, 10th Edition, NATO Information Service, 1981.

(13) Koert Debeuf, Inside the Arab Revolution: Three Years on the Front Line of the Arab Spring, Lannoo

there, but spread to include several Arab countries in the Middle East, and these countries are:
Tunis on 17 December 2010.
Egypt on 25 January 2011.
Yemen on 11 February 2011.
Libya on 17 February 2011.
Syria on March 15, 2011.

IV. THE LIBYAN REVOLUTION(14)

In February 2011, the February Revolution broke out in the form of protests and demonstrations against the Gaddafi regime, which is classified as a repressive regime. It was launched following the arrest of the lawyers of the victims of Bo Salim prison (Fathi Tarbal) in the city of Benghazi. The families of the victims and their supporters went out to rescue him because there was no reason to arrest him, followed by demonstrations on February 16 to demand the overthrow of the regime in the city of El-Bayda followed by several other Libyan cities and regions, and soon spread in many parts of Libya. On the 26th of the same month violent repression was reported by Gaddafi's security forces, but on 27 December the protesters established the National Transitional Council, which became the Revolutionary Government and succeeded in controlling many coastal cities in the east and south-east regions, as well as three Cities in the west of the country and in the areas of Mount Nafusa the beginning of the demonstrations, which raised the flag of Libya's independence in 1951, which was canceled by Gaddafi in 1969. It then liberated most of the country, especially Tripoli, on August 20. As of mid-September, Gaddafi's military battalions remained in control of the cities of Sabha, Sirat, Bani Walid, Jafrah and Ghat on the Libyan-Algerian border. On September 16, the United Nations recognized the majority of members of the National Transitional Council as the only government in Libya to receive the Council Libya's seat in the international organization, and on October 23 officially announced the liberation of Libya after the killing of Colonel Muammar Gaddafi in the city of Sirte, his hometown in an attempt to flee to the south of the country on the twentieth of October.

V. INTERNATIONALIZATION OF THE LIBYAN CRISIS

On February 25, 2011, the UN Security Council held its public meeting No.6490(15) under the chairmanship of Brazil, and Libya was invited to participate in it pursuant to Article 37 of the Council's Rules of Procedure, which allows it to invite any Member of the United Nations that is not a member of the Council to participate (and not vote) in the discussion of any matter of concern when the Council decide. The Council heard a briefing on the situation in Libya in which the Secretary-General of the United Nations emphasized the urgent need for action by the Council. After the members of the Council and Libya had spoken, the Chairperson ended the meeting by inviting members to informal consultations to discuss the matter. These consultations began and dealt with a draft resolution, in which there were little differences between the members of the Council. The draft was finalized, adopted and presented to the Council by more than the required majority of 9 votes without any veto by any of the permanent members. On the following day, 26 February 2011, the Council held its public meeting No. 6491(16), also under the chairmanship of Brazil, and Libya was again invited to participate in this meeting pursuant to rule 37 of the Council's rules of procedure. The draft resolution was adopted by 11 countries: France, Britain, the United States, Lebanon, Bosnia, Colombia, Gabon, Germany, Nigeria, Portugal and South Africa. The draft resolution was voted unanimously by the five permanent members of the Council: the Russian Federation, China, France, the United Kingdom and the United States, as well as the 10 countries elected to the Council: Bosnia, Brazil, Colombia, Gabon, Germany, India, Lebanon, Nigeria, Portugal and South Africa. Of the Charter, and its Article 41, which authorizes the Council to decide what measures should be taken that do not require the use of armed forces to implement its resolutions, and to request Members of the United Nations to apply such measures. The resolution considered "widespread and systematic attacks in Libya against civilians" as "crimes against humanity" and strongly condemned them and asked the Gaddafi regime to stop the violence immediately and take steps to meet the demands of the Libyan people. The decision imposed

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Campus, 2014. And asaad al-saleh, Voices of the Arab Spring: Personal Stories from the Arab Revolutions, Columbia University Press, 2015.

(14) For more information see: Peter Cole and Brian McQuinn, The Libyan Revolution and Its Aftermath, oxford university press, New York, 2015. Ethan Chorin, Exit the Colonel: The Hidden History of the Libyan Revolution, Public Affairs, 2012. And Karen Dabrowska, The Libyan Revolution: Diary of Qadhafi's Newsgirl in London, 1st edition, Author House, 2012.

(15) Mikael Eriksson, towards selective regionalization?, in: Peter Wallensteen and Anders Bjurner, Regional Organizations and Peacemaking: Challengers to the UN?, Routledge, new York, 2015, p. 224.

(16) Jeff bachman, Libya: A UN resolution and NATO's failure to protect, in: Karim Makdisi, Vijay Prashad, Land of Blue Helmets: The United Nations and the Arab World, university of California press, Oakland, 2017, p. 213.

severe sanctions on Gaddafi and his family and close associates, forbidding the sale of arms and ammunition to Libya and preventing travel to 16-member states, including Gaddafi and seven of his sons, daughter and people closely linked to the regime. The decision also suspended the freezing of financial assets belonging to Gaddafi and five of his sons, and the establishment of a special sanctions committee in Libya. More importantly, the decision to refer the situation in Libya since 15 February, the outbreak of the February 17, 2011 revolution to the Prosecutor of the International Criminal Court, considered the practices of the regime to be "the most serious crimes of concern to the international community as a whole" Genocide, crimes against humanity and war crimes, which was resolution No. 1970. After less than a month of his first decision, the Security Council, headed by China, returned to Libya to issue its important resolution 1973/2011. The resolution, also issued under Chapter VII, had important implications for the march of the Revolution. Its important provisions on the protection of civilians and the No-fly zone were the subject of long informal consultations. The Security Council followed the progress of the Gaddafi Brigades in mid-March 2011, towards Benghazi, the stronghold of the main rebels until it reached the outskirts of the city and waged a violent attack and violent , in just two days, killed the lives of many people of the city and thus clearly demonstrating the non-compliance of the Gaddafi regime with the Council's previous resolution (resolution 1970), And the Council had decided that it would continue to review the actions of the Gaddafi regime and the appropriateness of the measures contained in this resolution, including the strengthening of those measures. The Arab League Resolution No. 7298 on March 2, 2011[17], concerning the request of the Security Council to assume responsibility for the deterioration of the situation in Libya, and to adopt of measures to impose a no-fly zone on the Libyan military air traffic, and to establish of safe areas in the places where the bombing was exposed. Since the United Nations does not have military forces, and on March 19, 2011, after two days of the adoption of UN Security Council resolution 1973[18], the implementation of the resolution was launched in the framework of the so-called Operation of Odessa Dawn by France, the United States and Britain represented by NATO, some countries outside NATO participated in the process in one way or another. Where NATO began to wage air strikes on the Libyan Brigades. The February 17 Revolution was victorious and the National Transitional Council passed the declaration of liberation on October 23, 2011. NATO set the end of that month as the deadline for ending its naval and air operations in Libya after a preliminary agreement between representatives of the 28 NATO member states gathered in Brussels. On 27 October 2011, at its 6640th plenary meeting, the Security Council unanimously adopted Resolution 2016[19], which ended the mandate given to Member States to take all necessary measures to protect civilians, and also decided to lift the air embargo as of 31 October 2011.

VI. PROBLEMS OF NATO INTERVENTION IN LIBYA

Although the United Nations has stipulated in its charter the principle of non-interference in the internal affairs of states, serious human rights violations justify intervention to protect them, particularly under UN Security Council resolutions based on Chapter VII of the UN Charter. This is what we see in the case of NATO intervention in the Libyan crisis, based on the UN Security Council resolution issued pursuant to Chapter VII of the Charter of the United Nations. But despite NATO's legal reference to intervention, it has raised three important problems[20]:

A. Although the content of the resolutions referred to is "the imposition of a no-fly zone on the Libyan military air traffic as a precautionary measure to provide protection to the Libyan people and provide urgent humanitarian assistance," NATO's mission has gone beyond that by bombing civilian sites and government offices of the Libyan president.

B. Security Council resolutions referred only to the parties in operation in Libya "Member States that have notified the Secretary-General which acting at the national level or through regional organizations or

(17) Fadi Rajab, The Positions of Germany in NATO towards the issues of The Arab World (intervention in Libya), Philipps-marburg university, p. 18. Available on: http://www.academia.edu. Last visiting at 24-1-2018.

(18) Philippe kirsch and Mohamed S. Helal, Libya, in: Jared Genser and Bruno Stagno Ugarte, The United Nations Security Council in the Age of Human Rights, Cambridge University Press, new York, 2014, p. 425.

(19) Cherif Bassiouni, Libya: From Repression to Revolution: A Record of Armed Conflict and international law violations, 2011-2013, leiden-boston, 2013.

(20) Tom Ruys, Olivier Corten and Alexandra Hofer, The Use of Force in International Law: A Case-Based Approach, 1st edition, oxford university press, U.K., 2018. Kjell Engelbrekt, Marcus Mohlin and Charlotte Wagnsson, The NATO Intervention in Libya: Lessons learned from the campaign, 1st edition, Routledge, new York, 2014. And John Idriss Lahai and Tanya Lyons, African Frontiers: Insurgency, Governance and Peacebuilding in Postcolonial states, , Routledge, new York.

arrangements and in cooperation with the Secretary-General shall be authorized to take all necessary measures to protect civilians and inform the Secretary-General.

C. That with the importance of the regional reference, which is the decision of the Arab League and the subsequent participation of Gulf States, namely Qatar, UAE and Kuwait in the operations of NATO in Libya, the talk of double standards international was present and strongly. While Western countries speak of human rights violations in Libya and the targeting of Gaddafi forces by civilians, it is these same countries that have provided enormous support to the armed forces in Libya, reflected by the wide participation of these countries in the arms exhibition held in Libya in 2010. the NATO Secretary General said "NATO's move against the Libyan regime was a strong mandate of the Security Council and clear support from the countries of the region, a rare combination we have not seen in other situationz".

CONCLUSIONS

1. The UN Security Council is one of the main organs of the United Nations in the first place - in terms of importance - although it was mentioned later in the General Assembly, and its consists of 15 members, five of whom are permanent members, each has veto power and 10 others are elected for two years by the General Assembly and among its members.

2. The Binding UN Security Council Resolutions are: Interim measures, Non-military measures and Military measures.

3. One of the consequences of the Cold War and the division of the world into two camps, the US-led Western Camp and the Soviet-led Eastern Camp, was the policy of military alliances. Where the United States was established with its allies the North Atlantic Treaty Organization (NATO).

4. The Arab Spring revolutions broke out at the end of 2010 with the burning of Tunisian youth Bouazizi to himself in protest against the ill treatment of the authorities, and spread to include Egypt, Libya and Syria. There were a number of factors behind the outbreak of the Arab Spring revolutions, including internal and external factors.

5. In February 2011, the February Revolution broke out in the form of protests and demonstrations against the Gaddafi regime. It was launched following the arrest of the lawyers of the victims of Bo Salim prison (Fathi Tarbal) in the city of Benghazi. The families of the victims and their supporters went out to rescue him because there was no reason to arrest him, followed by demonstrations on February 16 to demand the overthrow of the regime in the city of El-Bayda followed by several other Libyan cities and regions, and soon spread in many parts of Libya.

6. The Libyan crisis was internationalized when on February 25, 2011, the UN Security Council held its public meeting No.6490 under the chairmanship of Brazil, and on the following day, 26 February 2011, the Council held its public meeting No. 6491, also under the chairmanship of Brazil, the draft resolution was adopted by 11 countries, the draft resolution was voted unanimously by the five permanent members of the Council as well as the 10 countries elected to the Council.

7. Because the United Nations does not have its own military forces, it has relied on the military forces of NATO member states. This was the reason for the victory of the February 17 revolution, where the National Transitional Council on October 23, 2011 announced the liberation declaration, and NATO set at the end of that month, as the deadline to end its maritime and air operations in Libya, after a preliminary agreement between the representatives of the 28 allies gathered in Brussels. On 27 October 2011, at its 6640th plenary meeting, the Security Council unanimously adopted Resolution 2016, which ended the mandate given to Member States to take all necessary measures to protect civilians, and also decided to lift the air embargo as of 31 October 2011.

8. Although the United Nations has stipulated in its charter the principle of non-interference in the internal affairs of states, serious human rights violations justify intervention to protect them, particularly under UN Security Council resolutions based on Chapter VII of the UN Charter. This is what we see in the case of NATO intervention in the Libyan crisis, based on the UN Security Council resolution issued pursuant to Chapter VII of the Charter of the United Nations ,but despite NATO's legal reference to intervention, it has raised three important problems.

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