

Libya and its implications for the UN, NATO and the EU

In early June 2011, NATO extended its operation in Libya until September 2011 after the mission was launched in late March. Unless there will be another extension, the operation will thus end in two months. What is going to happen next? It is not safe to say that the transitional national council will be able to act without the support of the Alliance, not to mention whether they will be able to establish a functioning and, what is even more important, a legitimate government. Whatever the operation "Unified Protector" will ultimately bring about, it is certain that the mission will have a major impact on the future of NATO and that it will equally affect the UN and the EU. Due to the immediacy of the Libya intervention, the Konrad Adenauer Foundation held a seminar on 'Libya and its implications for the UN, NATO and the EU' in the form of panel discussions on 21 June 2011 in London.

The seminar approached this broad topic by offering three different panel discussion sessions concerning the issues of 'International Law between State Sovereignty and Humanitarian Intervention', 'The Future Role of NATO: How to Formulate a Credible Level of Ambition?' and 'Expectations for the EU Foreign and Neighbourhood Policy and NATO Partnerships'.

The intervention was clearly authorized by the United Nations Security Council (UN-SC) in Resolution 1973. Nevertheless, it is the first time for the international community to call upon the principle of a "Responsibility to

Protect" (R2P) - established by the UN General Assembly in 2005 - to justify the Libyan campaign. With the Libya operation we are on new ground. There has not been any precedent yet which would clearly justify that the threshold to take resort to the concept of R2P is reached. What is intensifying this uncertainty is the politically desired regime change, which is clearly not authorized by the UN-SC and would under the given mandate not be legitimate for NATO to perform. Both the uncertainty concerning the exact criteria needed to trigger the R2P as well as the problem of a regime change will have consequences for both international law and the sovereignty of nation states far beyond the mission in Libya since humanitarian interventions and the closely related R2P could conceivably become a new precedent.

Regardless of how the R2P will be enshrined in the future, the clear distinction between regime change and the protection of civilians has to be respected today. However, it should be considered that in practice, humanitarian intervention usually brought about a regime change or secession (Kosovo). In addition, political leaders who act as supreme commanders or are otherwise involved in military operations are legitimate targets. Finally, an arrest warrant of the International Criminal Court against political leaders necessarily affects the stability of the regime.

The NATO mission in Libya demonstrates the gap between the capabilities and

Konrad-Adenauer-Stiftung e.V.

**AUSLANDSBÜRO
GROßBRITANNIEN**

25. AUGUST 2011

www.kas.de/london

kas-uk@kas.de

capacities of the United States and its European Allies. This is not only a consequence of austerity measures in Europe, following the financial crisis but also attributable to different threat perceptions. There have long been major disagreements on what exactly constitutes a threat to the Alliance, with different assessments not only on the side of the U.S. and Europe but also among European Allies. These differences have affected the sort of defence planning member states have enacted in the past and led to more cuts in defence spending than were merited by the overall security situation. In fact, an agreement on a common threat perception would help Member States to pool and share their precious resources and prepare for contingencies that are more realistic.

As for the EU, the Libya campaign and the Arab Spring raise questions about the strategic objectives and priorities of the EU diplomacy and priorities. They also raise questions about the EU's ability as a crisis manager and the capability of the European External Action Service (EEAS) as a foreign and security policy instrument of the Lisbon Treaty. European allies still struggle to overcome internal divisions which subsequently, due partly to financial constraints, have led to smaller alliances between Member States. Will smaller European Alliances such as the Franco-British defence cooperation undermine a coordinated and coherent Common Security and Defence Policy (CSDP) in the future? As the EU failed to find a common approach towards its neighbours in the South, will it change its neighbourhood policy because of the uprisings in North Africa and the Middle East? The same holds true for NATO Partnerships with Northern African and Middle Eastern countries. Although some cooperation has been achieved in the past, the Alliance needs to rethink its relationships with those countries regarding measures to stabilize this shaken region.

At the end of the seminar, the participants arrived at various conclusions and recommendations with regard to the future of the UN, EU and NATO:

- Resolution 1973 and the subsequent intervention is the latest manifestation of international law that has enshrined concepts of humanitarian interventions. Therefore, it needs to be determined in much greater detail how the principle of the R2P will be put into practice in terms of criteria and selectivity since the international community will not always be capable of intervening in order to halt mass atrocities.
- The five parameters established by the High Level Panel on Threats, Challenges and Change provide useful guidance: seriousness of threat, proper purpose, last resort, proportional means and balance of consequences.
- Though it is commonly remarked that the U.S. often provide the "hard power" in the transatlantic alliance, it would be ill-advised to conclude that Europe is better positioned in providing "soft power". The European Union was not only surprised by the Arab Spring; its missions established within the framework provided by the CDSP have also often fallen short of being efficient. Hence, Europe needs to assess its own capabilities more soberly, increase intelligence, and coordinate and streamline civilian capabilities. Not only should the partners within the Atlantic Alliance come up with a sustainable system of burden sharing. Moreover, NATO and EU have to figure out as well who is going to take on which tasks in the Mediterranean region.

Konrad-Adenauer-Stiftung e.V.

**AUSLANDSBÜRO
GROßBRITANNIEN**

25. AUGUST 2011

www.kas.de/london

kas-uk@kas.de

- With regard to comparisons drawn between the Arab Spring and the peaceful revolution in 1989, one should bear in mind that both the EU and NATO could offer the former Soviet bloc countries memberships to their organisations. This is obviously not envisaged in respect of the Northern African and Middle Eastern countries. It remains to be seen whether the Mediterranean Union, in the long run, could operate as a forum assisting countries in transitional processes. Thus, the EU and NATO should consider what they could offer the Maghreb and Middle Eastern region in order to support the democratic movements. Since NATO already offers assistance in Security Sector Reform to those countries, both the Alliance and the EU should strongly suggest to regional leaders that it is in their own best long-term interest to actually accept that offer and implement necessary reforms. In the end, however, the security situation in the region will only improve if the countries find ways to come together and enhance regional cooperation. Beyond security questions, the EU also has to support the establishment of democratic institutions and provide economic support via measures that could include trade agreements and market access.
- The EU framework is the only way to realize a CSDP since bilateral agreements do not cover the whole range of security and defence issues. That is why the EU should start from the bottom up in terms of a CSDP by permanent contingency planning and outlining a list of priorities concerning security and defence matters. Common strategies, military doctrines and manuals could also level the field immediately, paving the way toward common procurement procedures and thus enabling some savings in the medium run. These steps could also help to foster more unity in future interventions. For that purpose, the EEAS and the newly established European Defence Agency should try to move much quicker and more actively.
- There is the impression that NATO minus the US equals a divided Europe. Thus the Europeans must contemplate what to do about their own security when the US does not want to lead the Alliance anymore or the US is occupied somewhere else.