



Center for International Law and Human Rights

The Sound of Silence: American Illegalities in Libya

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Introduction

In mid-February 2011 demonstrations against the government in Libya were met with severe suppression.¹ U.N. Security Council resolution 1970 of 26 February 2011 referred the deteriorating situation to the International Criminal Court. U.N. Security Council resolution 1973 of 17 March 2011 authorized member states to take all necessary measures to protect civilians under threat of attack in Libya based on consultation with and supervision by the international institution. International military campaign by the United States, Britain, and France commenced on 19 March 2011. Subsequently NATO operated the military activities that ended on 31 October 2011. Libya quickly disintegrated. Chaotic infighting resulted in capturing and killing the country's leader Muammar Gaddafi on 20 October 2011.

The subsequent political developments in the country have not materialized in forming a stable democratic government, rather was characterized by continued internal strife.² A major destabilizing figure has been a former Libyan general with established connections to the American Central Intelligence Agency (CIA).³ This agency has had a formidable tradition of destabilization in the Middle East⁴ as well as in African countries.⁵



Douglas Little, academic expert on and supportive of CIA's destructive activities in the Middle East

The International Criminal Court has been processing three cases relating to Libya.⁶ This briefing will focus on NATO's violation of international law during the bombing campaign;

¹ Report of the International Commission of Inquiry on Libya, 28 January 2014, A/HRC/19/68.

² OCHA & PAX, *Shattered Lives: Civilians Suffer from the Use of Explosive Weapons in Libya*, 2015, pp.12-17; Bethan McKernan, "War in Libya: how did it start, who is involved and what happens next?", *The Guardian*, 18 May 2020.

³ Abigail Hauslohner et al, "Khalifa Hifter, the ex-general leading a revolt in Libya, spent years in exile in Northern Virginia", *Washington Post*, 20 May 2014.

⁴ Douglas Little, "Mission Impossible: The CIA and the Cult of Covert Action in the Middle East", 28(5) *Diplomatic History*, pp.663-701.

⁵ John Stockwell, "The Case Against the CIA", 9(1/2) *Issue*, pp.21-23 (1979); John Stockwell, "Secret Wars of the CIA – Angola and Other Countries", *American University – C-Span*, 3 November 1989; "Four more ways the CIA meddled in Africa", *BBC*, 16 May 2016; Rene Lemarchand, "The C.I.A. in Africa: How Central? How Intelligent?", 14(3) *Journal of Modern African Studies*, pp.401-426 (1976); Nicolas van De Walle, "Chief Station, Congo: Fighting the Cold War in a Hot Zone", *Foreign Affairs*, May/June 2007. The CIA's chaotic behaviour has been no less than global and constant: see Brunt Durbin, *The CIA and the Politics of US Intelligence Reform* (Cambridge University Press, 2017), p.10 ("Webster has observed that, during his time as DCI, 'covert action represented about 5 percent of our resource expenditures and about 95 percent of our problems.' Even as the capacity and appetite for covert and clandestine activity has ebbed and flowed across the history of US intelligence, its potential to create 'problems' has remained, and covert activities have played a major role in motivating intelligence reform effort.").

⁶ Available at: <https://www.icc-cpi.int/libya>

the legitimacy of America's involvement in NATO's military activity pursuant to American law; the declarations made by President Barack Obama and Secretary of State Hillary Clinton on the need to depose Gaddafi as well as the Presidential deployment of CIA operatives to Libya in clear violation of U.N. Security Council resolutions 1970 and 1973; and the mysterious truck bombing in Western Libyan town Zliten on 7 January 2016 near a police station which killed 60 and injured more than 200. Similar truck bombings have taken place in other cities in the region and globally inflicting severe damage to civilians and destruction of civilian objects.

NATO's Bombing Campaign

U.N. Security Council resolution 1973 of 17 March 2011 authorized member states in cooperation with the U.N. Secretary General, to take all necessary measures to protect civilians and civilian populated areas under threat of attack in Libya. France, the United States, and Britain commenced air strikes in Libya on 19 March 2011. NATO assumed command of the military operations which were conducted primarily from air on 31 March 2011.

United Nations International Commission of Inquiry on Libya found that many NATO airstrikes resulted in the death of civilians.⁷ In one incident in the town of Majer which occurred on 8 August 2011, NATO airstrikes killed 34 civilians and injured 38. The Commission was not convinced of NATO's explanations about precautions taken in this attack and recommended further investigations. According to the Commission:

The single largest case of civilian casualties from a NATO airstrike in Libya took place in the town of Majer on 8 August 2011 where the Commission found NATO bombs killed 34 civilians and injured 38. After the initial airstrike killed 16, a group of rescuers arrived and were hit by a subsequent attack, killing 18.

Of the five targets where the Commission identified civilian casualties, four were termed command and control (C2) nodes or troop staging areas by NATO. The Commission saw no physical evidence of this during its site visits. Witnesses also denied that the sites had military utility. NATO told the Commission that "the regime was using civilian rather than military structures in support of military action". Assuming this to be the case, the Commission remains concerned about the resulting civilian harm.

...

NATO's characterization of four of five targets where the Commission found civilian casualties as "command and control nodes" or "troop staging areas" is not reflected in evidence at the scene and witness testimony.

...

The Commission was unable to draw conclusions in such instances on the basis of the information provided by NATO and recommends further investigations.⁸

In the case of *Galic* at the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia the court reiterated the applicable law on the mental element required to establish the attack on civilians as a war crime:

In its discussion of the mens rea of the crime at issue, the Trial Chamber found that the perpetrator must undertake the attack "wilfully", which it defines as wrongful intent, or

⁷ Report of the International Commission of Inquiry on Libya, 8 March 2012, para.86.

⁸ Report of the International Commission of Inquiry on Libya, 8 March 2012, paras.87-89, 122.

recklessness, and explicitly not “mere negligence”. The Trial Chamber relied on the ICRC Commentary to Article 85 of Additional Protocol I, which defines intent for the purposes of Article 51(2) and clearly distinguishes recklessness, “the attitude of an agent who, without being certain of a particular result, accepts the possibility of its happening”, from negligence, which describes a person who “acts without having his mind on the act or its consequences”. The Trial Chamber’s reasoning in this regard is correct...⁹

NATO’s military commanders during the armed campaign against Libya were under an obligation to investigate and probably punish the perpetrators of attacks against civilians. There is no evidence that they attempted to conduct a genuine investigation as recommended by the United Nations Commission of Inquiry. Failing to do so triggers criminal responsibility for a commander under article 28 of the International Criminal Court’s Statute.¹⁰

In addition, there is no indication that the International Criminal Court pursued any investigation of NATO’s lethal air strikes against civilians in Libya and the failure of its commanders to investigate and punish their subordinates. It ought to do so. NATO’s campaign was led by Canadian Lt. General Charles Bouchard. American Lt. General Ralph J. Jodice II led its air component.¹¹

Another path for seeking accountability is the application of the principle of universal jurisdiction in countries that their laws provide powers to investigate and prosecute foreign nationals for serious international crimes not related to the national venue.¹²



Charles Bouchard



Ralph J. Jodice II

⁹ IT-98-29-A *Prosecutor v. Stanislav Galic*, Judgement, 30 November 2006, para.140.

¹⁰ See also IT-95-14-A *Prosecutor v. Tihomir Blaskic*, Judgement, 29 July 2004, para.302; IT-95-14/1-A, *Prosecutor v. Aleksovski*, 24 March 2000, para.76.

¹¹ Unlike Canada and other significant NATO countries, the United States is not a member of the International Criminal Court, and was explicitly excluded from the Court’s jurisdictional reach by the referring U.N. Security Council resolution 1970 of 26 February 2011. It is not clear why this waiver was granted amounting to relinquishing necessary constraints on the use of force in a volatile condition. It also undermines U.S. State Department Legal Adviser Harold Koh’s later allegation before Congress that the United States was not engaged in hostilities in Libya. Given the nature of accountability for American armed forces in the United States, releasing the country from the ICC’s mechanisms was practically granting it a license to violate international law.

¹² See Devika Hovell, “The Authority of Universal Jurisdiction”, 29(2) *European Journal of International Law*, pp.427-456 (2018); Amnesty International, *Universal Jurisdiction - A Preliminary Survey of Legislation Around the World – 2012 Update*, 2012; HRW, *Universal Jurisdiction in Europe – The State of the Art*, 2006.

US Participation in NATO's Campaign According to American Law

American participation in hostilities in Libya required Congress's authorization pursuant to the War Powers Act. The Obama administration failed to obtain the required sanction.¹³ President Barack Obama decided that Congress's authorization was not necessary because the military activity in Libya did not amount to 'hostilities' for the purposes of the War Powers Act.

Procedurally, Obama overrode the ordinary decision-making process governed by the authoritative legal position of the Department of Justice's Office of Legal Counsel. He declined the advice of the Office of Legal Counsel as well as the Pentagon's General Counsel who affirmed that Congress's authorization was required and that the armed activities in Libya constituted 'hostilities' for this purpose. On the other hand, White House Counsel and State Department Legal Adviser Harold Koh advanced the opposing claim which Obama endorsed, seemingly in violation of long standing American legal traditions.¹⁴

U.S. Department of State Legal Adviser Harold Koh presented the Obama Administration's rationale for not resorting to the War Powers Act regarding American military activities in Libya at a congressional hearing held on 28 June 2011.¹⁵ Invited representatives from the Pentagon and Justice Department declined to appear.¹⁶ Koh explained the reasonability of an extremely narrow interpretation for the term 'hostilities' in the War Powers Act which the American combat activities had not reached.

But as everyone recognizes, the legal trigger for the automatic pullout clock, "hostilities" is an ambiguous term of art that is defined nowhere in the statute. The legislative history, which we cite, makes clear there was no agreed-upon view of exactly what the term "hostilities" would encompass, nor has that standard ever been defined by any court or by Congress itself.

...

And the historical practice, which I summarize in my testimony, suggests that when U.S. forces engage in a limited military mission that involves limited exposure for U.S. troops and limited risk of serious escalation and employs limited military means, we are not in hostilities of the kind envisioned by the War Powers Resolution that was intended to trigger an automatic 60-day pullout.

...

And so the urgent question before you is not one of law but of policy. Will Congress provide its support for NATO's mission in Libya at this pivotal juncture, ensuring that Qadhafi does not regain the upper hand against the people of Libya?¹⁷

¹³ Bruce Ackerman, "Obama's Unconstitutional War", *Foreign Policy*, 24 March 2011; Bruce Ackerman, "Legal Acrobatics, Illegal War", *New York Times*, 20 June 2011.

¹⁴ Charlie Savage, "2 Top Lawyers Lost to Obama in Libya War Policy", *New York Times*, 17 June 2011. See also Trevor Morrison, "Libya, 'Hostilities', The Office of Legal Counsel, and the Process of Executive Legal Interpretation", 124 *Harv. L. Rev.* (2011), 62.

¹⁵ U.S. Senate Committee on Foreign Relations, Libya and War Powers, 28 June 2011, available at <https://www.c-span.org/video/?300253-1/us-military-action-libya#>

¹⁶ U.S. Senate Committee on Foreign Relations, Libya and War Powers, 28 June 2011, p.3.

¹⁷ U.S. Senate Committee on Foreign Relations, Libya and War Powers, 28 June 2011, pp.8-10.



Harold Koh, U.S. Department of State Legal Adviser

Koh's contradictions escaped the members of the congressional Senate Committee where he emphasized on the one hand the magnitude of the crisis in Libya and the need to intervene militarily in line with U.N. Security Council resolution 1973 adopted pursuant to Chapter VII of the United Nations Charter, and on the other minimizing inaccurately the nature of America's military involvement in this conflict. Article 42 of the United Nations Charter envisaged an escalating international crisis that requires decisive international military operation:

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

The nature of the American armed involvement in Libya is participating in hostilities by any reasonable interpretation of the word. In April 2011 the American military's engagement in Libya deepened given the deployment of Predator drones,¹⁸ and two months later it was pursuing large scale attacks accompanied by vague acknowledgments from the Obama administration.¹⁹ As noted above, NATO's air campaign was led by American Lt. General Ralph J. Jodice II. Pentagon's General Counsel and Justice Department's Office of Legal Counsel clear positions that contradicted Koh's and declined to appear before the Senate Committee on Foreign Relations in this regard should raise alarms about the sound discretion of the State Department's Legal Adviser to the extent of considering it unreasonable.

Regime Change Paradigm and Deployment of CIA's Operatives

President Barack Obama and Secretary of State Hillary Clinton had expressed clear views on the need to carry out regime change in Libya by deposing of the country's ruler Muammar Ghaddafi in breach of the U.N. Security Council authorization. In addition, Obama had deployed CIA operatives to Libya with the aim to arm Libyan rebels who were fighting Ghaddafi in violation of the U.N. Security Council mandate adhering to the illegitimate objective of ousting him from power.

On 26 February 2011 when the U.N. Security Council referred the Libya situation to the International Criminal Court²⁰ Obama said that "Colonel Qaddafi had lost the legitimacy to

¹⁸ Harriet Sherwood, "Libya crisis: US involvement deepens with deployment of Predator drones", *The Guardian*, 22 April 2011.

¹⁹ Charlie Savage et al, "Scores of U.S. Strikes in Libya Followed Handoff to NATO", *New York Times*, 20 June 2011.

²⁰ Paragraph 6 of U.N. Security Council resolution 1970 from 26 February 2011 which referred the Libyan condition to the International Criminal Court excluded from its jurisdiction nationals of states that are not party

rule and should step down.” Similarly, Secretary of State Hillary Clinton said on 17 March 2011 when U.N. Security Council resolution 1973 was adopted that:

If you don’t get him out and if you don’t support the opposition and he stays in power, there’s no telling what he will do.²¹

Clinton celebrated Ghaddafi’s death and implied American complicity in it:

Secretary of State Hillary Clinton shared a laugh with a television news reporter moments after hearing deposed Libyan leader Muammar Qaddafi had been killed.

‘We came, we saw, he died,’ she joked when told of news reports of Qaddafi’s death by an aide in between formal interview.²²

Further, Obama had deployed CIA operatives to Libya to assist rebels and arm them in their fight against Gaddafi. During an interview with Diane Sawyer of ABC NEWS from 29 March 2011 Obama reiterated the goal of deposing Gaddafi and did not deny sending CIA operatives with the objective to arm Libyan rebels.²³ On 31 March 2011 Reuters reported exclusively on Obama’s deployment of CIA operatives to Libya to help and arm Libyan rebels:

President Barack Obama has signed a secret order authorizing covert U.S. government support for rebel forces seeking to oust Libyan leader Muammar Gaddafi, government officials told Reuters on Wednesday.

...

News that Obama had given the authorization surfaced as the President and other U.S. and allied officials spoke openly about the possibility of sending arms supplies to Gaddafi’s opponents, who are fighting better-equipped government forces.

...

Interviewed by U.S. networks on Tuesday, Obama said the objective was for Gaddafi to “ultimately step down” from power. He spoke of applying “steady pressure, not only militarily but also through these other means” to force Gaddafi out.

...

In 2009 Obama gave a similar authorization for the expansion of covert U.S. counter-terrorism actions by the CIA in Yemen. The White House does not normally confirm such orders have been issued.

...

Sending in weapons would arguably violate an arms embargo on Libya by the U.N. Security Council imposed on February 26, although British, U.S. and French officials have suggested there may be a loophole.

Getting a waiver would require the agreement of all 15 council members, which is unlikely at this stage. Diplomats say any countries that decided to arm the rebels would be unlikely to seek formal council approval.²⁴

to the Court. The United States is such a state granted immunity from the Court’s prosecution and left to its own national mechanisms of accountability, notwithstanding their inherent and structural limitations.

²¹ Dan Bilefsky et al, “As U.N. Backs Military Action in Libya, U.S. Role is Unclear”, *New York Times*, 17 March 2011.

²² Corbett Daly, “Clinton on Qaddafi: ‘We came, we saw, he died’”, *CBS News*, 20 October 2011.

²³ Barack Obama Interview with Diane Sawyer, *ABC NEWS*, 29 March 2011. Sawyer did not omit the cardinal question about the American Final Four Basketball contest cheering for her hometown team: “my Kentucky”.

²⁴ Mark Hosenball, “Exclusive: Obama authorizes secret help for Libya rebels”, *Reuters*, 31 March 2011. See also David Morgan, “Tripolic opened to rebels by sleeper cells, NATO”, *CBS News*, 22 August 2011.

U.S. Department of State spokesperson considered that supplying Libyan rebels with arms did not violate the United Nation's arms embargo:

'We believe that U.N. Security Council resolutions 1970 and 1973, read together, neither specified nor precluded providing defence materiel to the Libyan opposition,' State Department spokesman Mark Toner said.²⁵

It appears that Secretary of State Hillary Clinton had lobbied for deploying CIA's operatives with the objective of arming rebel groups. According to the New York Times in 2016 "She pressed for a secret American program that supplied arms to rebel militias, an effort never before confirmed."²⁶

U.N. Security Council resolution 1973 of 17 March 2011 authorized United Nations member states to use necessary measures to protect civilians from attack in Libya within the international organization's cooperation mechanisms and excluded the legitimacy of any occupation force:

Authorizes Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the Secretary-General, to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory, and requests the Member States concerned to inform the Secretary-General immediately of the measures they take pursuant to the authorization conferred by this paragraph which shall be immediately reported to the Security Council.

U.N. Security Council resolution 1970 of 26 February 2011 imposed a sweeping arms embargo in Libya, with few exceptions for humanitarian non-combative purposes and approved by the United Nations procedure:

Decides that all Member States shall immediately take the necessary measures to prevent the direct or indirect supply, sale or transfer to the Libyan Arab Jamahiriya, from or through their territories or by their nationals, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial or other assistance, related to military activities or the provision, maintenance or use of any arms and related materiel, including the provision of armed mercenary personnel whether or not originating in their territories, and decides further that this measure shall not apply to:
(a) Supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee established pursuant to paragraph 24 below;

...

Acting to topple Gaddafi is beyond the remit of the U.N. Security Council's authorization. It is also a violation of the United Nations Charter which permits the use of force pursuant to its Chapter VII parameters. The gravity of international law's breach increases when adding the deployment of CIA operatives, the purpose of which was to arm and help rebels in their fight against Gaddafi in violation of the two U.N. Security Council resolutions relating to Libya:

²⁵ Lutfi Abu-Aun, "Russia: Arming Libya rebels is 'crude violation'", *Reuters*, 30 June 2011.

²⁶ Jo Becker et al, "Hillary Clinton, 'Smart Power' and a Dictator's Fall", *New York Times*, 27 February 2016.

1970 which imposed an arms embargo and 1973 which required coordination with the United Nations Secretary General regarding any relevant activity in Libya.

Given the American authorities' clear intent to avoid following U.N. Security Council's authority, particularly regarding deploying CIA operatives and arming Libyan rebels with the aim to topple the country's leader, the violation of the United Nations Charter is no less than an act of aggression contrary to article 2(4) which prohibits the threat or use of force in international relations.²⁷ The clear scope and criterions of the U.N. Security Council resolutions preclude advancing a humanitarian intervention justification for the American behaviour.

Although the United States is not a member of the International Criminal Court, and the referring U.N. Security Council resolution has bestowed immunity on the country from a possible prosecution, it could be argued that this privilege does not extend to conduct that intentionally violates the referring and other relevant resolutions. It is worthy, therefore, to quote the definition of the Court's Statute of the Crime of Aggression that captures the conduct of senior United States officials in relation to Libya stipulated in articles 8 *bis* (1) and (2)(g):

For the purpose of this Statute, "crime of aggression" means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.

For the purpose of paragraph 1, "act of aggression" means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression:

...

The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.²⁸

²⁷ See also Geir Ulfstein & Hege Fosund, "The Legality of the NATO Bombing in Libya", 62(1) *International Comparative Law Quarterly*, 159, 167-169 (2013).

²⁸ The United States has had many legal reservations about the International Criminal Court's definition of the crime of aggression, in addition to its persistent refusal to join the Court. See Harold Koh & Todd Buchwald, "The Crime of Aggression: The United States Perspective", 109(2) *AJIL*, pp.257 – 295 (2015). Compare with Sergey Sayapin, *The Crime of Aggression in International Criminal Law: Historical Development, Comparative Analysis, and Present State* (Asser Press, 2014). The Crime of aggression could be investigated and prosecuted by national courts pursuant to the principle of universal jurisdiction. See Michael Scharf, "Universal Jurisdiction and the Crime of Aggression", 53(2) *Harv. Int'l. L. Journal*, 357 (2012).



American President Barack Obama

Secretary of State Hillary Clinton



Leon Panetta, Director of the Central Intelligence Agency

Truck Bombing in Zliten, 7 January 2016

On 7 January 2016 a truck full of explosives detonated near a police base in the western Libyan town Zliten killing at least 60 people and wounding many others. No one claimed responsibility for the attack. In Washington DC, White House spokesman Josh Earnest said the same day that the U.S. has not yet determined who is responsible for carrying out a ‘cowardly act of terrorism.’²⁹ Similar bombings have struck civilians, civilian installations, and detonated close to military compounds in other parts of the Middle East and elsewhere in the world. No clear explanation had been provided as to the identity of the perpetrators of these attacks and their rationale. Sometimes others had been blamed for the attacks with no convincing evidence. Truck bombings have taken place in Syria,³⁰ Iraq,³¹ Somalia,³² Saudi Arabia,³³ China,³⁴ Russia,³⁵

²⁹ Essam Mohamed, “Libya truck bombing kills at least 60 policemen, wounds 2000”, *AP*, 8 January 2016.

³⁰ “Truck bomb in Syria’s Al-Bab kills at least 18”, *Al-Jazeera*, 6 October 2020; AFP, “Fuel truck bomb kills more than 40 in northern Syria”, *The Guardian*, 29 April 2020; AP, “Truck Bomb in Rebel – Held Syrian Town Kills Dozens”, *New York Times*, 7 January 2017;

³¹ Agencies, “Top UN official among dead in Baghdad blast”, *The Guardian*, 19 August 2003. American President Bush started his statement on this event saying “I was deeply saddened to hear of Sergio Vieira de Mello’s death at the hand of terrorists in Iraq”. See also John Burns, “At Least 26 Killed in a Bombing of an Italian Compound in Iraq”, *New York Times*, 12 November 2003. In May and July 2016 similar attacks took place in Iraq claiming the lives of hundreds. The western media immediately attributed the ‘deadly bombings’ to Islamist groups with no clear evidence.

³² Abdi Sheikh, “Truck bomb kills at least 90 in Mogadishu: international organization”, *Reuters*, 28 December 2019.

³³ Steven Erlanger, “Survivors of Saudi Explosion Knew at Once it was a bomb”, *New York Times*, 27 June 1996.

³⁴ Chris Buckley, “A Fireworks Truck Explodes, shattering a Bridge in China”, *New York Times*, 1 February 2013; Paul Mozur, “Tanker Truck Blast on China Highway Kills 19”, *New York Times*, 13 June 2020.

³⁵ Steven Lee Myers, “Truck Bombing at Russian Military Hospital Kills 35”, *New York Times*, 2 August 2003. See also Ivan Nechepurenko et al, “Explosion in St. Petersburg, Russia, Kills 11 as Vladimir Putin Visits”, *New York Times*, 3 April 2017.

Afghanistan,³⁶ Pakistan,³⁷ Mozambique,³⁸ Congo,³⁹ and Mexico.⁴⁰ The Special Tribunal for Lebanon's Trial Judgement regarding the assassination of former Lebanese Prime Minister Hariri carried out on 14 February 2005 concluded that he was murdered by detonating a truck full of explosives.⁴¹ Common features have characterized all of these bombings: the truck and the explosives. An awkward difference is the vague and general attribution of responsibility for certain groups where some of these explosions had occurred particularly in countries that have been ravaged with conflict. In other locations no responsibility had been attributed. Shared unreasonableness defines the repeated outbursts of this type of devastation that requires a search for an explanation regarding its execution.

The American political and cultural imagination has been captured by the phenomenon of explosions.⁴² It may well be part of the country's self-governing methodology that utilises explosions to attract the attention of the political class.⁴³ The Pentagon has maliciously handled explosives in the United States expressing disregard for civil rights and environmental standards.⁴⁴ First acknowledged in 1962, U.S. Special Forces have been deployed globally for various undisclosed purposes and missions while performing ordinary acts of criminality.⁴⁵ Peculiar explosions have shaken the American polity throughout the years not limited to bombings targeting the New York Stock Exchange in 1978,⁴⁶ U.S. military ship in San Diego,⁴⁷ and most recently in Nashville, Tennessee.⁴⁸

Truck explosions in particular have constituted a phenomenon in the United States given their repetitive nature, although they have generated less casualties and destruction than their foreign counterparts. Trucks have exploded following an identical pattern in Florida,⁴⁹

³⁶ Rod Nordland, "Death Toll in Kabul Bombing Has Hit 150, Afghan President Says", *New York Times*, 6 June 2017.

³⁷ Salman Masood et al, "Pakistani Judges Press Premier to Defy President", *New York Times*, 10 January 2012.

³⁸ "Scores killed in Mozambique fuel-truck blast", *The Guardian*, 18 November 2016.

³⁹ Katrina Manson, "Fuel tanker explosion kills over 230 in Congo", *Reuters*, 3 July 2010.

⁴⁰ Randal Archibold, "Gas Explosion at Mexico City Hospital Kills 3 and Wounds Dozens", *New York Times*, 29 January 2015.

⁴¹ STL-11-01/T/TC *The Prosecutor v. Ayyash et al*, Judgement, 18 August 2020, para.1316. See also Marwan Dalal, News Update - Comfortably Numb: Rafiq Hariri's Assassination Case at Lebanon's International Tribunal, Grotius – Center for International Law and Human Rights, 3 October 2020, available at: <https://www.grotius.info/special-tribunal-for-lebanon>

⁴² There is an American rock band called Explosions in the Sky. The Hurt Locker film (2008) is filled with this phenomenon which is common in other American movies particularly the Die Hard series and those that cover American Special / Paramilitary Forces such as CBS's Seal Team. The network's TV series FBI is replete with incidents of explosions. It has enjoyed televised representation on ABC TV network between 1965 – 1974 as The FBI. The organization reincarnated on the screen in 1981- 1982 as Today's FBI.

⁴³ Academic and policy analysis in the United States have utilized the term explosion in various contexts. See, for example, Fenton Turck, "The American Explosion", 75(3) *Scientific Monthly*, 187 – 191 (1952); Edward Alexander, "The American Cultural Explosion", 38(2) *North Carolina Historical Review*, pp.228-240 (1961); William Frey, *Diversity Explosion: How New Racial Demographics are Remaking America* (Brookings Institute Press, 2015).

⁴⁴ Abraham Lustgarten, "Open Burns, Ill Winds", *Pro Publica*, 20 July 2017.

⁴⁵ Stewart Parker, "US special forces are special – but they're not 'elite'", *Business Insider*, 17 April 2020.

⁴⁶ James Sterba, "130 Hurt as Truck Explodes Near Wall St.", *New York Times*, 1 July 1978.

⁴⁷ AP, "Explosion on ship at US naval base injures 21", *The Guardian*, 12 July 2020.

⁴⁸ Jamie McGee et al, "A Warning, Then a Blast: Nashville Explosion Was Deliberate, Police Say", *New York Times*, 25 December 2020.

⁴⁹ "Garbage Truck Explodes in Miami-Dade Neighbourhood", *NBC Miami*, 23 October 2015; Gary Detman, "Truck fire, explosion halt Black Friday shopping at Florida Walmart", *CBS12 News*, 27 November 2020.

Montana,⁵⁰ California,⁵¹ and Texas.⁵² Former Attorney General Janet Reno noted in the introduction to the official guide for bombing and explosion investigation in the United States the variety and geographic diversity of explosions in the country:

One way of ensuring that we, as investigators, obtain evidence of the highest quality and utility is to follow sound protocols in our investigations.

In order to raise the standard of practice in explosion and bombing investigations of both small and large scale, in both rural and urban jurisdictions, the National Institute of Justice teamed with the National Center for Forensic Science at the University of Central Florida to initiate a national effort.⁵³

If there is an American involvement in the truck explosions that have taken place on a global scale, what could be the motivation or the rationale for them. Is it sheer and meaningless destruction by raising problems, inflicting damage, and imposing difficulties for other countries causing immense loss of human life, and senseless sabotage to property? Is the purpose shaming and blaming others? Or is it simply an expression of hate inherent to the psychopathic and schizophrenic American regime?

The truck explosion in Zliten would fall under the jurisdictional process of the International Criminal Court because of the referring U.N. Security Council resolution 1970, which exempts in paragraph 6 non-member states of the Court such as the United States for acts in Libya within the international authorization.



U.S. Special Forces

Conclusion

Since 2011 Libya has been turmoilled with ravaging civil war, a recurrent theme in various countries in the world. Although I deplore the British security strategist Michael Clarke's abhorrent values that embrace devastation, I agree with his characterization of the repeated global process of Balkanization.⁵⁴ Former head of the British intelligence service MI6 John Scarlett has attributed to the United States a lasting and strategic role of universal

⁵⁰ "Man in burned in propane truck explosion north of East Helena", *AP*, 14 March 2018.

⁵¹ Louis Sahagun et al, "Tanker truck catches fire and triggers explosions in South L.A., injuring 2 people", *Los Angeles Times*, 17 March 2019.

⁵² "Food truck explodes in San Marcos, damages multiple other businesses", *CBS Austin*, 14 November 2019.

⁵³ U.S. Department of Justice, *A Guide for Explosion and Bombing Scene Investigation*, 2000, p.iii.

⁵⁴ Michael Klarke, "The Security Challenges to the Western World", ECR Group, Autumn University, 25 November 2015.

destabilization.⁵⁵ American academic Douglas Little supportively chronicled important aspects of the CIA's war instigating activities and other subversions in the Middle East after the Second World War which I referred to in the introduction. There is a reason to believe that the American troubling behaviour geopolitically was present in Libya since 2011, beyond the analysis of this briefing.

In the ensuing chaos in Libya, U.N. Security Council authorized specific mandate to use force the objective of which was to protect civilians. The subsequent international activity in Libya entailed major international law breaches. NATO's killing of civilians on a large scale requires genuine investigation and relevant prosecution by its authorities. If they fail to do so, and there is no evidence that any investigation had been carried out, the International Criminal Court has jurisdiction over the matter given the referral by the U.N. Security Council. Another option for accountability, particularly regarding American nationals who are not subject to the ICC's jurisdiction is the principle of universal jurisdiction.

The American stated objective to remove Muammar Gaddafi from power manifested in statements made by American president Obama and Secretary of State Clinton and executive orders to the CIA in this spirit, are a serious violation of the clearly defined U.N. Security Council resolutions. The consequence could be prosecution by the International Criminal Court or by resorting to universal jurisdiction. The American government also failed to gain proper legitimacy for its war action in Libya from Congress pursuant to American law thus engaging unconstitutionally in armed conflict in that country.

Lastly, there are strong indications that American forces were involved in the truck bombing which took place on 7 January 2016 in the town of Zliten which killed over 60 civilians and injured many more. Trucks have exploded in different parts of the world and in the United States following an identifiable pattern of American governance at home and abroad. It caused damage, destruction, shock, difficulties, and problems, the American code words for the United States' responsibility.

⁵⁵ Available at: <https://www.youtube.com/watch?v=dsksrI8sA1k>. See also, Keeping the Intelligence Smart: Reflections from the Intelligence World, ASPEN Institute, 22 April 2016 (a conversation with Scarlett and CIA's John McLaughlin), available at: <https://www.aspeninstitute.org/blog-posts/keeping-intelligence-smart-reflections-from-the-intelligence-world/>