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Article:

Beresford, AR orcid.org/0000-0001-9283-2987 (2015) A responsibility to protect Africa from the West? South Africa and the NATO intervention in Libya. *International Politics*, 52 (3). pp. 288-304. ISSN 1384-5748

<https://doi.org/10.1057/ip.2015.11>

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A responsibility to protect Africa from the West? South Africa and the NATO Intervention in Libya

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Abstract This article will argue that South Africa's approach to conflict mediation and peace building is informed by the ANC's experience of the transition to democracy in South Africa and is widely misinterpreted. This was particularly evident in the Libyan crisis, where South Africa was widely accused of exhibiting a morally duplicitous and ideologically rudderless foreign policy because of the manner in which it initially supported intervention and subsequently became one of the fiercest critics of the NATO campaign. It will be argued that this is an inaccurate caricature of South Africa's foreign policy and that South Africa's approach could in fact inject vital pluralism into debates about the future of humanitarian interventions in Africa. The article draws upon interviews with senior officials in the ruling African National Congress (ANC) and South African officials who negotiated the UN Security Council resolutions that sanctioned intervention in Libya.

Keywords: Libya, South Africa, ANC, NATO, Responsibility to Protect

Introduction

This article will explore South Africa's response to the NATO interventions in Libya to highlight the tensions and contradictions within its foreign policy formulation. Initially, as a non-permanent member of the UN Security Council at the time, South Africa had voted in favour of Resolution 1973 authorising 'all necessary measures... to protect civilians and civilian populated areas under threat of attack...' in Libya (UNSC, 2011). However, as Simon Adams noted, 'within days South Africa displayed significant signs of buyer's remorse, distancing itself from the resulting NATO-led airstrikes' (Adams, 2013). Echoing sentiments raised by China, India, Brazil and Russia, South Africa quickly became critical of what it perceived to be the abuse of the mandate provided by Resolution 1973 by the NATO powers to pursue regime change which, President Jacob Zuma argued, 'flies in the face of all efforts to promote the sanctity of international law' (Mail & Guardian 2013).

The apparent inconsistency exhibited in South Africa's initial support for Resolution 1973 and its subsequent criticism of NATO's intervention in Libya was characterised within the world press as a 'flip flop' foreign policy, devoid of a clear and coherent strategic, ideological or ethical direction. *Africa Confidential* (2011), for example, argued that Jacob

Zuma's foreign policy was characterised by a series of 'flip flops' caused by the lack of a clear definition. In a similar vein, *The Economist* (2011) declared South Africa's foreign policy to be 'all over the place', quoting former South African ambassador Tom Wheeler as saying: 'None of it makes any real sense. There's no substance, no coherence'. Academics also highlighted what they regarded as South Africa's 'flip-flop foreign policy stance' (Aboagye, 2012, p. 41).

The vacillations in South Africa's public pronouncements made Zuma, and the African Union (AU) as a whole, an easy target for the NATO powers' propaganda machines (De Waal, 2012). Critics argued that South Africa's refusal to share the Western position on the need for regime change in Libya, and Zuma's insistence on finding a negotiated solution via the AU, severely undermined South Africa's claim to be a human rights champion. This was evident in the Manichean language employed by the likes of Liam Fox, then UK Defence Secretary, who bemoaned South Africa's 'disappointing' opposition to regime change and their reluctance to support the NATO-backed National Transitional Council (NTC), arguing that:

It is very clear what side the Libyan people are on and I think that is what the South African government should respond to. I think there will be huge moral pressure on South Africa. They wanted the world at one point to stand with them against apartheid. I think they now need to stand with the Libyan people. (Guardian 2011)

As one columnist for *The Atlantic* argued, South Africa's stance on the NATO intervention in Libya reflected a 'betrayal of the massive international goodwill it earned' after apartheid, and that South Africa had now become a 'rogue democracy' in world affairs. Such narratives reinforced the idea that South Africa had demonstrated an inconsistent approach to the Libyan crisis and a morally duplicitous stance on human rights promotion: a duplicity that has been highlighted by scholars in other contexts, such as where South Africa is perceived to 'go soft' on human rights abusers like Robert Mugabe and Omar Bahir, among others (Taylor and Williams 2002; Nathan 2011).

This article will argue that the narratives of leaders like Fox not only gloss over the moral inconsistencies of the Western powers, they also fail to comprehend South Africa's foreign policy. Rather than ideological inconsistency, South Africa's apparent 'flip flop' over Libya actually reflects South Africa's consistent, though deeply problematic, approach to conflict resolution and peace building. The idiosyncratic nature of this long-term approach can only be understood within the context of South Africa's transition from apartheid to democracy and the confluence of ideas, identities and ideologies that emerged from it (Landsberg, 2005). This essay will analyse the core elements of what can be identified as Pretoria's approach towards conflict resolution and peace building, namely: quiet diplomacy, transitional power sharing and transitional justice. It is an approach that cannot (and should not) be ignored: for all its ideological shortcomings and Pretoria's catastrophic public diplomacy, South Africa remains an important regional power, one that has been at the centre of political, economic and security reforms in Africa, as well as conflict mediation across the continent and in seemingly intractable conflicts in Northern Ireland and Israel-Palestine. South Africa's

approach to resolving African security challenges adds much-needed pluralism to debates about humanitarian interventions in Africa and could present an alternative to the kind of NATO intervention seen in Libya characterised by an arrogance and bluster that has potentially damaged international consensus regarding humanitarian intervention and the 'Responsibility to Protect' (RtoP) principle (Hehir and Murray, 2014).

South Africa: an idiosyncratic emerging power?

In 1993, Mandela (1993, p. 88) had famously declared that 'human rights will be the light that guides our foreign policy' and a recent White Paper loudly declared the promotion of the humanitarian value of *ubuntu* as the cornerstone of South Africa's foreign policy (SA Government, 2011). However, South Africa has courted considerable criticism in international circles for what is perceived to be its soft-touch approach towards dealing with known tyrants such as Robert Mugabe and, more recently, Gaddafi. One explanation for this is that South Africa is willing to subordinate the promotion of human rights to the pursuit of its core national interests. As Evans states, despite South Africa's ostensive commitment to putting human rights promotion at the centre of its foreign policy, 'in practice, a calculus of financial, commercial, political and defence interests supplanted the carefully crafted ethical dimension in foreign policy', which was ultimately informed by a blend of neorealist and neoliberal principles (Evans, 1996; Williams, 2000; Vale and Ruiters 2004). This has been highlighted in relation to its conduct in the DRC (Taylor and Williams 2001), as well as its policy of 'quiet diplomacy' with Robert Mugabe in Zimbabwe, where it is alleged that South Africa has prioritised strong relations with Mugabe and access to Zimbabwe's economic resources over a principled and consistent promotion of human rights (McKinley 2004).

Seen in this light, South Africa would be no different from any 'normal' power rationally calculating its actions in terms of costs and benefits. It was also alleged that, like other African nations, South Africa felt beholden to Gaddafi because of the financial support he had allegedly given to the party in the past. For example, James Kirchick writing for *The Atlantic* argued that the ANC's 'lingering affection' for Gaddafi was due to the fact that 'South Africa is not much different from many other sub-Saharan African states, whom Qaddafi showered with money for decades', but that South Africa's 'myopic' deference to Gaddafi was 'uniquely disappointing, given its pretensions to being the leading expositor of democracy on the continent (Kirchick 2011).' On a personal level, Zuma's inconsistent approach and his reluctance to recognise the National Transitional Council (NTC) was alleged by some sections of the press to be due to his close relationship to Gaddafi, whom he frequently referred to as 'our brother leader'. As De Waal (2012) notes, such narratives presented the NATO powers with an easy means to marginalise African voices during the publicity campaigns surrounding the intervention.

An alternative approach suggests that a reason why the championing of human rights is often neglected by South African policy makers is more to do with the ANC's identity as a liberation moment, rather than simply the pursuit of some objectively defined national interest. The ANC identifies itself as a heroic liberation movement, rather than an 'ordinary' political party and the ANC draws upon the symbolic political capital accrued from its role in the liberation struggle to appeal to its core support base domestically, as well as uniting the

party around its *raison d'être*: 'to ensure the ultimate victory of the people's struggle against apartheid and colonialism' (ANC, 2012). The ANC's experience of decades in exile lobbying unresponsive (or openly hostile) Western governments to support the campaign to end apartheid has left a lasting imprint on the ANC's foreign policy thinking. Laurie Nathan (2011, p. 63), for example, argues that there is an 'anti-imperialist core' in South African foreign policy making, which trumps other priorities like human rights and democracy promotion, even where these might more clearly serve the national interest. He uses the example of Darfur, where South Africa used its position on the Security Council to continuously oppose resolutions condemning Omar Bashir's government in Sudan or enabling action against him because of an instinctive aversion to Western interventions in what South Africa considered to be an African problem requiring African solutions. As Nathan (2011, p. 74) argues, however, 'the only winners were the dictators and the clear losers were their victims. The poor, who were the intended beneficiaries of the anti-imperialist project, ended up sacrificed on its alter.' It is a criticism shared by Neethling, who argues that more generally 'it is hard to fault South Africa's stand on inequitable global power relations, but it is equally hard to see any productive results arising from a strategy that blocks international action against dictatorial regimes' (Neethling, 2012, p.25).

In the case of Libya, it was suggested that the ANC felt a long-standing ideological affinity Gaddafi due to his steadfast support for the anti-apartheid struggle. Indeed, in 1998 in the presence of then US President Bill Clinton, Mandela produced a stern rebuke to those pressuring him to take a harder line on Gaddafi, arguing that 'our moral authority dictates that we should not abandon those who helped us in the darkest hour in the history of [South Africa] ... those who have berated me for being loyal to our friends can go and throw themselves into a pool.' Referring to this quote, and also Zuma's persistence in calling Gaddafi 'our brother leader', the media often presented this as 'evidence' of an erratic, emotive impulse guiding South Africa's foreign policy; one that compromised its position as a champion of human rights. It is a view shared by opposition parties in South Africa, including the Democratic Alliance, whose foreign affairs spokesperson argued that: 'The South African government has obviously been on the side of Gaddafi from an ideological and historical perspective. It was inevitably going to create a foreign policy nightmare for South Africa.... (Guardian, 2011)'

A cursory inspection of the ANC's policy documents might reaffirm this viewpoint that South Africa's foreign policy is in some way determined by an instinctive and emotive anti-imperialist identity. A recent discussion document, for example, set out the need for strengthening south-south cooperation and African institutions because in the wake of events like the intervention in Libya:

We expect neo-colonial tendencies seeking to re-subordinate Africa to the whims and interests of powerful external factors will continue as old powers seek new ways of maintaining their hegemony over global affairs in the face of shifts in global power away from them. Unless something drastic is done to strengthen the institutions and leadership in Africa, its voice and choices will continue to diminish. (ANC 2012, p. 16)

The NATO intervention was also declared by the ANC's Youth League – which was at the peak of its power in 2011 - as an 'imperialist interference' by Western powers with a 'history of bloodletting and criminality' which amounted to 'a declaration of war, not only on Libya, but on the African continent (ANCYL, 2011).' The Youth League was able to exert considerable pressure on senior ANC officials during its 2012 Centenary Policy Conference where figures like Foreign Minister Nkosana Mashabane told ANC conference delegates behind closed doors that while they were critical of Gaddafi's human rights record, they were also unsupportive of regime change because they could not be sure of who was driving it and that Gaddafi 'calls imperialists imperialists,' which they supported (Personal communications and observations, 2012).

What these differing accounts hold in common is the notion that South Africa's response to the Libyan crisis reflected a long-standing moral duplicity where human rights promotion would play second fiddle to other drivers foreign policy formulation. However, neither of these approaches offer an accurate portrayal of Pretoria's behaviour during the Libyan crisis. Firstly, it is unclear whether Gaddafi's position was indeed in South Africa's interest and the ANC has historically been extremely conflicted over Gaddafi. While Mandela embraced him and wanted to bring him in from the cold, his successor Thabo Mbeki was openly hostile towards Gaddafi and, in particular, Gaddafi's attempts to meddle in the internal affairs of other African nations to promote his own vision for Africa, which was in direct competition with Mbeki's vision of an 'African renaissance' rooted in the promotion of neoliberal good governance and a federalist African Union (Landsberg 2012; Becker 2010). As Mbeki's Deputy Foreign Minister Aziz Pahad put it, 'Gaddafi set us back on the African continent... I've been to many AU, OU meetings where he just held us back for 10 years or even longer' (Personal communication, Aziz Pahad, 2012). Alex De Waal (2012, pp. 355-357) has also dispelled the myth that African heads of state were united behind Gaddafi because of his largesse, pointing to the divisive nature of his interventionist policies in Africa as a core reason behind deep African divisions over the NATO campaign.

Furthermore, one must also look beyond the loud discourses of anti-imperialism aired in public in order to establish the instrumental purposes that they can fulfil. First, it is important to note that South Africa's foreign policy is driven by a broad array of agents and not by the ANC alone. Department of International Relations and Cooperation (DIRCO) officials responsible for negotiating resolutions at the UN would often greet questions about the discourses of anti-imperialism with rye amusement, affirming that the day-to-day conduct of foreign affairs was insulated from such 'politicking' (Personal communications). The anti imperialist discourses clearly serve important functions for *internal* ANC politics in terms of legitimating foreign policy decisions that were at odds with the more militant base of the ANC membership. As Aziz Pahad remarked, such 'populist' rhetoric reflected a strategy of theatrical 'self flagellation' on the part of senior ANC ministers: that if you repeat the words 'anti-imperialism' enough times you will be spiritually exonerated for your policy sins (Personal communications). These discourses serve as part of the social glue that holds together the identity of the ANC as a whole and should be understood as part of a broader catalogue of radical rhetorics that have helped the ANC to reconcile its identity as a

revolutionary movement with the *realpolitik* of conforming to prerogatives of neoliberal globalisation. They also serve an important external function in terms of providing the ANC with a dexterous external identity: in order to pursue its aspirations of becoming a global power, the anti-imperialist discourses help to establish the ANC as a symbolic champion of Africa and the Global South, even where the contradictions of pursuing its long-term aspirations of global influence lead it to override regional interests.

Ultimately, there is less of a divide between South Africa's position on liberal interventions and that led by the NATO powers than the anti-imperialist discourses suggest. It has, after all, been African states that have led the way in terms of moving from a norm of 'non-intervention' towards 'non-indifference' (Williams 2007). The AU's Constitutive Act article 4 h. pre-empted the global RtoP initiative of 2005 in establishing in principle 'The right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity' (AU 2000). Indeed, the African footprint is clear on the establishment of what would later become known as the RtoP principle, with scholars like Gareth Evans (2006, p. 714) describing it as resulting from 'persistent advocacy by sub-Saharan African countries led by South Africa' (see also Kuwali and Viljoen, 2014). South Africa has therefore been at the centre of supporting these reforms while also actively promoting a continent-wide project of liberal intervention, promoting its primary security goal of regional stability while also championing the spread of neoliberal 'good governance' that supports South Africa's domestic imperative of achieving sustained economic growth (Landsberg, 2010). As Bentley and Southall (2005, pp. 2-3) note, 'this concern is not simply humanitarian' but is instead a 'recognition that democracy and development in South Africa are both inextricably linked to progress towards these goals throughout Africa as a whole.' Promoting peace, stability, democratisation and economic growth were thus framed as the cornerstone of Pretoria's foreign policy and reflect a broader goal of establishing a new continental *order* in Africa (Landsberg 2012). If they are able to see beyond the fiery rhetoric, Western policy makers are likely to find in South Africa a potentially pliant partner whose core foreign policy interests in Africa are not all that dissimilar from the Western powers: stability and economic opportunity. To do so requires a detailed understanding of South Africa's transition to democracy, and how the constellation ideas, identities and ideologies that emerged from it to forge what can be identified as South Africa's approach to tackling Africa's security dilemmas.

The South African approach to conflict resolution and peace building

South Africa's experience of the transition from apartheid has heavily influenced its approach to conflict resolution and peace building elsewhere. As Habib (2009, p.143) notes: 'Its actors, the ideas they express, the interests they represent and the institutions they craft are all crucially influenced and impacted upon by the democratic transition and how it has evolved'. In short, their experience of the 'miracle transition' imbues policy makers with a belief that South Africa is uniquely placed to export this model of peaceful transition to the rest of the African continent and beyond (Landsberg 2005; 2010b). As Aziz Pahad remarked, the most important contribution South Africa could make as a continental leader was to employ 'the

moral authority it has derived from its own process of national reconciliation and democratisation' (quoted in Sidiropoulos 2007).

Although no catch-all blueprint exists, the South African approach can be summarised as having three core elements. These core elements are geared towards producing inclusive peace settlements which, Pretoria hopes, will prepare the ground for long-term democratic consolidation, regional stability and prosperity. First, there is the promotion of *quiet diplomacy*. Rather than engaging in what it perceives to be the 'megaphone diplomacy' of Western states towards Africa, South Africa has generally avoided denouncing incumbent state elites when they perceive the participation of these elites in the peace process to be essential to sustainable democratic transitions: to publicly denounce them and sever ties would risk alienating these elites and jeopardise the whole process. Influenced by the 'constructive engagement' policies of the Western governments towards South Africa in the 1980s, Pretoria takes a stand that it is more productive to gently (and quietly) cajole each side of a conflict behind closed doors into making compromises and agreements. As former Foreign Minister Dlamini-Zuma (2007) puts it:

It is our experience that in certain instances, we make choices when equally important principles stand against each other. Our own national experience has also taught us the value of seeking negotiated solutions to problems, no matter how intractable they may at first seem, and of engaging all relevant role players in a dialogue.

This sentiment was echoed recently by Deputy Foreign Minister Ebrahim Ebrahim (2014), who argued that, 'Our own peaceful transition from the brink of civil war is central to our approach to the resolution of disputes and remains an example to the world of how a deeply divided country on the brink of disaster can build a nation through all-inclusive dialogue.' Thus, infused with the experience of the late 1980s and early 1990s, South African leaders have a strong belief in encouraging familiarity among protagonists, giving them space to spend time in each others' company and thereby increasing the perception that differences can be reconciled even in the most intractable conflicts. Progress might be slow, as South African experience points to, but Pretoria prefers to take this careful incremental approach in order to keep these conflicts on a low flame while common ground can be discovered, rather than engaging in potentially damaging, heavy handed interventions that could provoke acrimonious fallouts with uncertain consequences (Adelmann, 2004, p. 271). Former President Nelson Mandela's approach to mediating between Gaddafi and the Western powers after the Lockerbie bombing is an example of this approach (Boyd-Judson, 2005). Thabo Mbeki's approach to Zimbabwe has received the most attention in this respect, however, where Mbeki insisted on not isolating the Mugabe regime by engaging in quiet diplomacy as opposed to what he described as the clumsy and unhelpful 'megaphone' tactics of Tony Blair's UK government in particular when they lobbied for Zimbabwe to be thrown out of the Commonwealth and to impose economic sanctions (Taylor, 2005).

In Libya, while Zuma's government condemned publicly the human rights abuses being committed, unlike the Western responses, which were directly targeted at Gaddafi himself, South Africa was careful not to point the finger directly at the regime and instead referred to

the abuses in an impersonal manner and stressed the need to tackle abuses from ‘all sides of the conflict’. Zuma went to great lengths to quietly cajole Gaddafi into accepting the AU’s ‘Roadmap’ peace proposal, involving some form of power sharing arrangement. Zuma’s regular visits and conversations with Gaddafi thus reflected a calculated strategy of maintaining links with a leader who was otherwise ostracised by other international capitals; links that would potentially facilitate a second element of South Africa’s approach to peace building: an ‘inclusive’ settlement and power-sharing.

South Africa advocates *transitional power sharing* in the form of an inclusive settlement that offers all the leading protagonists a future role in the country. Modelled on South Africa’s Government of National Unity in the 1990s, this model attempts to reduce fears of a ‘winner-takes-all’ settlement, creating the space necessary for concessions to be made by all sides and reducing the risk of one side pulling out and potentially acting as ‘spoilers’ in the whole process. As Mandela himself admitted, for a long term transition of power to a new democratic order in South Africa, it was essential to have the old National Party regime within government so that the power of the army, state intelligence, and civil service etc. could be transferred effectively in the *long term* to generate a durable transferral of power between old and new elites. Once again, this is premised upon the belief that the on-going support of incumbent power holders is essential to building long term stability, and that their interests must in some way find accommodation in the post-conflict settlement. South Africa’s approach thus vaguely resembles a form of what Arend Lijphart (1977) refers to as ‘consociational’ power sharing in divided states where all significant segments of a divided political community must at least be given a share in the government of their country through some form of shared or devolved power of the centre in order to give all groups a stake in the country’s future. As Lemarchand (2007, p. 11) quips, such power sharing models are a carrot ‘aimed at co-opting the bad guys.’

South Africa has promoted such settlements – with varying degrees of success – across the continent. For example, Mandela and Zuma were commended for their efforts in bringing a seemingly intractable conflict in Burundi to an end through painstaking efforts to forge an inclusive peace negotiations between a plethora of rebel movements and establishing a transitional power sharing government (Bentley and Southall 2005). South Africa played a major role in negotiating and facilitating Zimbabwe’s Government of National Unity in 2009 between the incumbent ZANUPF and the MDC, and has played an active role – whether directly or through Thabo Mbeki in the African Union - at mediating in conflicts and promoting power sharing in Kenya, Burundi, Sudan, Madagascar, Angola, Cot D’Ivoire, the Democratic Republic of Congo and the Comoros. The South African example of a peaceful transition to democracy through power sharing has thus been heralded, somewhat problematically (Hamill 2003), as an example to follow, such that power sharing agreements have become prominent across Africa in the last two decades as a means to move beyond conflict (Mehler 2009).

In Libya, South Africa insisted on the need for an inclusive, negotiated settlement, in which Zuma said ‘all Libyans be given a chance to talk among themselves’ (New York Times 2011). In short, the AU’s Roadmap envisioned an inclusive political settlement involving all

parties that would be enabled, initially, by the cessation of hostilities and the beginnings of dialogue that could allow the government, in negotiation with opposition forces, to ‘embark upon the path of reforms’ towards ‘democracy, political reform, justice, peace and security, as well as socio economic development....’ (AU 2011). Eventually this would entail what the AU called ‘an all-inclusive national unity government’ including both the NTC and remnants of the Gaddafi regime; something that the AU and South Africa continued to argue for even after a decisive military victory for the NTC, with senior ANC officials (personal communications, 2012) and Zuma (2011) himself arguing that it was needed to ensure a durable transition and regional stability.

This policy of quiet diplomacy behind the scenes and the attempt to bring together an inclusive settlement was juxtaposed by senior South African officials to what they perceived to be the ‘gun-ho’ approach taken by the P3 which was driven by the political ambition of toppling Gaddafi. As one senior official involved in negotiations at the UN remarked, while South Africa was being criticized ‘when we say that dialogue has to include the “villains”’, NATO was guilty of making a ‘free for all’ out of due process and also of blocking what South Africa saw as the most progressive and best prospect for promoting an enduring peace settlement (personal communications, 2012). The South African government feared that without an all-inclusive dialogue involving the remnants of the Gaddafi regime there was a strong possibility that Libya would experience an unstable transition to democracy, especially given the fragmented nature of the forces that aligned to topple Gaddafi. It was widely argued by South African officials involved in negotiations at the UN, as well as senior ANC officials in Johannesburg, that the absence of a managed transition of power had led to the breakdown of security in Libya because the Western-backed NTC did not have the means to successfully assume full control of the country, and that many power brokers who had previously relied on Gaddafi’s patronage were now dangerously alienated with no stake in the new political dispensation. South Africa’s Deputy Foreign Minister argued recently that NATO’s intervention had been ‘catastrophic’ and had lasting implications for the ongoing crisis in Syria, declaring that:

The military intervention in Libya was a major miscalculation by the West, contributing to the current chaos in the country. By ignoring the need to foster dialogue between the various groups to discuss the establishment of strong institutions, a future constitution and democratization of Libya, the international community left a fractured Libyan society, which is also destabilizing the region.... Taking a cue from our own history we know that in order for the solution in Syria to be sustainable it must be representative and therefore no party can or should be excluded from the peace process. The struggle against apartheid lasted decades and was declared a crime against humanity, nonetheless the transition and the new constitution was negotiated between the liberation movements and the government of the day who were the perpetrators of apartheid. The lesson here is that a lasting solution must be rooted in an all-inclusive process. This is especially important in diverse and polarised societies. (Ebrahim 2014)

Indeed, according to a recent briefing given to the Security Council, the instability and unrest in Libya following the NATO intervention has led the country on ‘a new trajectory of unprecedented violence’ (UN 2014). Two rival governments currently claim legitimacy, creating a power vacuum while a variety of militias fight it out for supremacy in a conflict which threatens to escalate into a full-blown civil war – aided and abetted in no small part by the vast quantity of arms that were pumped into the country during the final weeks of Gaddafi’s rule. DIRCO officials also raised concerns about the dangers of regional hard-line Islamists being strengthened by NATO ignoring the need for a negotiated, inclusive settlement, and that led to a breakdown of security in the wider region; an opinion shared by leading academic commentators (Marchal 2013) and Western media, with the *New York Times* (2014) recently warning that ‘the violence threatens to turn Libya into a pocket of chaos destabilizing North Africa for years to come’

A third element of Pretoria’s approach to peace building has been the promotion of a bespoke form of transitional justice tailored to promote, above all else, a stable transition to liberal democracy. Based on South Africa’s own experience of transitional justice and its the Truth and Reconciliation Commission (TRC), this might require a blend of restorative and retributive justice, where the individual’s right to pursue retributive justice through the prosecution of perpetrators might have to be foregone if such action were to jeopardise the peace process. The logic behind this is simple: if protagonists (particularly incumbent state elites) fear punitive sentencing for their crimes then they will have no incentive to seek peace. In South Africa, conditional amnesties from crimes committed during the apartheid era were granted to perpetrators as a way to ensure that the old apartheid regime, as well as the security forces, intelligence services and civil servants, would agree to handing over power. The footprint of South Africa’s model of transitional justice – which itself borrows from the Latin American experience – can be seen clearly in other African contexts, where attempts to build transitional justice have borrowed upon elements of South Africa’s experience and, in some cases (such as Zimbabwe, Sierra Leone and Burundi) have been actively promoted and facilitated by South Africa itself. As prominent international law scholar William Schabas has argued, the kind of amnesty provision advocated by South Africa, while not without problems, should not be discarded by the International Criminal Court (ICC), whose zealous pursuit of retributive justice threatens to ‘forever remove amnesty from the toolbox of conflict resolution and peace negotiation’ and could inadvertently prolong conflict and human rights abuse (Schabas 2004). As Alex Bellamy (2014a) notes, an inflexible pursuit of human rights perpetrators ‘might inadvertently limit the deals that negotiators can offer perpetrators and damage already difficult relationships with political actors whose support is often needed to end the violence.’

In Libya, South Africa’s approach to transitional justice came up against strong pressure from the ICC for a purely retributive form of justice directed at the Gaddafi regime. Although South Africa supported Resolution 1970 which referred the situation in Libya to the ICC for investigation, South African officials were extremely critical when the ICC issued arrest warrants for Gaddafi, his son and his top spy chief. Zuma expressed his ‘extreme disappointment’ with the timing of the issue of the arrest warrants because he was concerned

that it would derail the AU's efforts to mediate a negotiated settlement which Zuma was leading. To a degree then, this was a procedural criticism. However, it also highlights a *deeper* disagreement with how best to pursue justice in the face of mass atrocity. As one senior DIRCO official at the UN put it, 'where you have the opportunity for peace do you, notwithstanding this opportunity, go full throttle for justice?' South African negotiators in the UN explained that, 'We don't look at [ICC] referrals as a means to *punish individuals*. The understanding was that the ICC would investigate the *whole situation*' (Personal communications, 2012). In this respect, the official argued that there was a danger that the ICC was perceived 'as a court for victors' justice' because of its heavy-handed and apparently one-sided pursuit of retributive justice against particular individuals. The official remarked that there was a danger that targeting one side of conflict at this stage would not only impair negotiations, it would also prevent a new democratic Libya from *strategically* choosing a bespoke form of a national-based transitional justice most suited to the political needs of the new administration. In short, the argument here was for a transitional justice settlement that prioritised political expediency over the immediate pursuit of retributive justice.

Taken together, South Africa's approach to conflict resolution and peace building offers a significant counterpoint to the kind of intervention modelled by the NATO powers in Libya. It would be crude to dismiss South Africa's position as a simple triumph of pragmatism over unfaltering ideals: at its core, there is a normative commitment to preventing the escalation of humanitarian crises, combating regional instability and fostering durable transitions to liberal democracy. Tactical moral duplicity might be a short-term means to achieve long-term substantive and enduring liberal outcomes. As the next section will argue, however, South Africa has great difficulty justifying this position, which is not without its own shortcomings.

Growing pains of an emerging power

South African policy makers expressed severe frustration that their approach to intervention in Libya was not being taken seriously and that, as they saw it, NATO's mission creep in Libya was an abrogation of the very principles that had prompted South African support for 1973 in the first place. One senior DIRCO official involved in the UN bemoaned what they saw as a 'clear contravention on the UN charter' and that the legitimacy of the Security Council was now in jeopardy because it was 'not an honest broker anymore' (Personal communications). For these officials, a serious and robust debate was needed to resurrect consensus in the RtoP principle following the cynicism generated by the NATO intervention because it was important that the 'baby should not be thrown out with the bathwater' with respect to the RtoP (Personal communications); sentiments that appear to support Alex Bellamy's (2014b) argument that the NATO intervention in Libya has not delegitimized the RtoP principle in general.

However, while South Africa might have something to say about how the RtoP principle could be taken forward after Libya, Pretoria struggles to make sure its voice is heard. Senior DIRCO officials at the UN would commonly lament that they had been outplayed in terms of public diplomacy. As one senior official complained, the Western powers 'are better than anyone else at playing the public opinion game. And they have huge media sources at their

disposal. Often [elected members of the Security Council] have good diplomats and know the UN very well but are not very good communicators to the public' (Personal communications). In the case of Libya, the official noted that this was often because they were too 'finicky' on conceptual debates and debates about the precise wordings of the resolutions and that 'unfortunately with Libya there was a huge debate held in public and its not sexy in public to debate about what concepts mean.' This was a point generally conceded by officials: that the Western powers were simply more experienced, skilled and adept at controlling the public debates and how Council resolutions – and the reactions to them – would be framed and interpreted. More broadly, this reflects longer-term issues regarding the lack of diplomatic and material capacity, as well as a lack of experience, confronting South Africa which put constraints on its ability to behave as a global player at present (Aldmen and Schoeman, 2013, p.123).

South Africa also needs to confront the limitations of its approach to conflict resolution. Although space does not permit a lengthy critique of the South African approach, a few core issues regarding Libya can be highlighted. First, the fact that quiet diplomacy and power sharing agreements appear to have become an article of faith for South Africa is deeply problematic. As Biti and Cheeseman (2010) have noted, the idea that consociational power sharing can simply be rolled out across the continent ignores the manner in which these processes can be appropriated by incumbent elites to reinvigorate their power and international standing. The recent example of Zimbabwe, where Mugabe's ZANU PF skilfully navigated the power sharing arrangements to reinvigorate its power without fundamentally altering the style of its rule (Raftopoulos, 2013), challenges recent South African narratives (Ebrahim, 2011) that its promotion of quiet diplomacy and power sharing has borne fruit. A monolithic and ahistorical fixation on power sharing has ironically neglects the nuances of the historical experience that made this successful in South Africa. The old apartheid regime had no alternative but to gradually concede power, while the ANC had little choice but to accept a negotiated settlement because of the end of the Cold War and the fact that it could not hope to militarily overthrow the old regime. International pressure to find a negotiated settlement also narrowed the options available, making power sharing of some form inevitable. In Libya, Gaddafi made no commitment to share power with the rebels and at no time was it clear that he accepted his time in office was over. Nor was there another willing partner ready to negotiate: the NTC steadfastly resisted a negotiated settlement, especially once it had become clear that the offer of a full NATO-sponsored revolution was on the cards. Furthermore, it was impossible for South Africa to promote an alternative form of transitional justice once the ICC had issued its arrest warrants: once the prospects of a bespoke form of transitional justice were usurped by the ICC warrants, Gaddafi's followers had little reason to place their trust in some form of post-settlement amnesty provision.

South Africa therefore needed to be much more flexible in its approach towards Libya because such a rigid adherence to its own model in this case flew in the face of the lessons of its own historical experience. Furthermore, the relative deficiencies in its diplomatic capacity compound its inability to control the Security Council agenda, and its particular approach to

conflict resolution will always be undermined by the parallel pursuit of regime change and narrowly-targeted retributive justice on the part of other powers.

Conclusion

The NATO intervention in Libya has opened up a ‘legitimacy faultline’ in the international community and a broad debate about the accountability of the Security Council, its representativeness, and also the future of humanitarian interventions (Ralph and Gallagher 2014). The intervention required a ‘perfect storm’ of political factors to coalesce in order to secure a Security Council mandate for intervention, including the lack of strong opposition from a veto-wielding Council member, the presence of regional support, and a deeply divided and poorly articulated African response (Dunn and Gifkins 2013). The current difficulties in establishing a coherent international response to Syria, however, highlights that such ‘perfect storms’ are unlikely to gather frequently in a world of imperfect powers. The future of successful humanitarian interventions in Africa could well rest on whether Western powers are willing to embrace greater pluralism in debates about the nature of interventions, which will require a much deeper understanding of the motivations driving the foreign policies of the emerging powers beyond inaccurate, self-serving and hypocritical accusations of flip flopping and moral duplicity. As former AU Chairperson Jean Ping recently remarked, the NATO powers exhibited a ‘sense of superiority’ when they arrogantly dismissed South Africa’s efforts to mediate in the Libyan crisis; an arrogance that he argues led them to ignore African warnings of the ‘explosion’ that would follow NATO-sponsored regime change (Mail & Guardian 2014).

But do the emerging powers have anything to say that is worth listening to? South Africa’s broad approach to conflict mediation and transitional justice is no silver bullet for interventions in Africa. Still, it nonetheless offers an important alternative to the kind of intervention led by the NATO powers in Libya, which has resulted in a proliferation of violence and threatens stability in the region as a whole. If Pretoria is able to articulate its approach more effectively then its voice could contribute to the broadening of options available in the toolkit of intervention. South Africa’s attempt to attain a permanent place on the Security Council could be one means of achieving this, and its influence will continue to hold considerable sway in the corridors of the AU in the near future, especially given the election of Nkosazana Dlamini-Zuma as AU Chair. Owing to its size, South Africa might claim a responsibility to take a lead on interventions in Africa. But as it does so it would do well to confront the limitations of its own approach, and other African states should consider whether South Africa is really the continental champion they want.

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