Rogue Statehood in International Society: The Case of Libya

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Thesis Summary

This thesis is about how Libya's rogue statehood was constructed and contested in international society. It provides a detailed examination of Libya's relationship with key actors in international society, such as the US and European and African states, and international society's main institutions, in order to uncover the dynamics of the roguing process, which is often over-simplified by the existing literature on rogue states. I draw on constructivist methodology (particularly with regard to the concept of "framing"), and the insights of the English School on international society, to articulate my argument. The thesis is concerned with two key questions: How did states (particularly the US) construct and contest Libyan rogue statehood? And, how did this process function in relation to the existing institutions of international society? The thesis argues that the roguing of Libya developed as a quasi-institution of international society as the US fixed the meaning of Libya as a rogue state, based on the characteristics of terrorism, regional belligerence and the pursuit of weapons of mass destruction, to the practice of delegitimising its participation in international society. However, this was unsustainable over the longer term because the existing institutions of international society (such as diplomacy, international law, war and great power management) provided substantial resources to contest the roguing process and undermine practices of international isolation. The roguing and de-roguing of Libya remained dynamic throughout, and was determined as much by the way in which states chose to use the institutions of international society as it was by the composition of the institutions themselves.

Acknowledgements

Introduction

This thesis is about how Libya's rogue statehood was constructed and contested in international society. It provides a detailed examination of Libya's relationship with key actors in international society, and international society's main institutions, in order to uncover the dynamics of the roguing process, which is often over-simplified by the existing literature on rogue states. Contemporary political discourse presents a stark image of rogue states. These states are led by regimes abhorrent in their character who actively seek to undermine global order, predominantly by pursuing weapons of mass destruction (WMD) and sponsoring acts of international terrorism. Not only are rogue states considered a threat to the security of others, they are cast as outlaws from international society who should be denied full and legitimate participation in its institutions and practices. However, this perception of rogue states is relatively new, having been most vigorously advocated by United States (US) Administrations since the end of the Cold War. This thesis is driven by two main concerns with the issue of rogue states. Despite a growing body of literature on rogue states and the rogue state image, little of it has gone beyond the study of US foreign policy to examine how the roguing process interacts with the institutions of international society.[1] In addition, international society approaches to International Relations scholarship, such as the English School, while having some historical interest in issues of international outlawry, have shown far less concern with the issue of modern rogue states.[2]

The English School has a strong tradition of articulating international society and how its institutions shape the relationships between states. It also acknowledges the role of great powers in setting and enforcing the rules and normative criteria for the rest of international society to follow.[3] Despite this, the English School has little to say about what it means to turn a member of

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[1] Some key works are: Michael Klare, *Rogue States and Nuclear Outlaws: America's Search for a New Foreign*

[2] A few exceptions are: Paul Sharp, *Diplomatic Theory of International Relations*, Cambridge University Press, Cambridge, 2009, pp 195-221; Geoffrey Wiseman, "Engaging the Enemy: An Essential Norm for Sustainable US Diplomacy" in Costas M. Constantinou and James Der Derian (eds) *Sustainable Diplomacies*, Palgrave Macmillan, Houndmills, 2010; Ian Clark, *Legitimacy in International Society*, Oxford University Press, Oxford, 2005, p 173-180; Alan James, "The Practice of Sovereign Statehood in Contemporary International Society", *Political Studies*, vol 47, 1999, pp 457-473

[3] This arises from the decentralized nature of international society. Tim Dunne, "The New Agenda" in Alex J. Bellamy (ed), *International Society and its Critics*, Oxford University Press, Oxford, 2005, p 69; For great power

international society into a rogue and how this might be done. Instead, the limited scholarship that is available focuses simply on the existence of rogue statehood and to what extent it fits within the concept of international society, in particular international law.[4] To address this gap in the literature, this thesis examines the case of Libya, which was one of the most prominent rogue states through the 1980s and 1990s, but was also able to overcome its rogue statehood to a large extent in the last decade. Therefore the central research questions this thesis seeks to answer are: How did states (particularly the US) construct and contest Libyan rogue statehood? And, how did this process function in relation to the existing institutions of international society?

To answer these questions, I argue that US foreign policy regarding Libya developed into a quasi-institution of roguing, which temporarily fixed Libya's position in international society and the behaviour of other states (including the US) towards Libya. However, this quasi-institution was unsustainable over the longer term because despite its initial roguing, Libya was able to use material and normative resources from international society's institutions that made its rogue statehood too difficult and costly for states to maintain. Overall, the existing institutions of international society (diplomacy, international law, great power/hegemonic management, and war) could be said to have some bias towards the pluralist coexistence of states, which, over time, made it increasingly more likely for Libya's de-roguing to occur. However, it was largely the agency of relevant states, and their governmental representatives, in using these institutions that affected the course of roguing and the outcome of de-roguing. For example, the US's use of multilateral diplomacy was an essential feature of the development of the roguing process but also later a significant feature of Libya's de-roguing – neither could occur through unilateral or bilateral processes alone. Diplomatic reciprocity developed as a strong mechanism for guiding behaviour in a number of episodes but it often resulted in entrenching Libya's roguing. The rules of war restricted US actions at times but when the US took military action against Libya, on at least one occasion this encouraged other relevant states to further rogue Libya, even as US actions were widely declared to be illegitimate. These dynamics are explained throughout the thesis and taken together provide a greater understanding of how international society shaped,

interest affecting criteria of humanitarian intervention see James Mayall, *World Politics: Progress and its Limits*, Polity Press, Cambridge, 2000, pp 131-132.
[4] Loosely associated to the English School in this respect is Gerry Simpson, *Great Powers and Outlaw States: Unequal Sovereigns in the International Order*, Cambridge University Press, Cambridge, 2004.

facilitated and also undermined Libya's experience as a rogue state. Examining the interaction between state agency and international society's institutions in terms of the roguing and de-roguing process also adds to an under-explained aspect of the English School's account of international society.[5]

The Libyan Case and Contemporary Rogue States

While it is apparent that there is a gap in the literature in terms of understanding rogue states as part of international society, the question may be asked, why Libya as a case study? The US practice towards Libya has had a real impact on Libya's relationship with the world and the norms and practices of international society have shaped this in some unexpected ways. Of course, some scholars would argue that international society does not really exist and that using an approach like the English School to examine rogue states will not tell us anything new. However, realist accounts themselves have little to say about rogue states and they do not explain why in various episodes the behaviour of the US and many other states was constrained or aided by various norms of international society. The decision to take on a single case study to examine the issue of contemporary rogue statehood stems from the need to show the norms and practices of international society as having a real and sustained impact on relevant inter-state relations over a significant period of time.

A number of states present themselves as possibilities for such a study but I chose Libya because it met two key criteria. First, Libya is one of a few core states that experienced sustained framing by the US as rogues – the other three most common examples being Iran, Iraq and North Korea. Second, at the time of research, Libya presented itself as the main example of a state that had successfully been de-rogued (without, for example, the regime change that occurred in Iraq). This allowed me to gain further insight into the roguing process by examining how it was contested and ultimately undermined. As Libya is the roguing case analysed in the thesis I will now turn to an overview of the important episodes and characteristics of Libya's foreign relations that are central to the roguing and de-roguing story. These issues are familiar to

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[5] See Dunne, "The New Agenda", pp 68-70 and Shogo Suzuki, *Civilization and Empire: China and Japan's Encounter with European International Society*, Routledge, London, 2009, pp 11-17.

scholars of Libyan foreign policy but interpreting these through the English School perspective improves our understanding of how some of the structures of international society guided the overall course of this aspect of Libya's history.

Dividing the case study broadly into two parts – Libya's roguing and de-roguing – some important events and foreign policy characteristics emerge from the Libyan foreign relations literature. In terms of the period of Libya's roguing, while Libyan foreign policy became controversial shortly after the Qadhafi regime came to power in 1969, Libya's isolation from international society took years to develop. The primary foreign policy controversies for Libya during the 1970s and 1980s were Libyan involvement in terrorism, its attacks on US and Western European allies in Africa and the Middle East, and improving relations with the Soviet Union in the Cold War context.[6] Libya's intervention in nearby African states began with Uganda and was most substantial in Chad in the 1970s and 1980s as Libya occupied the Aouzou strip and at various points had troops or supported rebellions in Chad's capital city, N'Djamena. During this period and in large part because of Libya's intervention in its region and its failed attempts at unification with a number of states, Libya was politically isolated from the Arab and African states.[7] From a US perspective, unlike some of the other rogue states such as Iraq whose isolation developed more significantly in the post-Cold War era, the problems with Libya escalated significantly during the 1980s, under the Reagan Administration. Libya was accused of being behind terrorist attacks in Rome, Vienna and Berlin in 1986 and was subjected to US airstrikes that April. Then, in the early 1990s, Libya's involvement in the Lockerbie bombing of December 1988 and the bombing of UTA Flight 772 in September 1989 became apparent. For the first time, the United Nations Security Council (UNSC) placed sanctions on a state for acts of terrorism. This is commonly taken to be the height of Libya's isolation from the rest of the world.

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[6] Key texts used: Dirk Vandewalle (ed), *Libya Since 1969: Qadhafi's Revolution Revisited*, Palgrave MacMillan, New York, 2008; Yehudit Ronen, *Qaddafi's Libya in World Politics,* Lynne Rienner Publishers Inc, Boulder, 2008; Ronald Bruce St John, *Qaddafi's World Design: Libya's Foreign Policy, 1969-1987*, Saqi Books, London, 1987; Yehudit Ronen, "Libya's Conflict with Britain: Analysis of a Diplomatic Rupture", *Middle Eastern Studies*, vo. 42, no 2, 2006.

[7] Mary-Jane Deeb, *Libya's Foreign Policy in North Africa*, Westview Press, Boulder, 1991, pp 91-95, 144-145, 173-176.

In terms of de-roguing we are pointed to the normalising of Libya's relations with key states such as the US, the ending of United Nations (UN) sanctions, and Libya's rebuilding of ties with states in Africa and the European region. The resolution of the Lockerbie dispute and the ensuing cessation of UN sanctions stands out as a clear feature of Libya's de-roguing. This began with Libya's release of the Lockerbie suspects for trial, resulting in the suspension and then lifting of UN sanctions, and culminated with Libya's agreement to pay compensation to the victims' families in 2003.[8] A number of authors have given explanations regarding the pressure that these sanctions placed on Qadhafi's regime. These authors argue that Qadhafi's interests in the international arena became aligned with domestic issues, including the destabilising effect of economic sanctions[9] and fighting the threat from the Al-Qaeda group to his regime's stability.[10] However, others have asserted that the sanctions, while successful in encouraging Libya to release the suspects for trial, actually strengthened Qadhafi's regime.[11] While these accounts provide useful insights into aspects of the Lockerbie case, they tend to overlook a significant change in the ideational factors (such as framing) that took place as the Lockerbie issue evolved. The accounts that highlight ideational factors in the resolution of the Lockerbie dispute are less common. The most notable, by Ian Hurd, examines Libya's strategic use of arguments framed in terms of international law (or liberal internationalism) during the UNSC debates over sanctions. Hurd argues that Libya's arguments attacked the legitimacy of the UNSC which forced the US and UK into deciding whether to compromise with Libya or allow the legitimacy of the UNSC to be undermined.[12] However, Hurd is not concerned with Libya's de-roguing in general and says little about Libya's broader association with international society and its institutions outside the sanctions issue.

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[8] Khalil I. Matar and Robert W. Thabit, *Lockerbie and Libya: a study in international relations*, McFarland & Company, Inc. Publishers, Jefferson, 2004.

[9] Mary-Jane Deeb, 'Qadhafi's Changed Policy: Causes and Consequences' *Middle East Policy*, vol 7, no 2, 2000, pp 146-153.

[10] Lisa Anderson, interviewed by Bernard Gwertzman "Libyan Expert: Qaddafi, Desperate to End Libya's Isolation, Sends a 'Gift' to President Bush", *Council for Foreign Relations*, 22 December 2003, http://www.cfr.org/publication/6617/libyan_expert.html (last accessed 30 September 2010). And Dafna Hochman, "Rehabilitating a Rogue: Libya's WMD Reversal and Lessons for US Policy", *Parameters,* Spring, 2006, pp 63-78.

[11] See Tim Niblock, *"Pariah States" & Sanctions in the Middle East: Iraq, Libya, Sudan*, Lynne Rienner Publishers, Boulder, 2001, pp 93-94.

[12] Ian Hurd, "The Strategic Use of Liberal Internationalism: Libya and the UN Sanctions, 1992-2003" *International Organization*, vol 59, 2005, pp 495-526; another ideational account is Lyn Boyd-Judson, "Strategic Moral Diplomacy: Mandela, Qaddafi, and the Lockerbie Negotiations" *Foreign Policy Analysis*, vol 1, no 1, 2005, pp 73-97.

Libya's decision in December 2003 to discontinue its WMD programme is also heralded by US foreign policy as essential to its reintegration with the US and the international community. Jentleson and Whytock, among others, have argued that ultimately both resolution of the Lockerbie issue and Libya's commitment to discontinue its WMD program were evidence of successful coercive diplomacy, particularly by the George W. Bush Administration.[13] In doing this, this group places significance on the timing of the policy changes, coming shortly after the US followed through on threats regarding Saddam Hussein and Iraq. They argue that Qadhafi realized that to remain in power, he must discontinue policies that the US in particular saw as unacceptable and would take military action against if necessary. On the other hand, a significant group of authors argue that the timing was insignificant and that Libya's policy changes were the result of diplomacy beginning in the late 1990s that was able to convince Qadhafi of the merits of peacefully resolving Libya's major controversies. This includes the argument by some that the US tacitly signalled that the policy of regime change was no longer applicable to Libya. In short, the WMD debate is generally marked by a dichotomy between deterrence (including sanctions) and diplomacy, or some combination of the two.[14] In this thesis I argue in a manner that highlights the diplomacy aspect of the relationship but my purpose is to say something broader about roguing as a quasi-institution and move beyond the specific foreign policy changes that are of concern to the existing literature.

Moving beyond US/Libyan relations, the current literature shows that Libya's isolation – and re-engagement – with different states and in different regions had its own dynamics. After unsuccessful attempts to construct a pan-Arabic alliance, Qadhafi changed tack in the mid to late 1990s and aimed to build a concept of pan-Africanism instead – with Libya as a major power.

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[13] Bruce W. Jentleson and Christopher A. Whytock, "Who 'Won' Libya? The Force-Diplomacy Debate and Its Implications for Theory and Policy", *International Security*, vol 30, no 3, 2006, pp 75-79.

[14] Jonathan B. Tucker, "The Rollback of Libya's Chemical Weapons Program", *The Nonproliferation Review*, vol 16, no 3, 2009, pp 363-384; Randall Newnham, "Carrots, Sticks, and Bombs: The End of Libya's WMD Program", *Mediterranean Quarterly*, vol. 20, no. 3, 2009, pp 77-94; Gawdat Bahgat, "Proliferation of Weapons of Mass Destruction: The Case of Libya", *International Relations,* vol 22, no 1, 2008, pp 105-126; Jentleson and Whytock, "Who 'Won' Libya?", pp 47-86. Dafna Hochman, "Rehabilitating a Rogue", pp 63-78; Ronald Bruce St John ""Libya Is Not Iraq": Preemptive Strikes, WMD and Diplomacy", *Middle East Journal,* vol 58, no 3, 2004, pp 386-402.

This involved Libya repairing damaged relationships with many sub-Saharan states.[15] The resultant African alliance played a significant role in altering Libya's relationships with non-African members of international society. It was also a significant part of the process of lifting UN sanctions against Libya. The dynamics of Libyan and European relations were concerned with terrorism (in a different way to the US), trade and immigration.[16] Taken together, the differences that are apparent in the relationship between Libya and a variety of states and regions highlight the role of regional dynamics in de-roguing as a global quasi-institution.

Definitions, Method and Sources

This thesis argues that the use of a rogue frame is very important in understanding roguing as a practice in international society. The term "rogue" is used to reflect its use by statespersons, particularly from the US, and is in general considered interchangeable with various similar terms such as "outlaw", "pariah" or "backlash states".[17] The context of the usage is specific to international relations; parallels with the literal usage of various terms such as outlaw, rogue or pariah in the domestic sphere are limited.[18] To this end, I use the terms "roguing" and "de-roguing" to understand the process of constructing a frame that interprets a state as a "rogue state". The term "quasi-institution" is used in line with how the English School defines institutions, such as diplomacy, war, etc, but in a much weaker, looser form. These institutions for the English School are, as stated by Buzan, "constitutive of both states and international

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[15] Yehudit Ronen, "Libya's Diplomatic Success in Africa: The Reemergence of Qadhafi on the International Stage", *Diplomacy & Statecraft*, vol 13, no 4, 2002, pp 60-74; Asteris Huliaras "Qadhafi's Comeback: Libya and Sub-Saharan Africa in the 1990s" *African Affairs*, vol 100, no 398, 2001, pp 5-25.

[16] Yahia H. Zoubir, "Libya and Europe: Economic Realism at the Rescue of the Qaddafi Authoritarian Regime" *Journal of Contemporary European Studies*, vol 17, no 3, December 2009, pp 401-415; Derek Lutterbeck, "Arming Libya: Transfers of Conventional Weapons Past and Present", *Contemporary Security Policy,* vol 30, no 3, 2009, pp505-528; George Joffé, "Libya and Europe", *The Journal of North African Studies,* vol. 6, no. 4, 2001, pp 75-92; George Joffé, "The European Union, Democracy and Counter-Terrorism in the Maghreb", *Journal of Common Market Studies*, vol 46, no 1, 2008, pp 147-171; Emanuela Paoletti, "Power Relations and International Migration: The Case of Italy and Libya", *Political Studies*, 2011 (forthcoming) http://onlinelibrary.wiley.com/doi/10.1111/j.1467-9248.2010.00849.x/pdf accessed 17/01/11,

[17] Backlash state is used by Anthony Lake in articulating Clinton Administration policy. Anthony Lake "Confronting backlash states", *Foreign Affairs*, vol 73, no 2, 1994, pp 45-55.

[18] A similar point made by David Mutimer, *The Weapons State: Proliferation and the Framing of Security*, Lynne Rienner Publishers, Boulder, 2000, p 94 - 95.

society in that they define both the basic character and the purpose of any such society."[19] When considered in contrast to what regime theorists talk about in terms of institutions, such as the UN, the English School institutions are "evolved rather than designed" and "constitutive rather than instrumental".[20] The roguing process developed its own logic, I argue, to the extent that it could be considered a *quasi*-institution. There was purpose to its creation but the aims were general and constantly re-shaped and changed in response to shifts in the contexts and structure of international society. The framework applied in the thesis is deliberately state-centric because it reflects both the primary actors of the issues I discuss and how even when non-state actors were involved (for example in terrorist attacks), the issues were reinterpreted through a state-based frame and the consequences applied to states.

This thesis is an idiographic study of the roguing and de-roguing of Libya and it is primarily an empirical study. However, the overall purpose of the study is to provide some broader conclusions for roguing as a contemporary quasi-institution in international society and how it has been unsustainable. This in turn provides scope to make some corrections to the English School scholarship by contributing to our understanding of the dynamics of international society, including how different institutions of international society can operate in specific contexts. In this respect the claims I make in the thesis can be considered as follows. My study of the Libyan case represents a particular causal path of the more general phenomenon of roguing/de-roguing in international society. At no stage am I making claim to identifying the necessary (let alone sufficient) causes of roguing/de-roguing. Instead, through my analysis I am identifying a collection of contributory causes of roguing/de-roguing and the particular path they followed in the Libyan case. Drawing from this collection of contributory causes and a more general survey of other cases of roguing/de-roguing in international society (e.g. Iraq, South Africa, etc), I highlight some "ingredients" that it is reasonable to conclude may more commonly occur, in some form among other factors, in the general phenomenon of roguing/de-roguing. These conclusions then form departure points for the roguing and de-roguing process in general which can then be examined by further research beyond my project.

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[19] Barry Buzan, "The Middle East through English School Theory" in Barry Buzan and Ana Gonzalez-Pelaez (eds), *International Society and the Middle East: English School Theory at the Regional Level*, Palgrave Macmillan, Houndmills, 2009, p 27.
[20] Barry Buzan, "The Middle East", p 27.

My study of Libya's problematic international relations is informed by the secondary literature and the incidents and episodes discussed will be familiar to scholars of Libyan foreign policy. However, while I do not claim to provide a fundamentally new understanding of the key drivers of Libya's foreign policy or decision-making at various points, the adoption of the English School approach does provide a different interpretation of part of the story of how Libya's relations with other states evolved over time. In particular the thesis focuses on drawing out not simply the foreign policy actions taken against Libya but how those actions have been framed and justified, and the implications of this for the relations between states in these and future circumstances. As such, I draw on the constructivist method of using framing to show how the roguing process sought to fix meaning to Libya's actions and set the boundaries for future inter-state relationships with Libya.[21] The rogue frame brings to the fore certain characteristics of a state in order to create a lens for interpreting their actions. This rogue frame is investigated primarily through a textual analysis based on the sources discussed below. This method of analysis is beneficial because the information sources reflect their 'real' usage and have not been produced for research purposes, therefore avoiding problems of reactivity with the researcher, which may bias the material.[22] I follow John Scott's criteria for collecting and analysing texts based on authenticity, credibility, representativeness, and meaning.[23] My method follows other scholars who, in analysing framing in international relations, have combined a close reading of important texts with a general reading of wider texts in order to provide a depth of textual analysis that can be suitably contextualised among broader materials.[24]

The existing literature regarding Libya's foreign relations suggests that three dimensions of analysis are important in answering the research questions. The first is the US/Libyan relationship as the US is the primary constructor of Libyan rogue statehood and the last state to

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[21] For framing and fixing meaning, Michael Barnett, "Culture, Strategy and Foreign Policy Change: Israel's Road to Oslo", *European Journal of International Relations*, vol 5, no 1, 1999, pp 5-36; Mutimer, *The Weapons State*; Michael Barnett and Martha Finnemore, *Rules for the World: International Organizations in Global Politics*, Cornell University Press, Ithaca, 2004 pp 32-33.

[22] Alan Bryman, *Social Research Methods*, 3rd Ed, Oxford University Press, Oxford, 2008, pp 515-516.

[23] John Scott, *A Matter of Record: Documentary Sources in Social Research*, Polity Press, Cambridge, 1990, pp 10-35.

[24] For example, Frank Schimmelfennig, *The EU, NATO, and the Integration of Europe: Rules and Rhetoric*, Cambridge University Press, Cambridge, 2003, pp 227-228.

accept its de-roguing. The US source material I have used comprises the public statements of various Presidents and senior foreign policy decision makers and spokespeople, testimony to congress, archival research from the Ronald Reagan Presidential Library and declassified material from the National Security Archives,[25] government reports such as the US national security strategies, published interviews, English language press, and several interviews with US policy makers. The interviews were semi-structured, theme-based informal discussions to gain further information from targeted individuals involved in US/Libyan/rogue state foreign policy.[26] For each interview I received the participant's informed consent, outlined the use for and implications of the information collected and de-identified the interview responses.[27] The second dimension is global international society, which is examined primarily through the dynamics of Libya's relationship with the UNSC and the key great powers of the UK, France, Russia (the Soviet Union) and China. This is because the UNSC acts as a gauge for understanding the extent of roguing and the systematic and institutionalised nature of its practice. Similarly, the sanctions imposed on Libya by the UNSC mark a significant entrenchment of its rogue statehood. In terms of sources, I use the debates, communications, resolutions, and practices regarding Libya in the UNSC as the primary focus of analysis. This is complemented by an analysis of the secondary literature, press reports, and published interviews surrounding key events. Finally, I consider important regional relationships for Libya in the roguing and de-roguing process. I focus on Libya's relations within the African region, including with key states and organisations such as the Organisation of African Unity (OAU)/African Union (AU), the Arab Maghreb Union (AMU) and the Community of Sahel-Saharan States (COMESSA); the European region, again with key states such as Italy and Germany (in addition to France and the UK), as well as the European Economic Community (EEC)/European Union (EU); and finally, the Arab region, including key states like Egypt and organisations such as the Arab League. I examine relevant resolutions of the OAU/AU, EEC/EU and Arab League, and survey resources such as the Africa Contemporary Record, Africa Research Bulletin, BBC World Monitoring, and other English language press focusing on key events identifiable from the existing secondary literature.

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[25] Primarily digital material as major Libya file was lost in the archive's moving process.
[26] In line with: Jennifer Mason, *Qualitative Researching*, 2nd Ed, Sage Publications, London, 2002, p 62; George Gaskell, "Individual and Group Interviewing" in Martin Bauer and George Gaskell, Q*ualitative Researching with Text, Image and Sound: A Practical Handbook,* Sage Publications, London, 2000, p 39, 48.
[27] As per typical practice, see, Alan Bryman, *Social Research Methods*, 2nd Ed, Oxford University Press, Oxford, 2004, pp 509-513.

My source usage presents some limitations for the study. I do not address the Libyan side of the sources beyond what has been said in the UNSC, in English language press reports surrounding particular incidents/controversies, and secondary literature on Libya published in English. This is largely true for most other states. Even in the case of the US, for which the most material is available, much of the potential evidence regarding US/Libya relations remains classified from the Reagan period onwards. Although these source issues pose a potential problem, they do not seriously undermine the study as the primary objective of the thesis is to trace the construction of Libyan rogue statehood by examining the framing and international practice towards Libya. Another limitation arises in that textual analysis and interviews can be criticised for being subjective and dependent on interpretation by the researcher.[28] Additionally it is possible that the information gained in the interview process is constructed as part of the interview itself.[29] Such issues are regularly faced by contemporary case studies but the triangulation of sources where possible and discussing issues in terms of overall patterns of framing and practice still allow reasonable conclusions to be drawn.

The period of study, from the 1980s to the present, has largely been guided by the life of the roguing and de-roguing of Libya; however, an additional benefit of focusing on a relatively short time period is that it allows the development of a more in-depth understanding of the interaction of the roguing process and the existing institutions of international society, in specific episodes as well as broader patterns. In terms of the boundaries of the Libyan case I am solely concerned with the Qadhafi regime and the process of roguing and then de-roguing. The dramatic changes in Libya as a result of the revolt against the Qadhafi regime and the NATO intervention since the beginning of 2011 are not discussed in the substantive part of the thesis but I do provide a brief discussion of their implications for the argument of the thesis in an epilogue in the final chapter. Therefore, this thesis is the story of Libyan rogue statehood prior to the revolution of February 2011.

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[28] Alan McKee, *Textual Analysis: a beginner's guide*, Sage Publications, London, 2003, p 1, 118-119.
[29] Mason, *Qualitative Researching*, pp 62-63.

Thesis Outline

Chapter one sets out the framework of the thesis, including the literature survey. It discusses the three key concepts used in the thesis to analyse the process of Libya's roguing and de-roguing. First, it introduces framing as a concept and how it is employed in this thesis to further our understanding of the practice of outlawry. I show that frames fix meaning and highlight certain characteristics while downplaying others. This means that as the roguing process gains success, states come to view Libya through the lens of a rogue state and treat it differently. Second, the chapter discusses the conception of international society used for the thesis, and institutions and practices relevant to Libyan outlawry. The engagement with the English School conception of international society and its institutions to understand rogue statehood forms the basis for the contribution of the thesis to the literature. The analysis of the nature of international society considers the decentralised structure of international law. Sovereignty is set out as an important foundation for understanding rogue states as actors in international society and the consequences that this has for how roguing and de-roguing may develop as a quasi-institution. The sovereign equality of rogue states means that participation *within* international society rather than exclusion *from* international society defines the boundaries of roguing. Diplomacy is the primary institution that the empirical analysis focuses on and I pay particular attention to the diplomatic norms of continual dialogue, multilateralism and reciprocity. The institutions of great power management, hegemony, balance of power, and war are examined to uncover their role in constructing the roguing process – recognising that it is the agency of great powers that is essential to shaping the dynamics of Libya's rogue statehood. War is considered as an end point of the roguing process and limited military action and the threat of war as part of its construction and maintenance.

Finally, the chapter moves on to discuss the gaps in the current literature on rogue states and outlawry, including how the literature misses an important part of the analysis of contemporary rogue states by either not engaging properly with conceptions of international society and its norms, or – in the few cases that do – not examining the resources, practices and frames used by states, particularly great powers, to construct rogue statehood, as well as how rogue statehood is

contested by rogues themselves and other members of international society. This includes a survey of the various conceptions of outlawry, as well as similar forms of state isolation/confrontation with international society – including revolutionary states, Barbary states, the totalitarian states of the Second World War, and the pariah states of the 1970s and 1980s. The chapter finishes with the criticisms of the domestic conceptions of what a rogue might be, such as outlaws, criminals, the excommunicated, or the marginalised. This discussion finishes by outlining the specific criteria used to "measure" Libya's roguing.

The purpose of the second chapter is to set out the grounds on which the US developed its practice of roguing Libya by tracing the characteristics it brought forward to delegitimise Libya's participation in international society, the various events that were used to fix the meaning of Libya's rogue statehood, and how the existing institutions of international society were managed to this end. The characteristics used to justify Libya's roguing were not fixed but changed, partly in response to Libyan actions and partly in response to other political factors and contexts. Over time, Libya's roguing highlighted the characteristics of terrorism, regional subversion, a proxy of Soviet policies, and the pursuit of WMD. The main finding of the chapter is that the roguing of Libya was not simply an objective response to Libyan behaviour, but was an active construction by the US Administrations from Reagan onwards, as they systematically pursued a strategy of isolating Libya, not only from the US but from bilateral and multilateral relations with other states. The US used the institutions of diplomacy, international law and war in varying ways to achieve this. The chapter focuses on the link between US representations of Libya as a rogue and the strategy of forcing Libyan diplomatic isolation from the US and other states in order to delegitimise its position in international society. Not only did this process settle US policy towards Libya, it restricted the options of the Administration to conduct diplomacy with Libya because of the domestic political constraints the roguing process placed on the Administration. In addition, the chapter shows how the US employed material and military capabilities to multilateralise Libya's roguing, particularly in Western Europe in the 1980s. I also discuss Libya's treatment in reference to some other rogue states and how this rogue state collective was established as a quasi-institution.

The third chapter analyses key events in Libyan foreign policy and how they were represented at the UNSC, using the UNSC as a proxy for international society. However, to fully understand the process of roguing and its regional variances, the practice towards Libya at the UNSC is complemented by an analysis of Libya's roguing with respect to other relevant organisations such as the OAU, the EU/EEC and relevant state collectives, and how key states then related to Libya bilaterally. The chapter analyses the way various states framed Libya's position in international society and the Libyan behaviour that contributed to the construction and acceptance of Libya's rogue statehood. It argues that the European roguing of Libya as it developed in the 1980s was a response to US action against Libya as much as an independent response to Libyan behaviour. In the African region, Libya's roguing developed more independently in response to Libya's activities in the region, although the US played a role in certain episodes. The chapter argues that the end of the Cold War provided for the universalisation of Libyan rogue statehood through UN sanctions over the Lockerbie bombing, but at the same time this narrowed the terms on which this roguing was maintained. Nevertheless, the UK and other states used the sanctions process to promote the WMD characteristic of roguing Libya, with some success. The implications are that as the construction of Libyan rogue statehood became more universally accepted it continued to suffer tension from existing institutions of international society. However, Libya's roguing was also reinforced by reciprocal behaviour as Libya responded to the roguing with actions of self-marginalisation and further rogue-like behaviour, that furthered the rogue state construction.

Chapter four again uses the UNSC as the point of reference for examining how the roguing of Libya was contested and overcome as Libya reintegrated with international society. I also focus on Libya's relationship with the African and European regions as the two most important regions for Libya's de-roguing. The discussion of Libya's de-roguing in international society in this chapter reflects that the de-roguing in international society was prior to and in part a cause of Libya's de-roguing in the US which is discussed in chapter five. This chapter argues that Libya's de-roguing was due to Libya's ability to marshal political and financial resources to contest the roguing process and undermine UN sanctions. In part, the end of the Cold War and the structural shift in the international system that this entailed also paved the way for Libya's de-roguing. The absence of super-power influence in the African region allowed Libya to more effectively

manipulate established diplomatic norms and advance its overall position in international society through regional multilateral platforms. In the European region, Libya's reintegration was closely linked to the UN sanctions process, with Libya promoting itself as a "bridge" to Europe, and the establishment of diplomatic and intelligence relations between the UK and Libya leading to the giving up of Libya's WMD. The implications of this are that unlike retrospective attempts by some states to cast the giving up of WMD as a qualifying feature of participation in international society, it was Libya's increased diplomatic participation that paved the way for its change in behaviour. The resolution of court cases relating to Libyan terrorism and the payment of appropriate compensation also contributed to Libya's de-roguing.

Chapter five discusses the unravelling of the US framing of Libya as a rogue state. It examines the grounds on which Libya, third party states, and international society undermined the US construction of Libyan rogue statehood, and the development of the US interest in Libya's "rehabilitation" as a rogue. I argue that reframing Libya in terms of a "rehabilitated" rogue was an important part of the de-roguing process and provided a way for the George W. Bush Administration to more legitimately justify its change in policy to important domestic constituencies. The chapter also considers the relationship between international society and the US as the agent attempting to rogue Libya and re-establish grounds for the inclusion/exclusion of states from international society. It argues that the US's de-roguing of Libya was largely a response to Libya's de-roguing in international society more generally and a result of established diplomatic practices elsewhere in the world. The interaction with other key actors in international society in relation to compensation settlement in the US for Libyan terrorism is also discussed.

Chapter six provides the general conclusion for the thesis. It draws out some of the implications that my empirical analysis of the Libyan case has for scholars' current conceptions of international society and outlawry. Specifically, the conclusion will focus on how the existing norms of diplomacy and sovereignty impeded the maintenance of the rogue state construction of Libya. Similarly, it will discuss how Libya actively used these existing norms to aid its de-roguing process and how material and financial resources were also used to this end. This shows that roguing was a weak and ultimately unsustainable "quasi-institution" of international society.

It also shows the limitations to the US being able to shape long-term normative change in international society despite its pre-eminence as a power. The conclusion also points to the importance of state agency in shaping the outcomes of both roguing and de-roguing. Although international society was resistant to the roguing process in general, the de-roguing still required individual states and collectives of states to use the norms and institutions in particular ways. I also draw some parallels between the Libyan case and other contemporary rogue states to show some of the likely paths for roguing and de-roguing. Finally I note how the current situation in Libya, since February 2011, relates to these conclusions.

1. Theoretical framework: Framing, rogue states and international society

1.1 Introduction

This thesis aims to contribute to the International Relations literature that currently fails to fully account for how the state practice of framing states such as Libya as 'rogues', and attempting to marginalise them from others, functions in international society. To help achieve the general purpose of the thesis, this chapter aims to do two key things. The first aim is to set out the theoretical framework that is adopted throughout the thesis to answer the following two research questions: How did states (particularly the US) construct and contest Libyan rogue statehood? And, how did this process function in relation to the existing institutions of international society? Broadly the thesis engages with three key concepts: framing, international society and rogue or outlaw states. The second aim of the chapter is to outline the literature relevant to this thesis in order to clearly detail the contribution that the thesis makes to scholarship. The thesis works at the intersection of three distinct bodies of literature: the constructivist literature on framing; English School literature on international society; and US foreign policy literature regarding rogue states and US-Libyan relations. The primary purpose of the thesis is to contribute to the English School literature by providing a detailed account of how roguing is constructed in international society as a quasi-institution and how this emerging practice then interacts with the existing institutions of international society. Therefore, the thesis draws heavily on English School literature about the nature of international society and the workings of its institutions and particularly their inter-relationship with emerging practices. Specifically the thesis adds to a sub-section of the English School scholarship that explains the historical evolution of international society and its institutions by showing what specific norms and practices facilitated and shaped the establishment of roguing as a quasi-institution of international society and why it was unsustainable in the long term.

The chapter is organised in the following way. First, it outlines 'framing' as a concept and how framing is employed in this thesis to understand the practice of roguing and de-roguing. By using the concept of framing, this thesis uncovers the processes through which new norms and practices emerge and how they are contested. The existing literature on framing shows that

actors interpret and act on the same information differently when it is framed in different ways. Furthermore, the framing of foreign policy has political implications in the international sphere, not only for the issues at hand but for future political practices, as it can either enable or constrain future political action. Therefore, the use of a frame such as "rogue state" to describe the behaviour of certain states is better understood through an explicit engagement with the concept of framing itself.

Second, the chapter outlines the conception of international society used for the thesis and institutions and practices relevant to Libya's roguing and de-roguing. The outline of international society considers the institutions of diplomacy (including its key norms such as reciprocity), international law, great power management, the distribution of power (that is, the bipolar and then unipolar character of the international system), and sovereignty. This chapter describes the institutions of international society that are examined throughout the thesis in addressing the second research question outlined above. I use the main institutions of international society that are articulated by the English School. As there is some disagreement among English School scholars themselves as to which institutions are actually present in contemporary international society, this collection is necessarily selective and not exhaustive, and includes those institutions on which there is a general level of consensus. The selection is also based on those that are most likely to constrain or enable the roguing process and therefore illuminate the aspects of outlawry relevant to the research questions. Sovereignty is included because it provides an important basis for understanding rogue states and how their interactions with the members of international society differ from other actors at the margins of international society. The thesis provides more discussion of some of the institutions than others based on the story that emerges from the empirical material examined in the Libyan case and on the gaps that currently exist in the literature regarding outlawry. Therefore, diplomacy as an institution features most prominently in the thesis and international law least prominently, while the other institutions outlined below are more prevalent in some episodes of the Libyan case than others.

Finally, the chapter provides a discussion of how rogue, pariah and outlaw states have been treated by scholars. This includes a survey of the various conceptions of rogue and outlaw states,

as well as similar forms of state isolation/confrontation with international society – including revolutionary states, Barbary states, and contemporary rogue states (including the Libyan case). I show that the current literature on rogue states and how they relate to international society is unsatisfactory because it uses the term "rogue" too loosely or bluntly, or overlooks the key characteristic of "rogues" as state actors existing within, rather than outside, international society. I argue that the current rogue states, while sharing important similarities with previous outsiders or ostracised states (such as "barbarian" peoples, or revolutionary states), need to be considered as a distinct group from "barbarians" and revolutionary states as well as from those states that are outside the "democratic core" of contemporary international society. Therefore, this final section of the chapter discusses some of the conceptual problems in the existing literature and the history of outlaw/rogue states by looking at the practices of domestic societies towards criminalisation, outlawry, excommunication and marginalisation. From this I draw out the specific criteria used in the thesis to measure Libya's roguing and de-roguing in terms of the various institutions of international society.

1.2 Framing and the Practice of Roguing

The concept of framing forms a fundamental part of the analysis employed in this project to understand Libya's roguing and de-roguing. Frames are defined here as "the specific metaphors, symbolic representations, and cognitive cues used to render or cast behaviour and events in an evaluative mode and to suggest alternative modes of action".[30] As David Mutimer notes, frames (or metaphors) are a way of highlighting or promoting certain characteristics of a person, thing or action while downplaying or hiding others. When one type of frame dominates, it can act as a lens through which policy options and actions are then interpreted.[31] In effect, frames help create the social reality under which actors advocate and evaluate action.[32] They are a key way in which actors are able to "fix meaning" on events.[33] As such, framing impacts on how actors determine their interests and, while being "logically independent concepts", frames and interests have a

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[30] Mayer N. Zald, "Culture, ideology, and strategic framing", in Doug McAdam, John D. McCarthy and Mayer N. Zald (eds) *Comparative perspectives on social movements: political opportunities, mobilizing structures, and cultural framings*, Cambridge University Press, Cambridge, 1996, p 262.
[31] Mutimer, *The Weapons State,* pp 19-25.
[32] John Dryzek, "Policy Analysis and Planning: From Science to Argument", Franck Fischer and John Forester (eds) *The Argumentative Turn in Policy Analysis and planning*, Duke University Press, Durham, 1993 pp 222-227.
[33] Barnett and Finnemore, *Rules for the World,* pp 32-33.

reciprocal relationship as each affects, and even shapes, the other.[34] The application of framing as part of the analysis of rogue states in itself is not new. A number of scholars have noted to varying degrees that the rogue frame has – or is likely to have – implications for foreign policy. However, these discussions either tend to be sidenotes or focused on the framing of rogues in terms of US foreign policy decision-making (discussed later). The relationship between rogue framing and international society is largely unexplored. While I do not contend that Libya's behaviour as such is unimportant, understanding the way that this behaviour is framed (i.e. cast, justified, interpreted) is necessary to understanding whether Libya's behaviours form the characteristics of an outlaw, rogue or other type of political actor.

The concept of framing has entered International Relations scholarship from two broadly distinct disciplines: constructivism and political psychology.[35] Scholars studying the theory of social movements have identified frames as an important factor in mobilising public collectives to change social norms.[36] It is their work that has been adopted mostly by constructivist writers in International Relations literature[37] and it best sets up the definitional and theoretical framework

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[34] Donald A. Schön and Martin Rein, *Frame Reflection: Toward the Resolution of Intractable Policy Controversies*, BasicBooks, New York, 1994, p 29.

[35] The constructivist approaches are very broad, for example, Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change", *International Organisation*, vol 52, no 4, 1998, pp 887-917; Barnett, "Culture, Strategy and Foreign Policy Change", pp 5-36; Barnett and Finnemore, *Rules for the World*; Séverine Autesserre, "Hobbes and the Congo: Frames, Local Violence, and International Intervention", *International Organization*, vol 63, Spring 2009, pp 249-280; Mutimer, *The Weapons State*; Realist constructivists include Ronald R. Krebs and Patrick Jackson, 'Twisting Tongues and Twisting Arms: The Power of Political Rhetoric', *European Journal of International Relations,* vol 13, no 1, 2007, pp 35-66; Ronald R Krebs and Jennifer K. Lobasz, "Fixing the Meaning of 9/11: Hegemony, Coercion, and the Road to War in Iraq", *Security Studies*, vol 16, no 3, 2007, pp 409-451; For Political Psychology see for example, Jack S. Levy, "Prospect Theory, Rational Choice, and International Relations", *International Studies Quarterly*, vol 41, no 1, 1997, pp 87-112; Jack S. Levy, "Political Psychology and Foreign Policy" in David O. Sears, Leonie Huddy and Robert Jervis (eds) *Oxford Handbook of Political Psychology*, Oxford University Press, Oxford, 2003; Alex Mints and Steven B. Redd, "Framing Effects in International Relations", *Synthese*, vol 135, 2003, pp 193-213; Jean A Garrison, "Framing Foreign Policy Alternatives in the Inner Circle: President Carter, His Advisors, and the Struggle for the Arms Control Agenda", *Political Psychology*, vol. 22, no. 4, 2001, pp 775-807.

[36] Robert D. Benford and David A. Snow, "Framing Processes and Social Movements: An Overview and Assessment", *Annual Review of Sociology*, vol 26, 2000, pp 611-639 and Doug McAdam, John D. McCarthy and Mayer N. Zald (eds) *Comparative perspectives on social movements: political opportunities, mobilizing structures, and cultural framings*, Cambridge University Press, Cambridge, 1996.

[37] This was initially adopted primarily in the analysis of transnational social movements, see Martha Finnemore and Kathryn Sikkink, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics", *Annual Review of Political Science*, vol. 4, 2001 pp 409-410. However, it has developed far more widely in recent years, see for example Barnett and Finnemore, *Rules for the World*; Autesserre, "Hobbes and the Congo", pp 249-280; Barnett, "Culture, Strategy and Foreign Policy Change".

under which this thesis will discuss the concept of frames. The literature on framing has grown significantly and framing is often used as a primary feature of analysis or part of other models in the International Relations literature. Some International Relations scholars have also highlighted the importance of framing in establishing and maintaining new international norms and institutional frameworks.[38] Taken broadly as a group, this includes scholars of a more critical theory bent who have not only been concerned with framing as an empirical issue but have focused significantly on the normative dimension of framing as part of the processes of Habermasian 'dialogue'.[39] This group is often concerned with dissociating framing from power and manipulation in order to resolve (or transform) political conflict in just and fair ways. From this perspective, frames that are manipulated by actors and existing power structures are illegitimate and undermine 'truth' seeking dialogue, something which must be avoided.[40] While such arguments can be persuasive in a normative sense and provide potentially valuable instruction for policy elites negotiating future political change, they have significant difficulty in explaining empirical cases, as genuine cases of Habermasian 'dialogue' are rare.[41] It is apparent that the roguing process includes extensive manipulation of frames and material power, and as such the Habermasian analysis has little relevance to uncovering the empirical issues raised by this thesis' research questions.

Even the more empirically focused constructivist scholars have been criticised for placing too much emphasis on ideational factors while downplaying or ignoring material factors, particularly power. In addition, there has often been an aversion in the more empirical constructivist studies to discuss how states themselves, rather than networks of individuals or non-government

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[38] Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change" *International Organisation*, vol 52, no 4, 1998, p 897.

[39] See for example Lars G. Lose, "Communicative Action and the World of Diplomacy" and Harald Müller, "International Relations as Communicative Action" in Karin M. Fierke and Knud Erik Jorgensen, *Constructing International Relations: the next generation*, ME Sharpe, Armonk, New York, 2001; Harald Müller, "Arguing, Bargaining and all that: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations", *European Journal of International Relations*, vol 10 no 3, 2004, pp 395-435; Thomas Risse, "Let's Argue!: Communicative Action in World Politics", *International Organization*, 54,1, 2000, pp1-39.

[40] Rodger A. Payne, "Persuasion, Frames and Norm Construction", *European Journal of International Relations*, vol 7, no 1, 2001, pp 37-61.

[41] In the diplomatic sphere, Kerr makes this criticism of constructivism in general. See Pauline L. Kerr, "Diplomatic Persuasion: An Under-Investigated Process", *The Hague Journal of Diplomacy*, vol 5, no 3, 2010, pp 259-260.

organisations, function as creators of new norms.[42] This criticism comes despite there being explicit acknowledgement among many constructivists that material factors remain important. Only more recently have some constructivists begun to address this issue and examine more carefully how ideational factors are used as means of power and coercion and how they relate to other material factors.[43] This thesis sits more comfortably with this latter grouping of constructivist literature, as the study aims to articulate not only the importance of framing and other ideational factors, but the limitations and constraints of both with regard to existing norms and practices, and the concurrent use of material and financial power. By doing this, and focusing on attempts by states to create and manipulate norms as part of the roguing process, this thesis provides some correction to constructivist literature.

The framing literature tells us that frames are competitive and applied by different elites to situations in order to garner future support/action.[44] The framing of states as rogues by many actors in international politics, therefore, can be considered in this way and not as a representation of the states with an already fixed meaning.[45] The cultural and political context in which framing occurs also affects how it operates. Frames do not operate in a vacuum and their use interacts with other frames, political narratives, norms, contexts, the behaviour/action being framed, the reputation of the framer, and the forums in which they are used.[46] As such, rogue framing has two challenges in international politics, first whether it should be considered the dominant frame for interpreting the relevant states and second, whether it is an applicable frame at all. The former issue is a competition among recognisable and settled traits about what should dominate in specific circumstances. The already settled nature of the traits is important because it then turns framing into a process which seeks to bring certain interpretations into the forefront of

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[42] In terms of the study of rogue states this has been raised by Elizabeth N. Saunders, "Setting Boundaries: Can International Society Exclude 'Rogue States'?", *International Studies Review*, vol 8, no 1, 2006, pp 23-53; For a greater need of constructivist engagement with diplomacy see Kerr, "Diplomatic Persuasion", pp 235-261.
[43] See Krebs and Jackson, "Twisting Tongues"; Krebs and Lobasz, "Fixing the Meaning of 9/11", pp 409-451; The primary constructivist approach to the rogue state concept, for example, makes the claim to analyse both ideational and material factors but *specific* material explanations are mostly overlooked in the final analysis, Senn, *Wolves in the Woods*.
[44] Barnett, "Culture, Strategy and Foreign Policy Change", p 15.
[45] The existing literature on rogue states shows that the term "rogue" is not an objective term, even among US foreign policy elites, discussed below.
[46] Schimmelfennig, *The EU, NATO ,* pp 208-213, 221-222; Krebs and Lobasz, "Fixing the Meaning of 9/11", p 435; Zald, "Culture, ideology, and strategic framing", pp 266-267.

decisions about future policy action regarding rogue states.[47] The second issue is more difficult in that the frame has to be established as applicable in the first place, and then needs to be developed in a manner that will dominate interpretations and foreign policy action. The way these framing contests play out is likely to differ between the domestic sphere and the international sphere as statespersons, for example, face different challanges and costs in establishing a dominant frame. This issue is examined most in Chapters 2 and 5 with respect to the US's domestic and international dynamics of using the rogue frame.

One of the criticisms among current scholars about the rogue image is that it is quite a blunt descriptive term that does not fit the varying political realities of its targets.[48] While this is true, the rogue frame serves a purpose: to characterise the state and bring certain behaviours to the forefront of the discourse and action regarding the relations between the states. It is in this respect that an analysis of the roguing process needs to take into account not simply the adoption of the rogue label itself but the ability of the roguing process to bring behaviours such as terrorism and the pursuit of WMD to the fore of Libya's relationship with members of international society. Therefore rogue framing should not be considered unsuccessful and irrelevant if the "rogue" or "outlaw" label has limited take-up among other states – although this is certainly one indicator. Rather, the rogue frame can be considered to have some success if the sub-frames or parts of the rogue frame such as terrorism and pursuit of WMD are primed and dominate the state's relations with members of international society. As will be demonstrated in the empirical chapters, these issues were not "givens" as the foreign policy priorities of states but were continually primed and constested throughout the roguing and de-roguing process.

The above discussion outlines why analysing the justifications and framing of particular episodes within a framework that encapsulates the political context of the time provides the best avenue for answering the research questions of this thesis. In this regard, the use of framing in this thesis is relatively straightforward. Framing is analysed as a process that categorises states and their behaviours to give them particular meaning. As such, the concept of a "rogue state" is not simply

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[47] This is in line with Mutimer's discussion of framing highlighting certain traits and downplaying others. Mutimer, *The Weapons State*, pp 19-25.

[48] See Litwak, *Rogue States*, pp 242-244.

something that is manifest from a particular state's behaviour but is constructed by states through social interaction.[49] In particular, I focus on political outcomes and I do not seek to draw distinctions between processes of genuine persuasion and politically manipulated frames. I provide a history of how framing works over a longer term to shape the political consequences and environment for inter-state relations. More importantly, by examining the framing process in relation to factors of power and financial resources as well as the existing norms and institutions of international society, the thesis provides a more nuanced and comprehensive understanding of when frames are important in political processes and when they are pushed to the margins by other political factors in the process of roguing and de-roguing in international society.

1.3 International Society

The decision in this thesis to engage the English School and international society for studying rogue states reflects a tendency in the current literature to label rogue states as being outside (or at the margins of) international society or the international community, without really explaining what that means and hence – more importantly – failing to account for how the existing structure of international society shapes the relations between rogues and other states. As a result the literature often focuses on the need for rogue states to change the behaviour that 'affronts' the international community – particularly that which is of considerable importance to the US and its interests – or on whether particular strategies such as economic sanctions and military strikes have been effective in doing this.[50] The problem of what a "rogue" is really being excluded or marginalised from has been identified by Saunders in a 2006 article in *International Studies Review* which surveys the potential capacities for International Relations theories to conceptualise rogue states.[51] In the end, Saunders' paper advocates further research rather than providing a systematic explanation of the relationship between rogue states and international society. It is also unsatisfactory because it focuses too strongly on claiming that international theories need to explain rogue states as being *excluded from* international society rather than *marginalised members of* international society, in order to be relevant to the rogue state conception. Saunders asserts, incorrectly, that rogue states must be excluded from international

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[49] As such this thesis is somewhat similar to Mutimer, *The Weapons State,* pp 25-27.
[50] Discussed below, but for an example on the effectiveness of UN sanctions see, example, Niblock, *"Pariah States".*
[51] Saunders, "Setting Boundaries", pp 23-53.

society and therefore unnecessarily dismisses theoretical approaches that are resistant to such a possibility – including a global international society articulated by English School scholars.[52] The aim of this thesis is to provide a clear explanation of the relationship between rogue states and international society and the following sets out how I engage with the English School, and its approach to international society, to do that. In using the English School to explain further how roguing works, at the same time I seek to contribute to the English School's explanation of international society. I do not propose fundamental corrections to the conclusions of the English School about international society; indeed, the story of Libya's roguing is one of continuity and resistance against an attempt to change international order. However, I contribute by detailing how the particular norms and practices of international society and its institutions operated in the particular case of Libya's roguing and de-roguing.

The concept of international society that is adopted in this thesis follows the English School and particularly Bull's definition that a "*society of states* (or international society) exists when a group of states, conscious of certain common interests and common values, form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions".[53] In defining international society in this way, Bull presupposes an international system and asserts that it requires states to understand and abide by three key aims: respect for independence (or sovereignty), commitment to agreements or treaties, and provision of limits on the use of violence against the other states.[54] While Bull sees these aims as essential to international society, the idea of common interest and values for Bull is procedural, not substantive, as states can have conflicting interests but they use agreed institutions and rules to work them out.[55] Not only do I assert that an international society exists, I argue that it is essential to understanding and explaining the practice of roguing and de-roguing. Including rogue states in this definition asserts a rather minimalist conception of international society but this is consistent with Bull and other English School scholars and, as

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[52] Saunders, "Setting Boundaries", pp 23-53.
[53] Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, Macmillan, London, 1977, p 13.
[54] Bull, *The Anarchical Society,* p 13.
[55] Kai Alderson and Andrew Hurrell, "Bull's Conception of International Society" in Kai Alderson and Andrew Hurrell (eds) *Hedley Bull on International Society*, MacMillan Press Ltd, Houndmills, 2000, p 6.

discussed below, there are fundamental characteristics of rogue states (such as sovereign recognition) that mean they sit *within* rather than outside such an international society.

1.4 The Institutions of International Society

The second research question guiding this study refers to the interaction of the roguing process with the existing institutions of international society. By the term 'institution', I mean primary institutions of international society as outlined by the English School, such as diplomacy and international law, rather than secondary institutions in the more narrow sense of international organisations such as the UN.[56] The institutions chosen are the *global* institutions of international society and do not include any specific *regional* institutions. In recent years, English School scholarship has developed to include analysis of varying institutional structures across the different regions.[57] Although this thesis takes the regional dynamics seriously and some of the empirical conclusions may have some implications for the emerging theories of regional institutions, the primary focus is on roguing in international society at the global level. The relationship between roguing/de-roguing and the existing institutions of international society can take three forms. The first is the capability of these existing institutions to allow for and actually create a category of outlawry or roguing that sits *within* the institution. The most obvious example of this is outlaw statehood, which exists as a category for states in international law, a possibility that is outlined briefly. The second form of relationship is the extent to which the existing institutions have norms and practices that either facilitate or impede the roguing process, which works as a quasi-institution that sits apart from (but is affected by) the existing institutions. This relationship is much more of an empirical question and forms the main analysis throughout the substantive part of the thesis. How this may work is the focus of the discussion below. Third is the possibility that the roguing/de-roguing process has altered the existing institutions of international society over time. An example might be the establishment or

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[56] Aside from their level of function, English School institutions are historically evolved and form a significant part of the structure (rules and norms) of international society, whereas secondary institutions or regimes are designed more for specific purposes of cooperation, see Barry Buzan, *From International to World Society? English School theory and the Social Structure of Globalisation,* Cambridge University Press, Cambridge, 2004, pp 161-163.

[57] See for example, Barry Buzan and Ana Gonzalez-Pelaez (eds), *International Society and the Middle East: English School Theory at the Regional Level*, Palgrave Macmillan, Houndmills, 2009; Buzan, *From International to World Society?*; Thomas Diez and Richard Whitman, "Analysing European Integration: Reflecting on the English School – Scenarios for an Encounter", *Journal of Common Market Studies*, vol 40, no 1, 2002, pp 43-67; Shaun Narine, "The English School and ASEAN", *The Pacific Review*, vol 19, no 2, 2006, pp 199-218.

alteration of diplomatic or legal hierarchies between rogue states and other members of international society. This issue will be returned to in the conclusion of the thesis to show how the Libyan case demonstrates the resilience of the existing institutions.

1.4.1 International Law

This thesis is not primarily about international law but there are a number of aspects of international law as an institution that apply to the study of the interaction between the roguing process and international society. The term "outlaw", which is often evoked in the roguing process, is sometimes an appeal to a legal concept (albeit at times a vague concept). Rogue states are often accused of fundamental breaches of international law, and states often justify actions against rogue states in terms of their rights or obligations in relation to international law. Therefore, after outlining briefly how rogue states may fit into a current conception of outlawry in international law, this section will explain some of the features of international law that apply to the roguing and de-roguing process – particularly those features arising from international law's decentralised nature.

The idea that states can commit crimes, let alone be legally defined as outlaws or criminals, is highly contested in the literature. Pluralist approaches to international law have strongly dismissed the notion of applying criminality to states. These approaches to international law generally attribute breaches of international law by states to those acts that would be considered civil offences or breaches of contract in the domestic legal sphere. Alternatively, international crimes, such as war crimes, are attributable to individuals, not states.[58] In line with this thinking, some of the scholars who have studied the contemporary rogues most closely from a US foreign policy perspective regard international law as generally ambivalent to rogue states. For example, Alexander George asserts that:

> ... there exists no clear and commonly accepted definition of an outlaw or rogue state. These concepts have no standing in international law, and the United Nations works imperfectly to single out such offenders and deal with them. In fact, members of the international community may disagree among themselves whether the behaviour of a certain state justifies its being regarded as an outlaw and treated as a pariah. Even

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[58] Simpson, *Great Powers and Outlaw States,* pp 284-287.

behaviour that violates a particular norm may be condoned by some as an understandable way of pursuing legitimate grievances or ambitions.[59]

Similarly, Robert Litwak argues that rogue states, as the US saw them at least, did not develop "from an international legal tradition, but from American political culture and the distinctive approach to international relations derived from it."[60] This position underplays the relevance of international law to rogue states but also highlights the origin of rogue states as a domestic and political concept unique to the US.

This view is not shared by all and a number of scholars claim that international law should, and sometimes does, apply criminality and outlawry to states. Not all of these works are recent, nor do they necessarily apply to the most recent articulation of rogue states as presented by the US following the end of the Cold War. However, they do provide significant precedence to draw upon. One of the more notable early applications of international law to the concept of outlawry was by Georg Schwarzenberger who argued that there was scope for outlawry to apply to the totalitarian states of Germany, Italy and Japan in the lead up to and during the Second World War. His argument drew on the law on piracy and claimed that it could be applied to states that showed a similar disregard for the basic laws of international society.[61] Much more recently, Gerry Simpson argued that legal hierarchies developed over the past two centuries to include a class of outlaw states and that the origins for outlaw states as a concept in international law can be seen in Grotius.[62] I do not contribute to this legal argument here but it is evident that a space exists for states to draw on international law to portray rogue states as outlaw or criminal states or to justify action against them with reference to international law. Given that such legal possibilities exist, I will now turn to some more settled characteristics of international legal order that are essential to understanding how roguing as a political process could interact with international law as an institution of international society. This stems primarily from the decentralised nature of law in international society, which means that states act in a different way

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[59] Alexander George, *Bridging the Gap: Theory and Practice in Foreign Policy*, United States Institute of Peace Press, Washington, 1993, p 49; this view of George's is also adopted by Deon Geldenhuys, *Deviant Conduct in World Politics*, Palgrave Macmillan, Houndmills, 2004, p 5, which is discussed below.
[60] Litwak, *Rogue States*, p 48.
[61] Georg Schwarzenberger, *International Law and Totalitarian Lawlessness,* Cape, London, 1943, pp 82-110.
[62] Simpson, *Great Powers and Outlaw States*, pp 3-5.

to contemporary domestic legal orders. This distinction is important to illustrate here because it affects the way in which the state practice of roguing operates in comparison to the analogies of outlaws in domestic societies discussed later in the chapter.

The other fundamental feature of international law as an institution of international society that applies to the roguing process is that international law is essentially an example of a decentralised legal system.[63] My discussion here on decentralisation is based on Hans Kelsen's positivist conception of international law which is similar to Bull's conception of international society.[64] Decentralisation is not an absolute term and there are certainly more or less centralised features. The existence of decentralised international order means that the creation of law, the determination of breaches and sanctions, and the enforcement of law are a product of the members of international society themselves and not a separate body (such as a legislature) that sits apart from the members of international society. In such a system, there are only a few laws that have universal application in comparison to the vast number of laws that may apply to a sub-section of international society. These universal laws are created through the process of custom between the members of international society over time whereas the latter laws are created by treaties between two or more states.[65] In terms of breaches and sanctions, decentralisation means that disagreement on contentious issues is likely and provides more scope for arguments against their legitimacy.[66] Perhaps most importantly, it also results in the enforcement of law relying on either voluntary compliance by the offending state or the aggrieved state undertaking self-help.[67] This final aspect of decentralisation clearly added to the challenges of the rogue state construction in the Libyan case through both US airstrikes and UN sanctions against Libya.

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[63] Hans Kelsen, *Law and Peace in International Relations: The Oliver Wendell Holmes Lectures, 1940-41*, Harvard University Press, Cambridge, 1942, pp 106-122.
[64] Bull's reliance on Kelsen is discussed by Andrew Linklater and Hidemi Suganami, *The English School of International Relations: A Contemporary Reassessment*, Cambridge University Press, Cambridge, 2006, p 52 and Hidemi Suganami, "The international society perspective on world politics reconsidered", *International Relations of the Asia-Pacific*, vol 2, 2002, p 8; the relevant work of Bull is "The State's Positive Role in World Affairs" *Dædalus*, vol 108, no 4, 1979, pp 111-124.
[65] Kelsen, *Law and Peace,* pp 106-122.
[66] Kelsen, *Law and Peace*, pp 106-122.
[67] Kelsen, *Law and Peace*, pp 106-122.

The characterisation of international law I have outlined provides the basic criteria for understanding the roguing process in relation to international law as an institution of international society. The laws in place restrict the grounds on which legal action can be taken but the decision to pursue a rogue state or contest the roguing process through legal avenues is a political decision made by state leaders. Furthermore, the thesis is concerned with the political consequences of the interaction between international law and the roguing process and not the legal consequences of this interaction. For the purpose of this thesis, the ultimate test for whether international law facilitates or undermines the roguing process is not a theoretical or legal one; rather it is a practical political test. That is, the thesis is not concerned with evaluating whether particular actions were technical breaches of international law or if certain avenues of defence were theoretically available. It is beyond the scope of the thesis to make such judgements. Rather, the thesis is concerned with episodes where appeals to international law were actually made, participation in legal forums took place, or instruments of international law were applied by states involved in the roguing and de-roguing process of Libya and the political consequences this had on roguing as a practice. This examination of political consequences is broader than the issue of the enforcement of international law in the relevant cases. The legal sanctioning of states for rogue-like behaviour does not in and of itself form a roguing practice. This is particularly the case if the episodes are isolated, not linked to other roguing processes, or not widely considered gross abuses of international law. Alternatively, continued participation by rogue states in legal forums and practices can undermine the roguing process by de-politicising the issue.[68] Even if international courts provide adverse findings, adherence to these can show "good citizenry". As such, it is the political context and actions that surround the episodes that draw on international law and practices, that tell us about the roguing and de-roguing processes as much as the law itself.

1.4.2 Sovereignty

The issue of state sovereignty is essential to understanding the roguing process because sovereignty is a qualifying feature for rogue regimes to be members of international society, a

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[68] For a similar argument regarding de-politicisation and Libya over the Lockerbie case at the International Court of Justice see Jonathan B. Schwartz, "Dealing with a 'Rogue State': The Libya Precedent", *American Journal of International Law*, vol 101, no 3, 2008, p 561.

resource for constructing and contesting the roguing process, and an aspect of international society that is challenged by the roguing process. Furthermore, the primary target of the roguing process is the government of the rogue state rather than the state itself. For example, although the Qadhafi regime may have its sovereignty challenged to the point of regime change, the roguing process is not aimed at denying Libya (or the Libyan people) the right of existence as a state. This characteristic clearly separates rogue states from various other types of actors or communities trying to gain recognition in international society. Therefore, rogue states are different from separatist movements (including those that use similar methods such as terrorism).

While the normative claims of rogue regimes to govern may be questioned by the roguing process, until the point of regime change it is not a challenge to the idea that a rogue regime has effective control over a state and therefore, as distasteful as it may be, it is nonetheless the effective representative of the state to the rest of the world. This separates rogue states from so called failed states, such as Somalia or the former Yugoslavia, which are recognised as sovereign states but do not have any meaningful empirical form of governance for significant periods.[69] It also separates rogue states from cases such as the Republic of China claiming to be representative of mainland China following the Communist revolution,[70] or even the situation in Libya since mid 2011, where an organised opposition lays claim for international recognition. In terms of the roguing process, Libya under Qadhafi had no dispute on the basis of its territorial control or constitutional independence.[71] Given that Qadhafi's Libya had the effectiveness of its rule recognised, the practice of roguing is also separate from those governments who have effective state control but are not recognised in the first place because of moral and/or political objections to the regime. As Alan James points out, the issue of withdrawal of sovereign recognition of governments is quite different from withholding it in the first place. In terms of state practice, retracting sovereign recognition on the grounds of disapproval rather than a change in territorial control has generally been avoided.[72]

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[69] For failed states and empirical versus juridical sovereignty see Robert Jackson, *The Global Covenant: Human Conduct in a World of States*, Oxford University Press, Oxford, 2000, pp 294-297.

[70] This was an issue of recognition of government rather than state. James, "The Practice of Sovereign Statehood", p 134.

[71] As defined by Alan James, *Sovereign statehood: the basis of international society*, Allen & Unwin, London, 1986, pp 13-34.

[72] James, *Sovereign Statehood*, 1986, pp 151-153.

This benchmark of sovereignty for rogue states has important consequences, as it allows us to conceive their relationship to international society. It means that the roguing process is essentially an issue of the extent of participation of states in international society rather than a formal disqualification of their eligibility to participate.[73] Therefore, sovereign recognition should not be conflated with the issue of international participation and it is both conceivable and historically not unusual for a state to have wide recognition of its sovereignty but little scope for international participation. In this respect, this thesis is concerned with international participation that is undermined by the refusal of members of international society to engage with states because of rogue-like characteristics rather than participation that is undermined by self-isolationism or a lack of material resources to engage widely with international society as in the case of very small states.[74] Similarly, the recognition of state sovereignty and the breaking of diplomatic relations are distinctly different practices.[75] The breaking of diplomatic relations, generally through the closing of embassies and the withdrawal of embassy staff, is a common feature of interstate relations. This does not mean that the government is no longer the agent that represents the state in the international sphere.

Sovereign recognition of governments has significant practical implications including providing the government the right to represent the state at the UN and the government being subject to international law, including the right to develop and sign treaties and form part of the creation and enforcement of customary international law. It also means that its representatives abroad are able to draw on and use the protections and privileges accorded to diplomats. Aside from these benefits arising from formal sovereign recognition, arguments regarding sovereignty can provide powerful framing devices and justifications for the roguing and de-roguing processes. It is here that varying reasons for denying the legitimacy of a state's sovereignty can be used without formally proposing to do so on such grounds. One example of this is that claims of a regime

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[73] Clark makes a similar point, Clark, *Legitimacy*, pp 159-161.
[74] This is the distinction between sovereignty and activity, see James, *Sovereign Statehood* pp 25-26
[75] James, "The Practice of Sovereign Statehood", pp 466-468.

being a puppet of another state can be used as a reason not to grant sovereign recognition.[76] This – for example, "Libya as a puppet of the USSR" – is used in the Libyan case by the US in the early 1980s as part of the roguing frame to informally delegitimise Libya's participation in international affairs without ever seriously building the case that sovereign recognition should be withdrawn from Libya on this basis. On the other hand, appeals to sovereign equality and/or non-intervention were used consistently and in many forums by Libya and others to aid the de-roguing process.

The above shows that sovereign recognition provides an important benchmark for how rogue states relate to international society. This does not imply that rogue state sovereignty is necessarily equal to the sovereignty of other states and the roguing process presents itself as a way of establishing a form of sovereign hierarchy in international society. Indeed the idea of sovereign equality is relatively new in international society, beginning in the mid 18th century. It is now codified into the UN charter. However, equality in this sense has no reflection on the relative power of states, their internal make-up, their influence or even whether they have the same rights and obligations; rather, they are equal as entities *before* international law. [77] For James, sovereign equality means states have equality in protocol, consent, internal political legitimacy and legal protection in territorial interference.[78] The conception of sovereign equality, despite its popular usage, is very limited in scope and recent literature on international hierarchy highlights the many problems with it. This thesis does not aim to argue that rogue states form a new category in a sovereign hierarchy.[79] Rather, it is concerned with how formal avenues of sovereign equality, such as equal access to international organisations or international legal forums, impact on the roguing and de-roguing process. At the other end of the spectrum, I examine how formalised inequalities, such as permanency on the UNSC, are used. Informally,

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[76] James' definition of puppetry stems from the significant involvement/placement of foreign officials in decision making positions in the puppet state (p 140). James, *Sovereign statehood,* p 140. Of course the US wasn't really accusing Libya of Soviet puppetry in this sense.

[77] Hidemi Suganami, "Grotius and International Equality" in Hedley Bull, Benedict Kingsbury, Adam Roberts (eds), *Hugo Grotius and International Relations*, Clarendon Press, Oxford, 1990, pp 221-227.

[78] Alan James, "The equality of states: contemporary manifestations of an ancient doctrine", *Review of International Studies*, vol. 18, no. 4, p 390.

[79] For a discussion of the juridical sovereignty of outlaw states: Simpson, *Great Powers and Outlaw States*.

appeals to sovereign equality (or inequality) may occur in a much broader sense and consideration is given to how such usage may form part of the roguing and de-roguing processes.

The norm of non-intervention is treated in a similar manner to sovereignty as outlined above. As R.J. Vincent puts it the "function of the principle of non-intervention", in a "metaphorical" sense, is "one of protecting of the principle of state sovereignty."[80]   Instead of articulating a position on the merits of intervention in rogue states,[81] the thesis is more narrowly concerned with how this norm is used in terms of justifying or undermining the roguing process. In this respect the specificity of the norm's use is the most important issue, that is, whether it is only used in direct response to specific events or threats, or a more general threat emerging from the roguing process. Attention is also given in the empirical analysis to whether intervention is based directly on precedent or on claims about the need to set a new precedent for an original justification for intervention.

1.4.3 Diplomacy

The diplomatic practice of states is a key focus of this thesis. The English School scholars provide one of the better frameworks with which to analyse diplomacy. Much of the empirical analysis of the thesis focuses on the interaction between the practice of roguing and de-roguing Libya and the norms and practices of diplomacy as an institution of international society. Definitions of diplomacy in International Relations literature are varied. Diplomacy and foreign policy are sometimes separated as concepts (such as James, Watson, and Nicolson) or treated as part of the same overall practice (such as Bull).[82] Diplomacy is defined broadly in this thesis as the dialogue between states, by peaceful means, and the threat of force is discussed in the section on the institution of war. Although I take note of the role of professional diplomats and

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[80] R. J. Vincent, *Nonintervention and International Order*, Princeton University Press, Princeton, 1974, p 14.
[81] General English School discussions of the appropriate use of intervention are: Vincent, *Nonintervention and International Order*; Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society*, Oxford University Press, Oxford, 2000; and Jackson, *The Global Covenant*.
[82] Adam Watson, *Diplomacy: The Dialogue Between States*, Methuen & Co Ltd, London 1982, p 11; Harold Nicolson, *Diplomacy*, 3rd Ed, Oxford University Press, Oxford, 1969, pp 3-5; Alan James, "Diplomacy and International Society", *International Relations*, vol 6, no 6, 1980, pp 931-948; Bull, *The Anarchical Society*, p 158. Sartori, while distinguishing between foreign policy and diplomacy, argues that the two can be blurred and that the very top level foreign policy *makers* are part of the diplomatic process: Anne E. Sartori, *Deterrence by Diplomacy*, Princeton University Press, Princeton, 2005, p 4.

residential embassies, it is not the sole form of diplomatic practice that I analyse. As James notes, definitions of diplomacy are often too vague, too narrow, or sidetracked by assertions about what qualities a diplomat should have.[83] My definition includes all agents that conduct communications between states, including statespersons and international organisations. Unofficial interlocutors and non-state actors are included only where they have direct relevance to the conduct of the roguing/de-roguing process.[84] In addition I am concerned with the apparatus that facilitates this communication – such as diplomatic missions and the UNSC – or restrictions placed on diplomats, embassies etc in order to restrict or undermine communication between states. However, informal and secretive diplomacy also provide important and often adequate avenues of inter-state communication and this also forms part of the analysis in the thesis. The inclusion of foreign policy may be considered a little broad but it is certainly not unprecedented. However, it offers much more as roguing is, by its very nature, both a foreign policy position and an approach to diplomatic practice. In many respects these two concepts are not easy to separate, nor is a great deal gained in this study by trying to do so. This thesis examines how the roguing process relates to following more settled norms of diplomacy; reciprocity, continual dialogue/negotiation, and multilateralism.[85]

It is evident that Libya itself openly challenged the institution of diplomacy at times through serious abuses of the use of diplomatic corps and diplomatic residencies abroad. Symbolically, it changed the name of its embassies to People's Bureaus and openly encouraged the Libyan officers in these bureaus to be a conduit for revolutionary activity abroad. This reframing of the purpose of the embassies and their diplomats was supported by a number of practices that directly challenged diplomatic norms, with the embassies being used, among other things, to target Libyan dissidents abroad in assassination attempts. However, despite this open challenge

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[83] James, "Diplomacy and International Society", pp 931-948.

[84] Alan James, "Diplomacy", *Review of International Studies,* vol. 19, 1993, pp 94-97. The inclusion of unofficial interlocutors/intermediaries potentially strays a little from James' definition and also opens up the extent to which the state remains a unitary actor in the international sphere in such a situation. However, this approach is a necessary reflection of the interaction between Libya and the US and at times other states, as the Qadhafi regime desperately and creatively tried to communicate with others during the period of enforced isolation.

[85] Some authors include civility and tact as a diplomatic norm but there is little empirical basis for considering this as important to the roguing process as discussed in the thesis, because in terms of its "civility" the rogue label is only one of a vast number of name-calling incidences in relations between Libya and various states. Nor is the use of the term rogue necessarily uncivil. For civility see for example, Sharp, *Diplomatic Theory*; Geoffrey Wiseman, "Pax Americana: Bumping into Diplomatic Culture", *International Studies Perspective,* vol. 6, pp 409-430.

to diplomacy, Libya acceded to the Vienna Convention of Diplomatic Relations on 7 June 1977[86] and often hid behind the protections afforded to its officials, and in all but the most extreme circumstances foreign powers responded to Libya's actions within the existing diplomatic framework, for example by expelling rather than arresting diplomatic officials.[87] While Libya obviously bears considerable responsibility for undermining diplomatic contact, it still required other states to actively pursue a practice of diplomatically isolating it in response to certain episodes.

Reciprocity

A number of authors have identified reciprocity as a fundamental feature of diplomacy.[88] Such an approach includes reciprocity on issues such as sovereign recognition, state legitimacy, and state actions towards each other (such as actions of hostility or friendship). The following discussion draws on the theoretical development of reciprocity in international relations more generally, including foreign policy practices, trade and international law and, at times, reciprocity is examined in the thesis in relation to foreign policy practices such as trade sanctions and the use of violence. However, the functioning of reciprocity throughout the thesis is primarily concerned with practices of diplomacy and therefore that is what is discussed here.

In the most significant articulation of reciprocity in International Relations literature, Robert Keohane distinguishes between specific reciprocity and diffuse reciprocity.[89] Several aspects of this are relevant here. First, specific reciprocity refers to discrete and immediate exchange between actors – for the purpose of this thesis, states. This relationship is not necessarily the

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[86] http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=III-3&chapter=3&lang=en (accessed 12 June 2011).

[87] Paul Sharp, "Revolutionary States, Outlaw Regimes and the Techniques of Public Diplomacy", in Jan Melissen (ed) *The New Public Diplomacy: Soft Power in International Relations*, Palgrave Macmillan, Houndmills, 2005, pp 110-114; Linda S. Frey and Marsha L. Frey, *The History of Diplomatic Immunity*, Ohio State University Press, Columbus, 1999, pp 505-507.

[88] For example, François de Callieres, *The Practice of Diplomacy*, (transl. Alexander Frederick Whyte), Constable and Company Ltd, London, 1919, pp 97, 110; James Der Derian, *On Diplomacy: A Genealogy of Western Estrangement*, Basil Blackwell, Oxford, 1987, p 110, and Christer Jönsson and Martin Hall, *Essence of Diplomacy*, Palgrave MacMillan, Houndmills, 2005, p 28.

[89] Robert Keohane, "Reciprocity in international relations", *International Organization*, vol 40, no 1, 1986, p 4. This is also used by Jönsson and Hall, *Essence of Diplomacy*, pp 28-29.

reciprocation of actions or goods that benefit each state; it can include the exchange of hostile acts. A simple diplomatic example would be the expulsion of an ambassador from a state in direct response to that state having its own ambassador expelled. In certain circumstances, this behaviour may be repeated, with each act being reciprocated in an extended tit for tat process.[90] Whether or not such sequences are hostile or cooperative will depend on the nature of the starting act. Such specific reciprocity requires equivalence in value between acts and their immediacy. The relationship, as Keohane asserts, is also apparent between actors with minimal normative solidarity or shared understanding – beyond an agreement of equivalence – and can develop on the basis of self interest only.[91] In a strict bilateral sense, the development of hostile reciprocity between, for example, the US and Libya over the roguing process is not surprising. More interesting is examining how the equivalence of action is interpreted and employed by each state in reciprocal action. Furthermore, given the power imbalances between roguers and the rogued and the inherent moral hierarchy that the roguing process aims to establish, examining when and how specific reciprocity governs particular episodes or inter-relationships can shed light on the status of a rogue state within international society.

Diffuse reciprocity is much more flexible in terms of both equivalence and immediacy.[92] However, more importantly, diffuse reciprocity requires a significant moral obligation on behalf of the parties and Keohane – not surprisingly, given his position on the limited shared norms in the international system – asserts it is rare among states. Although examples of diffuse reciprocity as may be experienced between close family and friends are much rarer among states, the normative feature of the roguing process suggests that diffuse reciprocity may be part of overcoming the roguing process. A successful rogue frame creates a distinctly different interpretation of equivalence between a rogue state and other states based on how their actions are morally perceived. Furthermore, the rogue frame may require evidence of contrition or rehabilitation on behalf of the rogue that is not immediately reciprocated, or reciprocated with an action of equivalent material or normative value. Indeed, as discussed in chapter five, various aspects of Libya's de-roguing with the US are presented in this way.

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[90] Keohane, "Reciprocity in international relations", pp 9-12.
[91] Keohane, "Reciprocity in international relations", p 19.
[92] Keohane, "Reciprocity in international relations" pp 19-23.

The above discussion focuses on bilateral reciprocity, albeit with potentially multilateral consequences. However, the principle of reciprocity can also have the effect of creating and/or maintaining system-wide rules and practices. It is Byers' theorising of the principle of reciprocity in relation to international law that is most relevant here because it discusses how reciprocity shapes the power of states with respect to the creation of new customary law. Byers argues that state power is limited by reciprocity because unilateral state action can have the effect of granting reciprocal rights to all other states to take similar action.[93] That is, if a state seeks to assert a new right for itself – because of the nominal equality of states in international society and the principle of reciprocity – it also asserts the new right on behalf of other states. Unless other states oppose or reject this assertion, a new general rule for all states can be created. Franck and Weisband make a similar argument about how reciprocity governed the relationship between the superpowers during the Cold War, as the superpowers acted within their own sphere on the basis of similar actions taken by the other superpower in its respective sphere.[94] The extent to which the roguing process relies on system-wide reciprocity and/or is challenged by similar processes in de-roguing is examined in the empirical chapters. To qualify this, I do not presuppose in this thesis that reciprocity is a dominant feature of the relations between rogue states and members of international society. Rather, in light of theorising about it, I examine if and how it has shaped important episodes in, and the overall pattern of, the roguing/de-roguing processes.

Multilateralism

During the 20th century multilateralism established itself as a key feature of contemporary diplomacy.[95] This has been most evident in the widespread creation of international organisations taking on various roles and responsibilities for a vast collective of states. Since the end of the Second World War the UN has grown to have virtually universal membership of the

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[93] Michael Byers, *Custom, Power and the Power of Rules: International Relations and Customary International Law*, Cambridge University Press, Cambridge, 1999, pp 88-105.

[94] Thomas M. Franck and Edward Weisband, *Word Politics: Verbal Strategy Among the Superpowers*, Oxford University Press, New York pp 126-136.

[95] Geoffrey Wiseman, "Norms and Diplomacy: The Diplomatic Underpinnings of Multilateralism" in James P. Muldoon Jr., JoAnn Fagot Aviel, Richard Reitano, and Earl Sullivan, *The New Dynamics of Multilateralism: Diplomacy, International Organizations, and Global Governance,* Westview Press, Boulder, 2011, p 5.

states that constitute international society. Indeed, the UN is sometimes equated in public discourse with the loose term 'international community' and the UN's actions and resolutions are often considered to express the legitimate and legal will of international society as a whole. Additionally, the UNSC is charged with the responsibility of acting to ensure the peace and security of the international system, and when it acts in this manner and with unanimity it can claim to act with a level of legitimacy for international society that is rarely available in other state collectives.[96] Similarly, formal membership of the UN General Assembly provides all member states an opportunity for representation and communication with members of international society, regardless of the existence of diplomatic relations with various states. Of course, this formal opportunity does not mean that states which suffer from limited diplomatic representation abroad will necessarily be listened to but their very presence at the UN remains an important reminder of their right to participate at least at the most basic level of international society.[97] It certainly gives them more opportunities than they might otherwise have to express their point of view or encourage further inter-state communication and engagement.

Although the UN can lay claim to a level of representation of international society not available to other international organisations, the practice of multilateralism outside the UN is nevertheless both a fundamental feature of contemporary diplomacy and a practice that has significant relevance for the study of the roguing and de-roguing process. Although participation and membership is often far more exclusive than at the UN and, depending on the organisation, those states that are ostracised for various reasons may also find themselves formally removed from the institution, the opportunity nevertheless provided by various multilateral organisations for state representation is significant. In addition, and unlike the UN General Assembly or UNSC, various multilateral practices can provide states with a much more forceful avenue for pursuing and implementing various aims and interests even if the scope in terms of the number of states involved is more restricted. This potentially works in terms of both constructing the roguing practice and in undermining the roguing process. Multilateral processes outside the UN are also instructive in understanding the regionalisation of the roguing process – such as the roguing of

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[96] Follow up Ian Hurd *After Anarchy: Legitimacy and Power in the United Nations Security Council*, Princeton University Press, Princeton, 2008, pp 12-15.
[97] Alan James makes a similar point about sovereign recognition, discussed above.

Libya from Europe through the EU or from Africa through the OAU. In addition, they provide additional scope for understanding the nuances of roguing and de-roguing in terms of regional variations in norms and practices towards roguing and the impact of this on roguing in international society at a global level.

Diplomatic Relations and Continual Dialogue

François de Callières advocated in the 1700s that the negotiation between princes should be continual as opposed to ad hoc.[98] Since then, numerous diplomatic theorists (including the English School) have pointed to continual dialogue between states, through bilateral diplomatic representation, as a fundamental feature of diplomacy as an institution of international society.[99] The common manifestation of this has been the establishment and maintenance of diplomatic residencies abroad. At various times, states have seen fit to withdraw diplomats from residencies for various forms of protest about the actions of the receiving state or, conversely, to direct foreign diplomats to leave their own state.[100] However, as long as such breaks are temporary and diplomatic residencies are maintained at some level, they do not undermine the concept of continual dialogue. Even in more extreme cases where the presence of embassies has appeared too embarrassing, continual dialogue has been maintained through the use of interest sections in the embassies of third states. On a number of occasions – such as US representation in Cuba – these interest sections have been rightly described as full embassies in all but name.[101] The advocacy that continual dialogue is needed to maintain international order draws some strength from the fact that, throughout the Cold War, the US and the Soviet Union did not break diplomatic ties even at the points of most extreme confrontation.[102] As a result diplomats have

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[98] de Callières, *The Practice of Diplomacy.*
[99] Wiseman, "Pax Americana", pp 409-430.
[100] Geoff R. Berridge, *Talking to the Enemy: How States without 'Diplomatic Relations' Communicate*, St. Martin's Press, New York, 1994, pp 1-12; Alan James, "Diplomatic Relations and Contacts" in Ian Brownlie and Derek W. Bowett (eds), *The British Year Book of International Law 1991,* Oxford University Press, Oxford, 1992, p 351.
[101] Wayne S. Smith, "The Protecting Power and the U.S. Interests Section in Cuba" in David Newsom (ed), *Diplomacy under a Foreign Flag: When Nations Break Relations,* C. Hurst & Co (Publishers) Ltd, London, 1990, pp 111-112.
[102] This included when the Reagan Administration was applying descriptions about the character of the Soviet Union that were similar to those it applied to Libya.

argued that the presence of diplomatic representation (through embassies) should not be considered a reflection of approval of the policies or character of the relevant state.[103]

Depending on the conception of rogue states used by scholars, continual dialogue and roguing are either mutually exclusive practices at one end or, at the other, two practices that can (and perhaps should) co-exist without contradiction. There many commentators both in the press and in scholarship that simply argue that states should engage with rogue states. The implication of this argument is that engagement (somewhat analogous to continual dialogue) is distinct from the concept of a "rogue state". However, such a distinction is confused because, in virtually all cases, advocates of such policies do not consider a live and let live result to be acceptable. That is, although advocates for engagement with rogue states may work on long-term perspectives, the purpose of engagement is to eventually change the policies that identify a rogue state as a rogue rather than accept such characteristics and work on other aspects of mutual interest. This is applicable to the liberal scholars arguing for "carrot and stick" approaches to rogue states, and constructivist/English School scholars who argue that rogue behaviour will eventually be "socialised" by diplomatic engagement.[104]

1.4.4 Balance of Power, Great Power Management and Hegemony

The institution of the balance of power has been described by many International Relations scholars as the primary concern of international politics and the institution that can override all others.[105] The period of study for this thesis covers a major structural shift in international society due to the end of the Cold War and the collapse of the Soviet Union. This change in the power makeup of the world, from two competing superpowers to one largely unchallenged hegemon, had an effect on how scholars have viewed international society. This issue is controversial in the English School, as Bull rejected the idea that an international society would

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[103] Michael Palliser, "Diplomacy Today", Hedley Bull and A Watson (eds) *The Expansion of International Society*, Clarendon Press, Oxford, 1984, p 373.

[104] For example, Costas M. Constantinou and James Der Derian "Sustaining Global Hope: Sovereignty, Power and the Transformation of Diplomacy" in Constantinou and Der Derian (eds) *Sustainable Diplomacies*, pp 14-15; Litwak, *Regime Change.*

[105] Bull, *The Anarchical Society,* pp 102-107..

exist under one single hegemonic power similar to the US today.[106] Some more recent English School scholars have taken a somewhat similar line, especially following the Iraq War, at least to the extent that international society only existed in strictly pluralist terms.[107] On the other hand, other English School scholars did not necessarily see hegemony as undermining international society and recent work by Ian Clark has used the English School to explain current US hegemony as a new institution of international society.[108] The institutions of balance of power, great power management, hegemony and war provide some important norms and practices that form part of the analysis of roguing undertaken in this thesis.

The dominant power balance between the US and the Soviet Union during the Cold War meant that if roguing was to develop as a universally accepted quasi-institution there would have to be some level of agreement between the two powers about what this meant and how it would work. This then leads directly into the issue of great power management and the extent that roguing was agreed to as part of international order. Of course, this does not necessarily mean that every aspect of the roguing process as promoted by the US needed to be agreed to by the Soviet Union, and the thesis will be mindful of the extent to which there was superpower agreement on the characteristics attributed to Libya as part of the roguing process (i.e. terrorism) and the link made between these characteristics and the marginalisation of Libya from participation in international society. Alternatively, if roguing was not sought (or achieved) on a universal basis, then it is possible the roguing process was used as part of the practice of maintaining the balance of power between the Soviet Union and the US. In a similar vein, the thesis considers whether the US construction of the roguing process was resisted by the Soviet Union for balancing reasons. In terms of uncovering how roguing developed as a quasi-institution this is important because it considers whether roguing is either a conceptually different practice, or simply a tool of the existing institution of the balance of power.

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[106] Bull, *The Anarchical Society,* pp 194-195.
[107] Tim Dunne, "Society and Hierarchy in International Relations", *International Relations*, vol 17, no 3, 2003, pp 303-320.
[108] Ian Clark, *Hegemony in International Society*, Oxford University Press, Oxford. Earlier Adam Watson described international society as existing on a pendulum between hegemony and dispersed political control and was less concerned with the problem, Adam Watson, *The Evolution of International Society*, Routledge, London, 1992.

The thesis also examines how the collapse of the balance of power at the end of the Cold War affected the construction of the roguing process and the ability of the roguing process to spread globally in international society. This relates directly to the development of hegemony as an institution and the capability of the US to use it to construct and maintain roguing as a practice in international society. Clark tells us that, unlike great power management, the need for agreement essentially falls away and it becomes a question about how the hegemon (as a single power) can either impose or persuade international society to take on the new practice as a part of structuring international order.[109] Some of the existing literature on roguing provides immediate insights here in terms of how US foreign policy towards rogue states was magnified and elevated in the domestic political sphere to maintain US Defence spending in the sudden absence of the Cold War.[110] However, the focus of this thesis is on how this amplification of roguing as part of US foreign policy spread across international society in the absence of Soviet balancing. As part of this I examine the potential change in the influence of local balances of power on the roguing process in international society as a whole. Therefore, the operation of great powers and hegemony as institutions also makes us consider the sources of authority that are drawn on in the roguing process and helps modify how roguing may work in a decentralised society.

1.4.5 War

War is considered here as organised violence between political communities.[111] Although its relevance as a modern institution of international society is sometimes questioned,[112] it is essential to analysing the roguing process because, if successful in bringing about regime change, war sets itself as the extreme end-point of the roguing process. That is – as in the case of the Iraq War in 2003 – when war is successful in changing the regime of a rogue state, the rogue state ceases to be a rogue, because the roguing process is connected to the government rather than the state as a whole. Of course, such a war may turn the state into a failed state but in

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[109] Clark, *Hegemony*, p 48.
[110] Klare, *Rogue States*; Alexandra Homolar, "Rebels without a conscience: The evolution of the rogue states narrative in US security policy", *European Journal of International Relations*, November 2010, online, http://ejt.sagepub.com/content/early/2010/11/20/1354066110383996.full.pdf+html
[111] Bull, *The Anarchical Society*, p 178.
[112] Charles A. Jones, "War in the Twenty-first Century: An Institution in Crisis", in Richard Little and John Williams (eds), *The Anarchical Society in a Globalized World*, Palgrave MacMillan, Houndmills, 2006, pp 162; Buzan also considers war a derivative institution of great power management, *From International to World Society?*, p 187.

essence the roguing process is complete. Viewed in this way, it may be considered that roguing is a process that exists short of war and to its exclusion – that is, war and roguing are mutually exclusive institutions. However, this is only true to the extent that war against a rogue is successful and indeed, war (or political violence) is consistent with and potentially helpful to the creation and maintenance of roguing as a quasi-institution.

To the extent that war can form part of the roguing process it is used in this thesis in two respects. First, I treat the threat of war as part of the institution of war. Including the threat of war as part of the institution of war is not unanimous among International Relations scholars. Realist International Relations scholars often include the threat of force or war as a legitimate part of diplomacy or diplomatic practice.[113] This includes those scholars who restrict the practice of diplomacy to those actions that fall within the purview of "peaceful means". Other realists are more encompassing and include not only the threat of force but limited force under the general rubric of "coercive diplomacy."[114] However, this thesis treats the threat of force in line with Bull's categorisation as part of the institution of war (particularly since the nuclear age).[115] Apart from the consistency this approach has with one of the most classic articulations of war as an institution from the English School perspective, the threat of force is included as part of the institution of war in this thesis because it is necessarily coercive and not necessarily easily distinguishable from the relatively low levels of military violence and confrontation that form part of the roguing process in contemporary international society and in the Libyan case in particular.

The second aspect of war that is dealt with in this thesis is actual military force that falls short of regime change. The limit of consideration for this type of force is simply the effect, rather than the intent, of force in bringing about regime change. That is, military force applied to a rogue state that can be seen as having at least some purpose in forcing regime change, such as the US's bombing of Qadhafi's compound in 1986, forms part of the analysis so long as it fails to actually

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[113] For example, Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace,* 4th Edition, Alfred A. Knopf Inc., 1967, pp 519-521.

[114] This is used in the analysis of Libya's reintegration by Jentleson and Whytock, "Who 'Won' Libya?", pp 47-86.

[115] Bull, *The Anarchical Society,* pp 187-188; see also Lacy Davey, The purpose of war: a study of the institution of war in international society, *unpublished PhD Thesis*, Australian National University, 2009.

succeed. In addition, any use of force that does not have the purpose of regime change can be included. This includes low level military conflicts, such as those engaged in between the US and Libya in the early 1980s which included the engagement and downing of military aircraft. Although a number of the examples of violence examined as part of the roguing process are instances of force being applied against Libya as a rogue state, the thesis is also concerned with the way in which Libya's involvement in war against other states was used as part of the framing and constructing of Libya's roguing.

An additional qualification that is applied in this thesis to the extent of war as an institution of international society is that the use or threat of violence must have some purpose or effect on the roguing process to be considered relevant. That is, it must fit into the political context of roguing, be justified in such terms, or used in terms of punishment for rogue-like behaviour. To the extent that force only acts as a strict deterrent it can only aid the de-roguing process in as much as it prevents future rogue-like behaviour. Furthermore, if such acts of deterrence are discrete, isolated and defined in strictly instrumental terms they can hardly be attributed to the roguing process. However, if the use or threat of violence has a purpose or effect beyond strict deterrence it may form part of the roguing process. This situation is likely to arise where the use or threat of violence is able to intensify the response of other states to the roguing process or if it elicits behaviour from the target state that may be used to further the roguing process in the future.

1.5 The Concept of Rogue Statehood

The relationship between the insiders and outsiders of international society is a significant feature of the English School study about politics and international relations.[116] From the English School perspective, this has been discussed extensively in terms of how international societies have related to those political communities that existed outside international society but over time came to be integrated with it. Indeed, according to Martin Wight, it was the issue of how to deal with a key type of outsider, the "barbarians", that was a primary driver for the development

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[116] For example, Bull and Watson (eds), *The Expansion of International Society*; Martin Wight, *International Theory: The Three Traditions*, (edited by Gabriele Wight and Brian Porter), Leicester University Press, Leicester, 1991; Gerrit W. Gong, *The Standard of 'Civilization' in International Society*, Clarendon Press, Oxford, 1984.

of international law.[117] The position of barbarians in international law was contested over time and each strand of International Relations theory provided a different answer. Wight summarised the rights that barbarians were accorded as: for the Realists "barbarians have not rights (exploitation)"; for the Rationalists "barbarians have appropriate rights (trusteeship)"; and for the Revolutionists "barbarians have equal rights, (assimilation)".[118] With the expansion of the European society of states to a global international society, a number of the central writings of English School scholars have focused on relationships with all forms of outsiders from the established and "sophisticated" communities of the Ottoman Empire, Japan and China to the "barbarian" peoples of Africa, the Americas and Australasia. Entry into the expanding international society required the established political communities to pass tests of civilisation by adopting sufficient norms and practices of behaviour as deemed by the existing European powers, although the result altered the structure of European international society too. In general, the "barbarians" were conquered and subjected to varying degrees of political control by the European powers. Material motives for imperialism were mixed with and justified by assertions of paternal responsibility to civilise the colonised peoples. The "civilising" process ended in the wave of decolonisation following the world wars due to the concurrent de-legitimisation of imperialism and the inability of the great powers to maintain their territorial empires.[119]

Despite the global reach of international society and the current illegitimacy of the categorisation of barbarism on racial or national grounds, [120] questions of barbarism and civilisation remain strong. Gerrit Gong argues that international society cannot exist without some standards of civilisation.[121] Most recently, in an increasing body of literature concerning hierarchy within international society, International Relations theorists and practitioners have claimed various gradations of civilisation based on the characteristics of states such as democracy and

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[117] Wight, *International Theory: The Three Traditions*, pp 69-70.

[118] Wight, *International Theory: The Three Traditions*, pp 82-83; The issue of rights (especially for revolutionists) is far more complex see pp 49-98.

[119] Gong, *The Standard of 'Civilization'*, pp 238-248. Gerrit W. Gong, "China's Entry into International Society" in Bull and Watson (eds), *The Expansion of International Society*; Hidemi Suganami, "Japan's Entry into International Society" in Bull and Watson (eds) *The Expansion of International Society*; Adam Watson, *The Evolution of International Society*; Shogo Suzuki, *Civilization and Empire: China and Japan's Encounter with European International Society*, Routledge, London, 2009.

[120] James Mayall, "International Society and International Theory" in Michael Donelan (ed), *The Reason of States: A Study in International Political Theory*, George Allen & Unwin, 1978, pp 129-130, 136.

[121] Gong, *The Standard of 'Civilization'*, pp 238-248.

commitment to good governance and the rule of law.[122] Similar assertions of barbarianism and the need to adhere to standards of civilisation have been cast upon various outlaw, rogue or pariah states in the past century. This represents some continuity with previous encounters between an expanding international society and "barbarian" peoples.

However, the issue of outlaw or rogue states is a distinctly different phenomenon to the "civilising process" of the past. Despite similarities concerning uncivilised behaviour, the internal starting position of outlaw or rogue states within international society is the defining feature of this difference because these states tend to enjoy sovereign recognition and the basic right to formal participation in international society. Rogue, outlaw or pariah states are sometimes cast as beyond the pale but they are still states and the casting out of rogue states that already exist within international society is different from the process of letting in new actors from the outside. As such, there is a greater similarity (in conceptual terms) with modern rogue states and what has been described in English School and other literature as revolutionary states or enemy states where belligerence and norm breaking behaviour is challenged by those already recognised and capable of representation in international society. However, this is coupled with outsider status and a resultant delegitimisation of rogues as state actors. That is, they are more legitimate than barbarians and less legitimate than established enemy or revolutionary states. The following section surveys the existing literature to separate rogue states from similar concepts of revolutionary states and enemy states and overviews the most relevant collectives of states that fit into the broader practice of outlawry; the Barbary States, the Totalitarian and Fascist states over the period of the two world wars, the pariah states of the 1960s to the 1980s, and the modern rogue states. This provides a more refined framework for analysing Libya's roguing and de-roguing throughout the remainder of the thesis.

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[122] Clark, *Legitimacy*; Jack Donnelly, "Sovereign Inequalities and Hierarchy in Anarchy: American Hegemony and International Society", *European Journal of International Relations*, vol 12, no 2, 2006; Dunne, "Society and Hierarchy", pp 303-320; John M. Hobson, and J. C. Sharman, "The Enduring Place of Hierarchy in World Politics: Tracing the Social Logics of Hierarchy and Political Change", *European Journal of International Relations*, vol 11, no 1, 2005, pp 63-98; David Lake, "The New Sovereignty in International Relations", *International Studies Review*, vol 5, 2003, pp 303-323.

1.5.1 Revolutionary, Enemy and Rogue States

In a number of respects, the position of rogue states strongly resembles the position in international society that has been accorded to revolutionary states. Indeed, both the modern rogues and previous outlaw states have often, although not always, been the result of domestic revolutions.[123] From an English School perspective, David Armstrong provides the most significant discussion regarding revolutionary states and international society. Armstrong's general argument is that revolutionary states, after initially challenging international society, became socialised within it, while at the same time this process resulted in some significant changes to the existing institutions of international society. Armstrong's analysis focuses on France, the US and Russia but also considers the "revolt against the West" by the states of Indonesia (1960-1965), Cuba, China, Libya and Iran.[124] There are several aspects of Armstrong's analysis which, while relating to the "revolutionary" character of states in international society, are applicable to the current study of roguing. First, in his brief analysis of the Libyan case, Armstrong correctly makes the distinction between Libya as an "outlaw" state and other revolutionary states on the grounds that Libya did not by itself or in leading a coherent broader movement have the capability to seriously reshape international order. Second, in his discussion of revolutionary states in general, Armstrong shows that it is the response of great powers to revolutionary states that can shape international order as much as the actions of revolutionary states themselves. This issue applies directly to the issue of roguing because – to perhaps an even greater extent than with the revolutionary states – it is the way that great powers act towards rogues, rather than the rogue states themselves, that has the greatest capacity to impact the existing norms and practices of international society. Taken together these insights shape key parts of the framework towards roguing that is developed in this thesis.

However, Armstrong's discussion of revolutionary states, even though it includes two of the notable modern rogue states of Iran and Libya, does not translate directly into the roguing process. The distinction between outlaw and revolutionary state status for Libya remains largely undeveloped throughout the remainder of Armstrong's work, given that his focus was strongly

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[123] Barry Rubin, "U.S. Foreign Policy and Rogue States", *Middle East Review of International Affairs*, vol 3, no 3 September 1999.

[124] David Armstrong, *Revolution and World Order: The Revolutionary State in International Society*, Clarendon Press, Oxford, 1993, pp 158-198.

on the issue of revolutionary states. The other gaps that remain in the English School's treatment of the issue of rogue states will be discussed shortly. The identification of the importance of the response of great powers to revolutionary states is key to conceptualising a framework for roguing. Much of the literature on rogue states, while discussing what should be done about rogues, pays far too little attention to how the response of the great powers to rogue states would shape the position of such states to international order. Instead, the problem is generally considered from the other direction by explicit or implicit assertions that it is the rogue states themselves that fix their position in international society and represent the challenge to international order. Taking on Armstrong's idea of the importance of the great powers responding to revolutionary states, and applying it to rogues, opens an important avenue for understanding how the position of rogue states in international society develops and is determined as much by the actions of other states as by their own. However, Armstrong's own argument regarding the response of great powers to revolutionary states is that the pre-existing position of such states in international society and their relative power has little or no determining effect. That is, according to Armstrong, great powers like France and Russia were treated the same as small third world revolutionary states.[125] This qualification does not sit well with the study of rogue states as many US foreign policy analysts point out that not only are rogue states small to medium powers at best, the issue of inferiority is an important aspect of the conceptual mapping that such decision makers take to rogue states.

Finally, in respect of the difference between this thesis and the framework developed by Armstrong, the issue of the socialisation of Libya into international society is a peripheral consideration of this thesis, and the greater focus is on working through the implications of the great power response to Libya and its "outlaw" behaviour for international society and the practice of roguing. However, by taking on the issues discussed above and Armstrong's direct engagement with the interaction between international society's institutions and state behaviour and the importance of great power responses, I can now turn to how this approach helps fill the gaps in the literature that deals directly with rogue, outlaw or pariah states. This literature can be divided between a small number of works that engage with the concept of international society

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[125] Armstrong, *Revolution and World Order,* p 310.

and either discuss the place of outlaw or pariah states in relation to it and the rather large body of US foreign policy literature on the modern rogue states which generally ignores any serious conceptualisation of international society. Some of the prominent works of the former group such as Gerry Simpson's *Great Powers and Outlaw States* and the much older work by Schwarzenberger, *International Law and Totalitarian Lawlessness,* focus on outlawry from an international legal perspective but others such as Geldenhuys, James, Sharp and Clark have engaged to varying degrees with the relationship between pariahs/outlaws/rogues and international society in terms of state practice. I review these authors after outlining the rogue state literature from a US foreign policy perspective.

In terms of US foreign policy studies, a number of competing approaches have emerged in describing rogue states. Eric Herring (2000) identified four broad categories in the literature for the rogue state concept – conservative, liberal, left-wing and interpretivist (which exists on a different ontological level to the others) – which with a few exceptions remain applicable to the study of rogue states in US foreign policy.[126] The "conservative" approach, which primarily includes Tanter and Henriksen, argues that rogue states pose a strong threat to the US and its interests, and continually violate the rules and norms of the international community through terrorism and their pursuit of WMD.[127] As Senn argues, these perspectives see the term rogue state as an objective category fairly describing those states and reject the idea – explicitly or implicitly – that it was created or constructed by foreign policy makers, an assertion of the other non-conservative scholars (although the liberal, left-wing and interpretivist scholars each approach it quite differently).[128]

Those that might be categorised as writing from a "liberal" perspective have had the most to say about the rogue state doctrine. This group broadly argues that the rogue state label has been

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[126] Eric Herring, "Rogue rage: Can we prevent mass destruction?", *Journal of Strategic Studies*, vol. 23, no.1, March 2000, pp 188-212. This approach is adopted and updated by Senn, *Wolves in the Woods*.
[127] Raymond Tanter, *Rogue Regimes: Terrorism and Proliferation*, MacMillan Press Ltd, Houndmill, 1999; Thomas H. Henriksen, *Using Power and Diplomacy to Deal with Rogue States*, Hoover Institution on War, Revolution and Peace, Stanford University, 1999; Thomas H. Henriksen, "The Rise and Decline of Rogue States", *Journal of International Affairs*, vol. 54, no. 2, 2001, pp 349-371.
[128] Senn, *Wolves in the Woods*, p 17.

subjectively developed and inappropriately applied and often hampers the pursuit of US foreign policy interests. For example, Klare argues, rather unconvincingly on the evidence he presents, that the rogue state doctrine was developed by the US military establishment to justify high levels of military spending following the removal of the Soviet threat.[129] Much more rigorously, Caprioli and Trumbore show that there is a dubious link between those states identified by the US as rogues and military aggression in the international sphere.[130] Robert Litwak's books *Rogue states and U.S foreign policy: containment after the Cold War* (2000) and *Regime Change: U.S. strategy through the prism of 9/11* (2007) are the seminal texts on the current rogue states from this perspective. In *Rogue States*, Litwak analyses the development of the rogue state doctrine among US foreign policy elites to identify its key behaviours and characteristics. Litwak's analysis points to some common behaviours such as the pursuit of WMD and terrorism but at the same time notes that many states who should be declared rogues are not, and that in the end the term is used idiosyncratically by the US.[131] The most significant pattern that Litwak identifies is that around 1980 there was a shift in the identification of rogues on the basis of a shift from Liberal to Realist approaches to foreign policy. Prior to 1980 he argues that the US identified rogue states on the basis of internal characteristics such as oppressive regimes and abuses of human rights (i.e. a Liberal conception) while after 1980 this changed to reflect realist priorities of external threats from states, such as the pursuit of WMD and international terrorism.[132] Litwak argues that the narrowness of the concept of rogue states renders it almost essentially useless and he goes on to demonstrate the need for flexible and diversified security strategies by the US to deal with the specific challenges that different rogue states pose.

In *Regime Change*, Litwak re-examines the problem of rogue states for US foreign policy in light of the September 11 terrorist attacks and the implications that have emerged. He is primarily concerned with the tension between regime change and behavioural change as US foreign policy

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[129] Klare, *Rogue States*.
[130] Mary Caprioli and Peter F. Trumbore, "Identifying 'Rogue' States and Testing their Interstate Conflict Behaviour", *European Journal of International Relations,* vol. 9, no. 3, 2003, pp 377-406 and Mary Caprioli and Peter F. Trumbore, "Rhetoric versus Reality: Rogue States in Interstate Conflict", *Journal of Conflict Resolution*, vol. 49, no. 5, 2005, pp 770-791.
[131] Litwak, *Rogue States,* pp 242-244.
[132] Litwak, *Rogue States*, pp 47-56.

towards rogue states and he argues, using Libya as an example, of the potential benefits of moving away from a strict policy of regime change.[133] More than *Rogue States*, Litwak's *Regime Change* does provide some engagement with international order. However, the framework for this analysis again relies on the realism versus liberalism debate in terms of international order and the US's role in it in respect of rogue states. He is not concerned with international society and its institutions – and indeed is one of the scholars to dismiss the capacity for international law to conceptualise rogue states, despite the possibilities for this that I have outlined from Schwarzenberger and Simpson. Although this thesis does not take issue with Litwak's argument of the prominence of the US in the development of rogue states, it does argue against the view that the construction of the roguing process is simply a manifestation of a realist turn in US foreign policy since 1980. Realist accounts certainly explain some aspects of the roguing process and integrating an analysis of how states use material resources to shape inter-state relations is an essential part of this thesis. However, realists' tendency to overlook the role of international norms and the institutions of international society in shaping the interstate relations ignores an important part of the story of rogue states. In the end, Litwak's purpose is different from the purpose of this thesis in that although he provides a critique of the effectiveness of the rogue state doctrine, and in the Libyan case (discussed in the 2007 book) argues that a softening of the policy of regime change resulted in Libya reforming, his contribution to the debate is more about the best strategies US foreign policy makers can implement to change the behaviour of "rogue states".

Further work to unpack the rogue state image has highlighted the differences between it and the conventional 'enemy' image that has been applied to states, the most important recent example being the image of the USSR cast by the US. Hoyt (2000) and O'Reilly (2007) have provided the most comprehensive analysis of the differences between the 'rogue' and 'enemy' labels among US foreign policy elites by drawing on the earlier work of Herrmann and Fischerkeller[134] who outline the characteristics of 'enemy' and 'degenerate' images in international relations to argue that rogue states form specific types of images themselves. Their results highlight three main

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[133] Litwak, *Regime Change,* pp 8-11, on Libya pp 169-199.
[134] Richard Herrmann and Michael Fischerkeller, "Beyond the Enemy Image and Spiral Model: Cognitive-Strategic Research after the Cold War", *International Organization*, vol 49, 1995, pp 415-450.

characteristics of the rogue state image: that they constitute a threat – often through the pursuit of WMD; that they are culturally inferior; and that they have relative military or material power weakness in comparison to the decision maker's home state (noted here as the US). While the perception of threat is common to the 'enemy' image, the characteristics of cultural inferiority and relative power weakness are not, and thus the 'rogue' image forms its own category.[135] The development of the rogue image in such a way also provides for decision makers to take certain foreign policy options with regard to the rogue states whilst at the same time constraining the consideration of other options. In particular, Hoyt notes that because the rogue image includes a perception of power asymmetry in favour of the US the use of force becomes more "appropriate and feasible" as a policy option and that deterrence and constraint – typical policies for dealing with "enemy" states – are less likely to be applied.[136] Given the characteristics of inferiority in rogue states that these studies show are present among US foreign policy makers, this thesis analyses power as a key "variable" in tracing the roguing and de-roguing processes.

The "left-wing" or "radical" perspective is advocated by writers such as Blum, and Chomsky argues that the US itself is a rogue state as measured by either norm breaking behaviour or by the criteria that it imposes on the rogue states of Iraq, Iran et al.[137] This literature points out that US behaviour in international society is often controversial and that it has been involved in breaking many norms or has found itself in a small minority on major political and moral issues. However, as discussed below, the revolutionary states should not be seen as rogue states because of their ability to challenge international order, and along similar lines, nor should the US because it, more than any other state, has the capacity to change international order. Such action may be outlawry in a legal sense but this would also challenge the extent to which international law could be claimed to meaningfully govern a global society of states.[138] It nevertheless undermines the usefulness of conceptualising it as some form of rogue statehood. Accusations of imperialism or malevolent hegemony, even if they apply to the US, are still qualitatively different from rogue statehood even if such actions reflect some of the behaviours that are applied to rogue states.

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[135] O'Reilly, "Perceiving Rogue States", pp 298-302, Hoyt, "The 'Rogue State' Image", pp 306-308.
[136] Hoyt, "The 'Rogue State' Image", p 309.
[137] Noam Chomsky, *Rogue States: The Rule of Force in World Affairs*, South End Press, Cambridge, MA, 2000; William Blum, *Rogue State: A Guide to the World's Only Superpower*, Common Courage Press, Monroe, 2000.
[138] Tim Dunne, "Society and Hierarchy", pp 303-320.

Because of the structural position of the US in both the international system and international society, those works which attempt to categorise the US as a rogue state only obfuscate the issue and potentially (though unintentionally) downplay the consequences of US norm-breaking behaviour in terms of its system-changing capabilities. Such a view of US outlawry also misses the more appropriate analysis that it is acting as a great power norm creator.[139] However, while I argue that such a categorisation is unhelpful, this literature does point to an important aspect of roguing – that not all norm-breaking behaviour is treated equally or objectively. The US possesses WMD and has intervened violently (and illegally) in other states on a number of occasions but generally stays outside the "rogue" label. Similarly, the term is often absent from use against US allies that would appear to fit the characteristics of rogue states. This subjectivity readily identified in the literature means that to understand how roguing develops as a state practice requires examining how it is constructed by states and how that may change over time and in different political contexts.

Herring argued for intrepretivist approaches to studying rogue states and several works have emerged from this perspective.[140] These approaches are helpful because they take the ideational consequences of the rogue frame much more seriously, but they have yet to engage with the development of roguing in international society and tend to downplay the use of material resources in this process. The one notable (non-radical) constructivist attempt is Senn who applies Wendt's constructivist framework to the rogue state concept. Senn's purpose is to describe the constitutive identity of rogue states, his conclusion being that they are seen by relevant policy makers as "Hobbesian enemies".[141] While dealing with the ideational aspects of the rogue state construction he is not concerned with how that construction is exported or imposed by the US onto other states and the challenges this faces from the existing norms and practices of international society. Löwenheim provides a relevant constructivist analysis of the confrontation by the US and others with both state and non-state actors following 9/11 by comparing the policy of the US as a great power to the great power confrontation with the Barbary States over piracy. His main argument is that "Great Power policy toward persistent

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[139] Justin Morris, "Norm Innovation and Great Powers" in Alex J. Bellamy (ed), *International Society and its Critics*, Oxford University Press, Oxford, 2005, p 279. This argument is made in respect of the US and Iraq.
[140] Eric Herring, "Rogue Rage, pp 188- 212.
[141] Senn, Wolves in the Woods, pp 30, 57.

agents of transnational harm depends largely on the extent and nature of the authority challenge the latter represents to the former."[142] He conceptualises the offending actors as either "predators" or "parasites", claiming the former requires confrontation and the latter is somewhat tolerated and sometimes not subjected to violence because they are beneath the status of being worthy of military confrontation. This conclusion appears rather odd in relation to rogue states, because although inferiority is central to the casting of the "rogue" frame, the use of military action against them seems to have little relationship to conferring or acknowledging status, but rather is justified in terms of their *lack* of status. Gordy and Lee employ a Schmittian framework to argue that the "normative weight" applied to state behaviour arises from their designation as a rogue.[143] However, Gordy and Lee go on to argue that the US's continued pursuit of North Korea and Cuba stems from the US's desire to be responsible for their "disappearance" as they represent a continued challenge to the US's Cold War triumphalism and its victory over communism.[144] Such an argument does not readily apply to the rogues of the Middle East and North Africa.

The vast weight of US foreign policy literature on modern rogue states points to their subjective or constructed nature (albeit from very different starting points or ontological positions). In contrast to the significant body of US foreign policy literature on rogue states, engagements with rogue states from international society approaches to international relations such as the English School are much fewer in number but are more concerned with the idea of outlaw or pariah states from the past. However, those English School (and other international society) scholars that have examined outlawry tend to focus on outlawry or pariah statehood as a category of international law, a special type of sovereignty, or the general refusal of members of international society to conduct relations with objectionable states. These exercises are valuable but in light of the subjective and constructed nature of the modern "rogue states" that is apparent from the US foreign policy literature, current international society approaches do not properly account for how the modern practice towards rogue states emerged and how it was maintained

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142 Oded Löwenheim, Predators and Parasites: Persistent Agents of Transnational Harm and Great Power Authority, the University of Michigan Press, Ann Arbor, 2007, p 218.

[143] Katherine Gordy and Jee Sun E. Lee, "Rogue Specters: Cuba and North Korea at the Limits of US Hegemony", *Alternatives: Global, Local, Political*, vol. 34, no. 3, 2009, p 229.

[144] Gordy and Lee, "Rogue Specters", pp 243-245.

and contested. That is, determining whether international law has the capacity for a category of outlawry or whether limited sovereign recognition or refusal to conduct relations might form a concept of pariah state, does not tell us exactly how states, particularly those within international society get pushed into such categories especially if such a characterisation is contested by others in international society.

Geldenhuys is one of the few scholars of rogue and other outlaw states to engage more explicitly with international norms.[145] He adopts a sociological theory of deviance in domestic societies to help explain a broad group of state and non-state actors that might be considered to be pariahs, outlaws, or rogues. Geldenhuys' framework identifies a number of what he considers to be settled international norms that deviant actors can break. The list is: "threats to peace" (particularly WMD proliferation), "terrorism", "conventional armaments", "regional aggression", "lack of democracy and human rights", "crimes against humanity", "war crimes", "exporting revolution", "anti-Westernism", "assertiveness", and "drug trafficking".[146] The purpose of Geldenhuys' work is to move beyond the "rogue state paradigm" to provide a broader analysis of what he terms 'deviance' in world politics. The result of Geldenhuys' work is the categorisation of various state and non-state actors in terms of their level of deviance in the international system. An additional feature of Geldenhuys' framework is that he highlights the need for states to identify deviance in other states and take action to enforce it for deviance to exist or have meaning. In the international sphere he outlines various tools or actions that a state (or actor such as the UN) may take in response to the breaking of norms by deviant actors.[147] However, Geldenhuys' framework does not go far enough. In providing his list of tools and actions available to states he does not examine how this enforcement develops as a practice and its interaction with and consequences for international society. International society itself is not explicitly engaged with in any significant depth as a concept despite the framework of deviance being developed from an analogy with deviance in domestic societies. Analysing the construction of roguing as a quasi-institution, which this thesis does, allows us to appreciate how

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[145] Geldenhuys, *Deviant Conduct*.
[146] Geldenhuys, *Deviant Conduct*, pp 24-37. This criticism is also appropriate for another short article on Libya, Deon Geldenhuys, "The rule-breaking conduct of Qaddafi's Libya", *Strategic Review for Southern Africa*, vol. 25, no. 2, November 2003, pp 55-73; and one on rogue states generally, Deon Geldenhuys, "Rogues versus rules in World Politics", *Strategic Review for Southern Africa,* vol. 22, no. 2, November 2000.
[147] Geldenhuys, *Deviant Conduct*, pp 40-41.

the practice can evolve in respect of the actions of relevant parties and changes in international society. In an earlier work, Geldenhuys describes in great detail what he terms the "isolated states" of the Cold War era. The major contribution of this work is identifying specific measures for determining a state's isolation from international society – one key indicator being the development of a "pariah image".[148] Geldenhuys covers diplomatic, political, military, economic, social and cultural practices of isolation presenting a large amount of data for each of the four main case studies of Chile, Israel, South Africa and Taiwan.[149] While Geldenhuys provides limited discussion of the contexts of the acts and indicators of isolation he describes, the purposes behind various states' decisions to employ such actions towards isolated states and the political implications for international society is largely unexplored. However, his criteria for isolation are valuable and in relation to political and diplomatic spheres are used as part of the framework for roguing and de-roguing applied in this thesis.

On a less extensive basis, there are those who deal with rogue states more in line with this thesis. Paul Sharp (2009) includes a chapter on rogue states in his work on the diplomatic theory of international relations. Sharp's purpose is to ask what we should think of the label "rogue state" if we took to the issue from a diplomat's perspective. Essentially, Sharp argues that such a label, while sometimes appropriate, needs to be treated as "faint" by diplomats to ensure that future possibilities for improving relations and the positive objectives of diplomacy can be realised.[150] In terms of achieving the goals that Sharp proposes can be achieved through diplomatic thinking, the rogue label is probably an impediment. But states do use the label and it has developed into a practice that is used for different purposes or indeed for little conscious purpose at all but rather as a descriptor of a certain type of state. Therefore, Sharp's analysis, while again outlining potential pitfalls of the rogue state doctrine, tells us little about how it has operated when consistently employed in the conduct of interstate-relations in international society. Sharp, whose main solution is to propose a talking for talking's sake practice, acknowledges "Diplomatic thinking, therefore, provides no formula by which we might determine who is right or wrong in

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[148] Deon Geldenhuys, *Isolated States: A Comparative Analysis*, Cambridge University Press, Cambridge, 1990, pp 91-123.
[149] Geldenhuys, *Isolated States*.
[150] Sharp, *Diplomatic Theory*, pp 207-211.

particular episodes of rogue state diplomacy or prescriptions about who should do what in terms of foreign policy."[151]

In terms of dealing with the US's history of trying to isolate adversarial states and how international society has constrained this behaviour, Geoffrey Wiseman's article and book chapter offer an analysis with some parallels to this thesis's argument. Wiseman argues that the US has had a long history of isolating states it has seen as objectionable from, Bolshevik to the modern rogues.[152] However, Wiseman claims that this policy of the US has on each occasion been undone as the US "bumps" into the norms of international society, which strongly encourage engagement over isolation.[153] Wiseman's focus on diplomacy is helpful given its general neglect in English School scholarship and he argues that continual dialogue and multilateralism, in particular, mean that the US eventually takes on engagement. I agree with him that international society *can* help resist the isolation process by the US. However, as well as a lack of depth and nuance (Wiseman deals with the US and Libya in at most a page or two), I disagree with how this process works, and there is much that is not covered by the "bumping" theory. The concept of "bumping" suggests too static a characterisation of the norms of international society and overlooks the need for state contestation and the agency of states in using the structure of international society in instrumental ways. Even potential engagement norms like continual dialogue and multilateralism were effectively used by the US at various points to aid Libya's roguing and general isolation. This highlights one of the key problems with Wiseman's analysis which focuses on the US, the "enemy state" (as he refers to it) and the rules/norms of international society without effectively accounting for the various roles played by other states in terms of this issue of engagement/isolation. He also does not look at the role of the US's framing of states in a particular way – such as rogues – an analysis which is central to this thesis.[154]

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[151] Sharp, *Diplomatic Theory,* pp 218-219.
[152] Wiseman, "Engaging the Enemy", pp 216-220.
[153] Wiseman, "Pax Americana", pp 409-430.
[154] Wiseman, "Engaging the Enemy"; and Wiseman, "Pax Americana", pp 409-430.

Perhaps the most sophisticated model for understanding the position of the modern rogue states in international society is Ian Clark's discussion of "rightful membership" in international society. Clark is concerned with illiberal states more generally but he does explicitly cite the modern rogue states as part of this group.[155] This by itself is problematic because Clark is concerned with exclusion on the basis of the internal structure of states, which contrary to his assertion does not effectively account for the special marginalisation and exclusion that rogues have faced apart from other illiberal states.[156] This issue aside, Clark is right to point out that, although far from settled, some of the great powers had sought to establish the rogue states as outsiders and illegitimate members of international society.[157] Clark's analysis is also important because he is concerned more with informal practices of participation in international society rather than formal recognition of statehood.[158] However, while Clark provides these useful insights, his purpose is not to trace in significant detail how rogue states were denied rightful membership, what resources were employed to achieve this, how it has been contested and what norms were important when. By doing this we can further understand the dynamics of this process and can challenge the veracity of the normative claims of statespersons – such as Tony Blair's claim (used by Clark)[159] that Libya's abandonment of WMD entitled it to rejoin international society even though it was sustained diplomacy between the UK and Libya that led to the announcement – and how they relate to a meaningful practice of exclusion or inclusion.

The final conceptual discussion of rogue statehood is whether it is a category of states based on their identity or on their behaviour – or, as Donnelly puts it, whether states are ontological or behavioural outlaws.[160] Superficially, this is an attractive theoretical distinction with significant implications. According to Donnelly, an ontological outlaw is beyond the pale because its identity and its outlawry is a constitutive feature of the state. The implication for international

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[155] Clark, *Legitimacy,* pp 173-180.
[156] Clark's link between internal structure and external behaviour is supported somewhat by some of the rogue state literature see, Robert I. Rotberg "Repressive, Aggressive, and Rogue Nation-States: How Odius, How Dangerous?" in Robert I. Rotberg (ed) *Worst of the Worst: Dealing with Repressive and Rogue Nations*, Brookings Institution Press, Washington D.C., 2007, p 7 and Lake, "Confronting backlash states". However as I argue in the thesis it is the external behaviour that is the difference.
[157] Clark, *Legitimacy,* pp 173-180.
[158] Clark, *Legitimacy*, pp 173-180.
[159] Clark, *Legitimacy,* pp 178.
[160] Donnelly, "Sovereign Inequalities", pp 146-149.

society is that there would have to be either a constitutive change to the outlaw state – such as a fundamental change in its character (presumably at least regime change, if not its whole system of government) – or a fundamental change in the norms governing outlawry in international society, perhaps akin to the removal of race as a criteria for identifying the "barbarism" of political communities. The behavioural category is far less onerous on the outlaw and simply requires a demonstrable change in behaviour in order to cast off its outlawry. Donnelly concedes that in practice these boundaries may become blurred and that ontological outlaws may very well display behavioural problems.[161] However, in practice, these conceptual distinctions are so blurred they are not useful for empirical analysis. It is not just that one might argue that most outlaws are actually behavioural outlaws and that assertions of their ontological outlawry by statespersons are just rhetorical flourishes. Aside from the difficulty of proving that these are rhetorical flourishes and do not represent the true beliefs of statespersons, they are still part of the framing process of roguing and, while outlaw behaviour is a primary concern in practice, it is often justified in ontological terms. Furthermore, even as a quasi-institution, roguing is dynamic enough for exclusion and subsequent reintegration of the same state to occur on ontological grounds and then behavioural grounds respectively, or vice versa (or indeed even a mixture of both). This is likely to be largely dependent on changing political contexts and state priorities. Therefore, the ontological/behavioural distinction is not applied in the empirical analysis of this thesis.

1.5.2 The History of non-Contemporary Rogues

Barbary States

The modern manifestation of rogue states have some unique characteristics but it is far from the first time that states have been cast as outlaws or pariahs, and had international society treat them as such. From the 16th to 19th centuries the North African states of Algiers, Morocco, Tripoli and Tunis (commonly referred to as the Barbary states) were involved in extensive piracy in the Mediterranean, affecting the shipping of the great powers. The concept of outlawry was perhaps first applied to modern international society in relation to these states.[162] However, the correlation between these states and the modern rogue states should be treated with caution

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[161] Donnelly, "Sovereign Inequalities", pp 146-149.
[162] For parallels between Barbary States and modern rogues see: Löwenheim, *Predators and Parasites*.

because unlike the modern rogues, which have a more clearly defined claim to sovereign recognition, especially considering UN membership, the Barbary states' legal claim to sovereignty is debated in the literature on international law. Part of this reflects the organisation of the Barbary states as political entities, in particular their relationship with the Ottoman Empire. In addition, the nature of international society at the time was different and the interaction between the great powers and the Barbary states was at the edges of a distinctly European international society, whereas the modern rogues operate within an international society of global coverage. Furthermore, from the mid 1800s, the colonial control of these states increased – thus undermining their claims to sovereignty – in varying degrees until post-war decolonisation. Nevertheless, there is some agreement among scholars that, from the 16th to 19th centuries, these states interacted with Europe and the US on the basis of sovereign equality that was only seriously challenged by the practices of piracy either directed by or permitted by the rulers of the Barbary states.[163]

The legal contestation over the sovereign status of the Barbary states due to continual acts of piracy was not simply an argument amongst legal scholars. There were a number of incidences of European courts ruling on the nature of the acts between the Barbary states (including whether the pirates were acting on their behalf) and European shipping vessels. The issue was important with regard to whether the acts were acts of piracy or acts of war and whether sovereignty was negated by the acts of piracy.[164] Declaring the Barbary states as pirate states would have had significant implications. It would have outlawed the states in a legal sense and resulted in universal rights of enforcing punishment, the forfeit of control of property, and the removal of the need to treat prisoners as prisoners of war. The other significant feature of the behaviour of the Barbary states and their treatment in relation to international society – as identified by Georg Schwarzenberger, among others – is that it set a precedent for arguing that the totalitarian states of the early 20th century could also be treated as outlaws because of their serious and continued breaches of basic international rules and norms. It is to these states that I now turn.

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[163] Jörg Manfred Mössner, "The Barbary Powers in International Law (Doctrinal and Practical Aspects)" in Charles Henry Alexandrowicz (ed) *Grotian Society Papers 1972: Studies in the History of the Law of Nations*, Martinus Nijhoff, The Hague, 1972; Charles Henry Alexandrowicz, *The European-African Confrontation: A Study in Treaty Making*, A. W. Sijthoff, Leiden, 1973, pp 18-28.
[164] Schwarzenberger, *International Law and Totalitarian Lawlessness,* pp 91-92.

Totalitarian/Fascist States

Moving to the 20th century, there are a number of examples of states facing similar treatment to the modern rogue states. Weimar Germany's exclusion from the League of Nations and subjection to the Treaty of Versailles settlement without participation or representation, as well as its subjection to demilitarisation, is a prime example.[165] Similarly, the isolation that was faced by Bolshevic Russia following the Russian revolution and prior to re-engagement in the lead up to the Second World War sees a number of parallels. Geldenhuys also includes Spain under Franco because of the association with Hitler, and more appropriately the prevention of Spain's UN membership until 1955.[166] However, it is the totalitarian states of Nazi Germany, Fascist Italy and Imperial Japan that are often included in the broad surveys of outlaw states by scholars. Inclusion on the list of totalitarian states depends on somewhat arbitrary points of reference, for example sometimes Weimar Germany is included but not Nazi Germany, and vice versa. Fascist Italy is often placed on the list on the basis of it being subjected to the sanction of the League of Nations and its subsequent alliance with Nazi Germany. In a similar fashion, Schwarzenberger adds Japan in the lead up to the Second World War as one of the totalitarian states that should be cast as an international outlaw, because of its invasion of Manchuria.[167] In terms of extensive norm breaking behaviour, Nazi Germany and its allies present as a strong case and, in terms of labelling, they found themselves subject to accusations of outlawry and "gangsterism" by statespersons that had previously been rare in established diplomatic discourse.[168]

While the totalitarian states certainly behaved in a manner unacceptable to existing international norms, and posed a great challenge to any meaningful test of "civilisation" that could be applied to membership of international society, thus representing an extreme example of outlawry, their system changing capability makes them qualitatively different from the modern collection of rogue states. The diplomatic practice prior to the outbreak of war was not of the form that came

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[165] David J. Bederman, "Collective Security, Demilitarization and 'Pariah' States", *European Journal of International Law*, vol. 13, no. 1, 2002, pp 121-138; Orde F. Kittrie "Progress in Enforcing International Law Against Rogue States?: Comparing the 1930s with the Current Age of Nuclear Proliferation" in Russell A. Miller and Rebecca M. Bratspies, *Progress in International Law*, Martinus Nijhoff Publishers, Leiden, 2008, pp 651-679.
[166] Geldenhuys, *Deviant Conduct,* pp 57-59.
[167] Schwarzenberger, *International Law and Totalitarian Lawlessness,* pp 82-84.
[168] Roosevelt in Schwarzenberger, *International Law and Totalitarian Lawlessness,* pp 83-84.

to be applied to the Libyan case. The high profile conferences in the lead up to the war indicate that Germany was treated as an equal power even if there was a valid claim that it systemically broke fundamental norms of international society. The war materially changed this situation, of course, but this shows that the fundamental differences between the Allied and Axis powers were dealt with through the existing institution of war and not the creation of a separate quasi-institution akin to roguing. Furthermore, as Mayall argues, unlike previous threats to international society which had developed from the outside and could be challenged as external threats from barbarism, what is important about the totalitarian states' relationship with international society is that the barbaric characteristics of these states developed within the core of international society, and hence they were an internal threat that was much more difficult for international society to respond to.[169] Drawing this distinction helps explain the differences in how the construction of an outlaw or rogue character can apply to states based on their starting position in international society. In terms of the current rogues, on the one hand, rogues are clearly outside the Western core of international society, and so organisation against them as an "external barbarian" is easier to construct and maintain. However, it also suggests that on the other hand, the position of rogue states firmly within regional international societies – such as the Arab World, the Middle East, Africa or East Asia – can help explain some of the difficulties in maintaining the roguing across the different regions. Libya's relationship with Africa improved when it took an active role in developing its African rather than Arab identity, although its Arab marginalisation was a cause of this shift.

Pariah States of the 1960s to 1980s

The discussion in the international society literature about the outlawry of the Barbary states and totalitarian states centres on the relationship of the states to international law. The exclusion of the totalitarian states from the League of Nations was in some respects roguing *par excellence* but the capacity of these states to bring the international system into total war is problematic in comparing them to the current rogue states because considering system transformation as a possible de-roguing strategy qualitatively alters how we can conceptualise roguing as a quasi-institution of international society. During the Cold War, scholars came to identify an emerging

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[169] Mayall, *World Politics*, p 34.

trend in pariah states that could be identified as a loose collection over the 1970s and 1980s. This collective varied according to definitions but the most prominent members included Israel, South Africa, South Korea, Taiwan and perhaps Chile.[170] There were various reasons for this pariah status and Harkavy broadly defines these states (in his case Israel, South Africa, Taiwan and South Korea) as being "a small power with only marginal and tenuous control over its own fate, whose security dilemma cannot easily be solved by neutrality, nonalignment, or appeasement, and lacking dependable big-power support."[171] Although it was not necessarily the source of their pariah nature, the literature came to increasingly link the nature of these states with concerns over nuclear proliferation and escalated threat to the international system.[172] With subsequent decisions to abandon weapons programs these pariahs reintegrated into international society. However, the Cold War also saw a group of states accused, particularly by the US as being proxies for the foreign policy objectives of the Soviet Union. This loose variation of the more legitimate claim that state puppetry denies a right to sovereign recognition, was nevertheless used to undermine the legitimacy of such states to informally participate in international society. This included states that had pro-communist governments such as Cuba, North Korea, and Nicaragua and dictatorships with no real connection or sympathy to communist ideology – for example Iraq and Libya.[173] This group was also covered by Reagan's assertion of an international version of "murder inc".[174]

This group of states represents most closely the modern collective of rogue states. It is undoubtedly true that these states were excluded from international society on a more piecemeal basis than the current collective of rogues. However it should be noted that, as discussed later, the modern roguing process has been a highly dynamic quasi-institution which itself was open to

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[170] Robert E. Harkavy, "Pariah States and Nuclear Proliferation", *International Organization*, vol 35, no 1, 1981, p 135; Henriksen, "The Rise and Decline of Rogue States", p 354; Geldenhuys, *Isolated States*.
[171] Harkavy, "Pariah States and Nuclear Proliferation", p 136.
[172] Harkavy, "Pariah States and Nuclear Proliferation", p 135; Henriksen, "The Rise and Decline of Rogue States", p 354; Geldenhuys, *Isolated States*; Betts considers the pariahs of the 1970s as the most problematic states in this respect because of high levels of perceptions of state insecurity, problems of relative material strength/size, isolation from much of the world and strong regional opposition. The three states he identifies are South Africa, Israel, and Taiwan, see Richard K. Betts, "Paranoids, Pygmies, Pariahs & Nonproliferation", *Foreign Policy*, no 26, Spring 1977, pp 166-167.
[173] Henriksen, "The Rise and Decline of Rogue States", pp 355-358.
[174] Ronald Reagan, "Remarks at the Annual Convention of the American Bar Association", *Presidential Papers,* 8 July 1985.

much criticism of inconsistency and uncertainty especially regarding those states that were sometimes rogues but not part of the core group of four states. However the problem of collectivising the Cold War nuclear pariahs is best illustrated by the South African case. The most isolated member of the group. South Africa was excluded from international society primarily because of the internal structure of its state due to the implementation of Apartheid rule. Furthermore, the casting of South Africa as a pariah was not led by great powers in the way that the US tried to establish Libya's outlawry; rather it was the great powers responding, at least in part, to a consensus established by a large number of traditionally weaker states in the African region. Indeed, in the 1980s it was not uncommon for some states in UNSC debates to juxtapose the US's relatively "normal" relationship with South Africa with its aggressive pursuit of Libya. It is reintegration was due to fundamental domestic transformation, which ended the Apartheid rule and the reason for its isolation.

1.6 Some Corrections and the Criteria for Roguing and De-roguing

From the discussion above we can identify some characteristics of the position of rogue states (including Libya) in international society. First, they qualify for basic membership through sovereign recognition. Second, they can be punished and/or opposed without the threat of fundamentally destroying international society. Third, because international society is a decentralised legal system the identification and punishment of rogue states relies on the other members of international society rather than a separate judicial body. Similar practices are reflected in the other institutions of diplomacy, war and sovereign recognition. As outlined in the introduction, the direct application of terms such as rogue, pariah and outlaw in the domestic sphere to states in the international sphere is highly problematic. The conceptualisation of these states in the international sphere is also largely unsettled. Furthermore, this thesis is not simply about identifying the characteristics or behaviours that make states rogues, but it is, in particular, about the practice that is developed by other states in response to seemingly objectionable behaviour. The point here is to turn to some established practices that societies have used in the past to deal with abnormal/offensive behaviour in order to further clarify the phenomenon discussed in the thesis. I briefly outline practices of marginalisation, excommunication, criminalisation, and imposing outlawry to show that while all are generally unsatisfactory for

describing rogue states in international society, some elements can be used in conjunction with the description of international society above to point to the relevant criteria for the practices of roguing and de-roguing I examine throughout the thesis.

1.6.1 Outlawing or Criminalising

The term outlawry has a long history in terms of domestic societies. Unlike the term rogue, which casts various characteristics on the identity of an individual, the term outlaw refers more to a legal process of dealing with a person – although it may have implications for diminishing social status or casting character. It has been applied as a legal doctrine in many societies including those with decentralised and centralised legal systems. As defined by Schwarzenberger: "the function of outlawry is, in circumstances determined by the law, to deprive the outlaw by the withdrawal of his legal capacity of the rights and duties dependent on membership in a legal community, and, particularly, of the protection of the law accorded to the ordinary criminal."[175] There was opportunity for outlaws in certain domestic legal systems to de-outlaw and once again integrate with their relevant political community (although it often involved killing other outlaws).[176] In applying it to international law, as with similar cases in terms of piracy, this meant that punishment against the individual was able to be enforced by anyone and not just the recognised legal authority.[177] Schwarzenberger notes that in various forms outlawry is reserved for the most abhorrent crimes, and his purpose was to determine the applicability of this concept in international law specifically in terms of the totalitarian states.

Outlawry has also brought with it connotations that the outlaw would be outside the law in both rights and obligations, which is not really applicable to pariah or rogue states.[178] Schwarzenberger is aware of this issue and argues that outlaws can still be subjects of international law. However, while developing a compelling legal argument, his work is unsatisfactory in examining how the current roguing process has developed, because in large part a number of his assertions about what states could and should do simply have not occurred. This

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[175] Schwarzenberger, *International Law and Totalitarian Lawlessness,* pp 88-89.
[176] Schwarzenberger, *International Law and Totalitarian Lawlessness,* p 86.
[177] Schwarzenberger, *International Law and Totalitarian Lawlessness,* pp 89-99.
[178] Alan James, "System or Society?", *Review of International Studies*, vol 19, no 3, 1993, pp 287-288.

is most significant regarding the right to withdraw sovereign recognition for outlaw states, which as stated earlier is a practice that states avoid.[179] Of course, the Iraq War suggests that sovereign recognition amounted to little for the regime of Saddam Hussein, but as Simpson shows, the legal arguments leading up to the invasion were based on an interpretation of the existing justifications for war (outside of a conception of outlawry). Furthermore, until the point of invasion, and as was the case with the other rogues, the inter-relations between Iraq and international society fell well short of the withdrawal of membership of international society and many of the protections and rights of representation that sovereign recognition provided. Even the very recent withdrawal of diplomatic recognition of the Qadhafi regime does not challenge this issue because there was an identifiable opposition organisation that had claimed substantial (although not complete) control of the Libyan state, with a fair likelihood of furthering its control. Recognition has been transferred to a new governing body, a practice that has often occurred in situations where there is significant change to the political control of states, and this differs greatly from withdrawal of recognition without transferring it at all.

Perhaps more relevantly, Schwarzenberger also notes the legal precedence of treating states unequally in colonial times, suggesting a similar legal regime could be applied to outlaw states. Simpson argues that something similar occurred with Iraq and the earlier wars and the use of the inspection regimes for WMD. However, in terms of the contemporary incarnation of outlaw states Simpson examines whether such states should be considered as outlaws and therefore both outside the rights and obligations of international society, or as criminal states that maintain their coverage under international law and its obligations but are nevertheless subject to special sanctions and punishment.[180] The implications of this are significant, as, if a state moves to be outside the protections of international law, then conceivably this could apply to the very rules and privileges of diplomatic conduct that make diplomacy between states possible. Even if you accepted that an outlaw is still a subject of international law, there is a strong distinction in the degree of the severity of consequences between outlaws and normal criminal states. Simpson himself details the distinction between the outlaw/criminal analogy with specific reference to the intervention in Serbia and then Afghanistan, with such extensive military interventions most

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[179] Alan James, *Sovereign Statehood*, pp 151-152.
[180] Simpson, *Great Powers and Outlaw States*, pp 284-299.

appropriately reflecting the "outlaw" status of each state.[181] Until the Iraq War in 2003, although the Serbia and Afghanistan interventions reflected the most significant military action against such "outlaw" states, both Serbia and Afghanistan were, in general overlooked as members of the collective of "rogue states".

The problem is that the legal concepts of outlawry or criminalisation, when used correctly, do not properly translate to much of the practices of states in the processes of roguing and de-roguing (especially outside the framework of international law). When used in the pejorative sense as articulated by state representatives, the term outlaw tends to be a confusing combination of legal practice, derogatory characterisations, and practices that are inconsistent with the scholarly development of the concept. Although both outlaws and criminals undoubtedly suffer social stigmatisation, it is unclear how that would manifest itself in the international sphere. What is particularly relevant, however, is that the concepts of criminality and outlawry allow for and have developed from uses of violence as part of the punishment process. Unlike marginalisation, the issue of violence and punishment reflects an important part of the roguing process. Regardless, the frameworks of Schwarzenberger and Simpson only take us so far and do not provide answers to how exactly other states have gone about constructing the outlaw identity for the various misbehaving states.

1.6.2 Excommunication

Another practice in relation to the treatment of outlaws in international society is the practice of excommunication in medieval societies. Although it may be considered under the broad rubric of outlawry,[182] the practice of excommunication was specifically tied to the Catholic Church in those times and developed from the idea that the head of the Church could expel people who committed certain acts from the Christian community. The religious feature of excommunication was its primary concern as it was designed to deny the person who was excommunicated spiritual, ceremonial and practical association with the Church's activities. However, beyond that was a strong social effect of cutting the person off from normal participation within their

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[181] Simpson does make passing reference to Libya and other rogues in this regard but they are generally not treated as a systemic part of the analysis. Simpson, *Great Powers and Outlaw States,* pp 294, 295, and 340.
[182] Schwarzenberger, *International Law and Totalitarian Lawlessness*, p 88.

community or society. To be excommunicated was to be shunned and ostracised from others in the community in order to prevent "contamination" of the community. It also had significant political implications for those individuals in positions of power in the community as, if they were excommunicated, it was necessary for their respective officials to no longer take orders from or serve the excommunicated ruler. In certain cases the property of the excommunicated person could also be forfeited.[183]

In a number of respects excommunication had similar effects to outlawry and a number of the social consequences of excommunication have attractive parallels with the practice of roguing. However, there is a significant difficulty with the excommunication analogy, regarding the authority on which excommunication was imposed. Excommunication was bound in a centralised authority (i.e. the Church through its representatives) which had the ability to coerce and the decree to institute excommunication as a punishment, and importantly the authority alone to declare and enforce excommunication in that jurisdiction.[184] Although excommunication undoubtedly had significant implications for the secular sphere of political control in the medieval period, that is, the political and social spheres that were governed by the relevant kings or princes, the Church maintained a strong centralised control on the imposition of excommunication. Even as there was "spill over" from the religious sphere to the social sphere, the centralised authority that excommunication was based on makes it qualitatively different to roguing as a practice in the decentralised structure of modern international society. Despite US hegemony in the post Cold War era, there is nothing about its authority in international society that correlates to the authority of the Church in imposing excommunication.

1.6.3 Deviance

Apart from Schwarzenberger's application of domestic society's outlawry to outlaw states in international society, deviance is the only other major domestic conception that has been applied to the study of rogue states. As discussed above, Geldenhuys has applied this concept and the

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[183] J.A. Watt, "Spiritual and temporal powers" in J. H. Burns (ed), *The Cambridge History of Medieval Political Thought c. 350-c. 1450*, Cambridge University Press, Cambridge, 1988, pp 384-385.
[184] Antony Black, *Political Thought in Europe: 1250-1450*, Cambridge University Press, Cambridge, 1992, pp 70, 74.

faults and differences between his work and this thesis have been explained. The other main application of deviance comes from Nincic.[185] The problem with the deviance concept is that it implies that the acceptance of the state as a deviant is readily identifiable and accepted by members of international society. The theories of deviance do acknowledge that an actor's deviance must be identified by powerful members of the society but they do not analyse how it may be constructed as a practice against a deviant state especially when the allegation of deviance, or even its very conception, is contested by other states, including the so-called deviant. Instead, in such cases the great powers such as the US are let off as defenders of settled norms, even if they defend them inconsistently. As Nincic puts it in discussing his choice to use the term renegade, as opposed to rogue, to describe regimes that are deviant, while he is "interested in the violation of core norms of international conduct, states that have been designated as rogues were mainly guilty of threatening U.S. interests, and the two classes do not fully overlap."[186] He then rightly cites as an example that Syria and Afghanistan were not pursued as rogues despite consistent violation of anti-terrorism norms and that Cuba is sometimes charged as a rogue by the US but arguably demonstrates very little deviant behaviour.[187] However, it is precisely this overlap between the US as a great power pursuing rogue states and the "deviance" of states that is important in understanding how a practice towards outlaws develops and it is central to this thesis's concept of roguing and de-roguing.

An additional criticism of Nincic's framework, which particularly warrants applying the English School to the concept of modern rogues is that Nincic is deliberately ahistorical claiming that the modern deviance has no appropriate historical parallel.[188] He also claims that his study is set post-Cold War because of the settlement of modern anti-deviance norms post-Cold War and the US's quasi-hegemonic power. He claims that the post-Cold War period is justified here in terms of the international community identification of deviance even though he allows for the deviant behaviour to have started before the end of the Cold War.[189] This ahistoricism misses the

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[185] Miroslav Nincic, *Renegade Regimes: Confronting Deviant Behaviour in World Politics*, Columbia University Press, New York, 2005.
[186] Nincic, *Renegade Regimes,* p 12.
[187] Nincic, *Renegade Regimes,* p 12.
[188] Nincic, *Renegade Regimes,* pp 9-12. For a discussion of similarities between the Barbary States and modern rogues post 9/11, see Löwenheim, *Predators and Parasites*.
[189] Nincic, *Renegade Regimes,* pp 16-17.

substantive historical continuity in the issue of outlawry, while acknowledging there are important distinctions in the modern manifestation of rogue statehood. More importantly, much of the construction of Libyan (and others such as Iranian) outlawry developed before the end of the Cold War even if the post war context altered some of the dynamics. In addition, the alleged settlement of deviance post-Cold War is not correct, and it overlooks role of the pre-Cold War roguing in establishing and strengthening the post Cold War deviance norms that Nincic claims are apparent. Finally, Libya was able to challenge its roguing as much after the Cold War (albeit in different ways) then as before it.

1.6.4 Aversion and Marginalisation

Perhaps the best way to conceive the relationship between rogue states and members of international society in political rather than strictly legal terms is either marginalisation or aversion. Aversion is the term used by Alan James to describe the widespread decisions of members of international society not to recognise new states or governments based largely on moral terms rather than the issue of political control. He also applies it to the more informal process of avoiding significant international interaction with "pariah" states, such as Apartheid South Africa, even when sovereign recognition is not withdrawn. The most relevant parts of James's framework for this thesis were discussed in the section on sovereignty above.[190] However, there is another criticism of James's framework which prevents aversion being adopted wholesale into the roguing and de-roguing process, which is a lack of extensive analysis of the agency of the states of international society including the great powers, the rogue states, and the 'ordinary' members of international society. Shogo Suzuki is critical of the overly functionalist approach of the English School to the inclusion of China and Japan into an expanding European International Society.[191] In a similar fashion, English School scholars who have discussed the issue of outlaws, pariahs or rogues focus too much on the existence or relevance of outlawry as a category of states in international society and have paid too little attention to the agency of great powers in creating the outlawry for specific states and how that is contested by target states and others international society. This is not to say that the structure of international society is unimportant, but that both the course of and outcomes of the roguing

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[190] Alan James, *Sovereign Statehood*.
[191] Suzuki, *Civilization and Empire,* pp 11-17.

process was strongly shaped by how relevant states chose to use the structure at various times or for various purposes.

A final conception of social relations and the marginalised that might be considered relevant to rogue statehood and international society is Norbert Elias's discussion of the "established and outsiders" which has recently been drawn on to inform International Relations theory. Zarakol applies the model of Elias's study of marginalisation from the established and the outsiders to the relationship between Turkey, Russia and Japan, and the European states. She argues that these states were stigmatised as outsiders and domestically they took on a sense of inferiority as part of this process. The attractiveness of this framework is that it can explain both the problem of states integrating with the Western core of international society, and the status that the core members maintain despite diminishing relative material power in relation to the "outsiders".[192] However, in Elias' example of Winston Parva, the primary mechanism that allowed the outsiders or newcomers to be stigmatised was the social cohesion of the established.[193] While this may provide important parallels for Zarakol's study of the "outsiders" of Russia, Turkey and Japan trying to relate to European or Western society, which is arguably relatively cohesive, it is not appropriate for the roguing process. The extent of cohesiveness required of international society and the claims for entry into international society do not correlate with the phenomena of roguing and de-roguing. Indeed, in a regional sense, the US and other main constructers of roguing are more outsiders than the rogues themselves – that is, the US's and Libya's respective position in relation to the Arab region or the African region. Even taken globally, rogue states have been singled out for treatment beyond the stratification that is present in Elias's and Zarakol's frameworks.

1.7 Conclusion and the Criteria for Roguing and De-roguing

It is clear from the existing literature that the concept of rogue, outlaw or pariah states is messy and highly contested. The survey of the history of rogue and outlaw states above was to reject the

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[192] Ayşe Zarakol, *After Defeat: How the East Learned to Live with the West*, Cambridge University Press, Cambridge, 2011, pp 57-66.

[193] Norbert Elias and John L. Scotson, *The Established and the Outsiders: A Sociological Enquiry into Community Problems*, 2nd Ed, Sage Publications, London, pp xviii.

assertion of some scholars that the rogue state conception is unique to the US view of international relations while at the same time caution against lumping the rogues in with other objectionable or controversial states (such as revolutionary powers). The disagreement among scholars is not helped by the seemingly arbitrary and inconsistent application of the rogue terminology by foreign policy elites when acting on and describing international affairs. Unlike some scholars who aim to highlight these inconsistencies (and the problems they may cause for US foreign policy makers) or others who seek to discard the rogue state label in order to provide a more comprehensive analysis of states "out there" that regularly break international norms, I explicitly examine the concept as it is used by states in order to illustrate how it has been constructed, maintained and undermined in international society as a practice or "quasi-institution". There should also be great caution in drawing analogies too strongly between international society and domestic society and conceptions of outlawry, deviance, excommunication and marginalisation that maybe drawn from it. The messiness of the general concepts of rogue, outlaw and pariah states also requires me to be careful with my own terminology and as such I use the terms roguing and de-roguing to explain this quasi-institution. In order to understand current state practice, there is more to be gained by embracing the rogue label than discarding it, despite (and indeed partly because of) its pejorative usage.

Roguing is used to reflect the role of the US in constructing this institution. It is also able to be separated from other terminology such as outlawry, which is problematic for the reasons stated above. Roguing is used to define a small group of modern states which have obvious similarities to other states but nevertheless important distinctions. Roguing applies to insider states who are having their identity framed in a particular way and who are being marginalised and punished (sometimes violently) for their "rogue" behaviours and characteristics. They are relatively smaller powers who cannot realistically hope to reshape the existing international order in response to the roguing process, but they can maintain the power to contest the roguing process. States are not independently designated as rogues but have the practice forced upon them by other member states of international society acting individually or collectively, this being a product of the anarchical (decentralised) nature of international society. Rogues are still states and although their sovereignty may be seriously challenged by regime change, the claim to statehood remains and permanent territorial control from outside powers is not legitimate – in

this sense roguing is a challenge to governments not states. De-roguing is the reversal of the process of roguing to a point of normalisation and acceptance of rogue states in the existing institutions of international society. The use of the concept of framing is important in this thesis because roguing is a process of marginalising (outlawing) as well as casting the identity of a state in such a manner as to highlight certain characteristics and behaviours. As the following chapters will show, this is a dynamic process that reflects the changing political contexts and strategies of the states involved.

With regard to how this process interacted with the existing institutions of international society, the chapters consider the framing of Libyan behaviour and the justifications for responses to that behaviour by various states and international organisations. However, these criteria for rogue statehood must be contextualised in the political environment and in relation to their part in the roguing process. As such, the thesis is far more concerned with how these indicators are manifest in important episodes in the history of the Libyan case and how they form an overall pattern in respect of the roguing and de-roguing process. As such not all indicators are equal in weight and context is particularly important. There is more that can be gained by discussing certain episodes of the breaking of diplomatic relations for the purposes of roguing – such as between Libya and the US and UK (at different points in time) – than the greater number that occurred in the African region when Libya was lobbying states to take hostile positions against Israel.

To build the picture of Libya's roguing and de-roguing within international society, this chapter has outlined the institutions that this process operates within. The focus of this thesis is not directed on all the institutions individually, and the state of the current literature means that diplomacy is considered in more detail than other institutions such as international law. The next chapter begins with a back-history of the sovereign recognition of the Qadhafi regime shortly after taking office. From then, until mid 2011 with the extensive internal challenge to the Qadhafi regime, the withdrawal of sovereign recognition was not a serious feature of the roguing process. With this fundamental qualification for Libya's participation in the institution of diplomacy met, the thesis traces how the roguing and de-roguing of Libya related to diplomatic norms and practices.

The key diplomatic norms that are considered are reciprocity, continual dialogue and multilateralism. The indicators of roguing and de-roguing in relation to diplomacy are both formal and informal practices. Bilaterally, the indicators include the existence of diplomatic relations, the presence of embassies in respective states, any restrictions placed on their size, the status of staff present – such as a *chargé d'affaires* versus ambassador – restrictions on the movements of diplomats, bilateral official visits and communiqués, the presence of interest sections in the absence of embassies, secret or ad hoc negotiations in the absence of diplomatic relations, and strict controls on the agenda for such negotiations to specific issue areas.[194] In terms of roguing and multilateralism, the participation in regional organisations is considered along with the relationship between Libya and the UN – particularly the UNSC. The implications of roguing for Libya's ability to take on relevant leadership positions in these organisations are considered as well as how hosting multilateral summits and participating in the institutions assisted the de-roguing process. On the other hand, the role of powerful states in constructing a multilateral diplomatic response to Libya through the roguing process is also a significant indicator of Libya's rogue statehood in international society. Reciprocity is examined in terms of how it encourages and/or prevents roguing and de-roguing through these bilateral and multilateral practices.

Although this thesis does not aim to establish whether outlawry, purely as a legal concept, applies to the Libyan case, it does examine how international law is used as part of the roguing and de-roguing processes. International law can work in two opposing ways regarding the roguing process. The establishment of a category of outlawry and the criminalisation of the state due to certain practices have the potential for the roguing to take on a highly formalised and institutionalised form. The most recent seminal piece on this, by Gerry Simpson, suggests that such a category has developed. However, with the exception of Iraq, the other notable rogues (including Libya) have at best been partially subjected to such criminalisation. Furthermore it was applied most ferociously against the non-core rogues of Afghanistan and Serbia.[195] Second,

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[194] These specific measures of diplomatic engagement can be found in Geldenhuys, *Isolated States*; and in modified form from James, "Diplomatic Relations and Contacts".

[195] Simpson, *Great Powers and Outlaw States,* pp 5, 280.

the legalisation of certain episodes or characteristics can in fact de-politicise the roguing process and narrow its consequences to legal disputation determined by international courts, treaty arrangements, or legal compensation payments. However, such de-politicisation is dependent on the linkage made by states between the legal resolution and other political sanctions or engagements. Finally, as a general practice, participation in practices of international law, and challenging the roguing process on these terms, can provide useful normative and symbolic resources for de-roguing.

War and the threat of war are potentially an integral part of the roguing process. Indeed war that successfully leads to regime change, as it did in Iraq in 2003, is one of the end games of the roguing process. However, more low level military violence (and the threat of such military action) provides avenues for roguing in terms of escalating the political impact of the roguing process and eliciting other states to take on the roguing process. Seeking and encouraging military provocation from the rogue state itself can also be a strategy employed to further develop the rogue framing of a state. On the other hand, preventing the use of unconventional violence by the rogue state, such as pursuing WMD, can be intertwined with the roguing process as, if a rogue state becomes too materially powerful, these practices have some potential in balancing against the power of the US and other roguers. In relation to great power management, roguing is more institutionalised if there is agreement between the great powers over the identification and treatment of rogue states and to the extent that such a great power consensus is resisted by the remainder of international society. A shift in the balance of power can alter the nature of such a consensus and the success of roguing, or the lack thereof, can provide an indicator of the normative power of the great powers or a hegemonic US within international society. Finally, it should be noted that all the above indicators exist on a spectrum of roguing and participation in international society and none are meant to represent absolute or ideal types or be considered in dichotomous terms. Their purpose is to help assess Libya's position in international society due to the roguing process. The following four chapters discuss the process of roguing and de-roguing with reference to Libya as an idiographic case study of a prominent rogue state.

2. The Roguing of Libya by the United States

2.1 Introduction

The term rogue state has become ubiquitous in US foreign policy discourse. Gaining prominence after the end of the Cold War and further entrenched by the Bush Administration following the 9/11 terrorist attacks and advent of the war on terror, it regularly describes a key group of states alleged to be a threat to the US and the whole of international society. Although the general practice of outlawry has a long history and is not necessarily linked with the US, the modern manifestation of rogue states has strong associations with the US. Libya, along with Iran, Iraq and North Korea were for a long time the core of the rogue state collective. Despite the growing literature on rogue states and the rogue state image,[196] little literature has gone beyond the study of US foreign policy to examine how the roguing process interacts with the institutions of international society. Given the centrality of the US to the roguing process, the focus on US foreign policy and foreign policy makers is not surprising, and to fully understand the interaction of the roguing process with international society, an examination of the role of the US in constructing the rogue frame of Libya is necessary.

Therefore, the purpose of this chapter is to trace the process used by the US to construct Libya's rogue statehood. I argue that the roguing of Libya, as established by the Reagan Administration, fixed the rogue frame of Libya to the practice of isolating Libya from international society. The Reagan Administration, and those after it, advanced Libya's rogue frame on four key grounds: Libya's involvement in terrorism, Libya's regional subversion and belligerence, Libya as a proxy for Soviet confrontation, and Libya's pursuit of WMD. The attachment of these characteristics to

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[196] For an overview see: Henriksen, "The Rise and Decline of Rogue States", pp 349-371; Saunders, "Setting Boundaries", pp 23-53; Janne Nolan and Mark Strauss, "The Rogues' Gallery", *The Brown Journal of World Affairs*, vol 4, no 1, 1997, pp 21-38; Rubin, "U.S. Foreign Policy"; Klare argues that the rogue state doctrine was developed by the US military establishment to justify high levels of military spending following the removal of the Soviet threat, Klare, *Rogue States*; Hoyt and O'Reilly have shown that the rogue label has not been consistently applied to a number of states – such as Syria, Pakistan and India – even though they have displayed behaviour similar to those like Iraq, Iran, North Korea and Libya who have been regularly identified as rogues, Hoyt, "The 'Rogue State' Image"; O'Reilly, "Perceiving Rogue States"; Caprioli and Trumbore show the dubious link between rogue statehood and military aggression, Caprioli and Trumbore, "Identifying 'Rogue' States", pp 377-406 and Caprioli and Trumbore, "Rhetoric versus Reality", pp 770-791; similarly, Litwak has traced the development of the doctrine and argued that it provides a flawed and overly simplified view of a diverse group of states to the detriment of US foreign policy, Litwak, *Rogue States*.
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Libya's roguing was dynamic and had different implications over time. In the background was also a strategy of portraying Qadhafi as irrational and therefore a greater threat to the interests and security of the US and its allies. These characteristics had been cast previously on the Qadhafi regime, but only from the Reagan Administration onwards did they form a systemic attachment to the practice of diplomatic isolation which gave roguing a quasi-institutional character with respect to Libya.

The analysis in this chapter of how the US rogued Libya is presented in a broadly chronological order. I begin by showing how pre-Reagan Administrations clearly identified very objectionable behaviour from the Qadhafi regime but did not seek to link such objections to denying Libya's participation in international society. I then move on to discuss the normative argument the Reagan Administration developed for linking international isolation with Libya's foreign policy behaviour. This process took time and required Reagan to undertake a systematic diplomatic strategy to isolate Libya primarily on the grounds of terrorism. This was also aided by a mix of unilateral sanctions and military action. In the 1990s, Libya's roguing continued as Libya fell under the rubric of the rogue state doctrine that developed in the post-Cold War era and as the dispute over the release of two Libyan officials suspected of the Lockerbie bombing remained unresolved. It was also following the end of the Cold War that WMD came to form a significant part of Libya's roguing.

I also examine the process through which the US related to other states and international organisations to advocate the isolation of Libya from international society more generally. While the bilateral relationship between the US and Libya can be justified or explained in terms of the US framing Libya as a rogue, a further step in the roguing process occurred when the US undertook multilateral diplomatic practices to isolate Libya from international society. This multilateralising of US foreign policy practice towards Libya was essential to creating roguing as a quasi-institution of international society. There are numerous examples of this practice occurring over the 1980s and 1990s, as the US actively pursued the strategy of isolating Libya from participation in international organisations – including opposing Libya's OAU presidency in 1982, and Libya's UNSC bids for 1996 and 2004. The US used multilateral fora to frame

Libya as a rogue and criticised other states for engaging diplomatically with Libya. The US also sought the support of other states both materially and symbolically in its bilateral operations against Libya, most notably for its airstrikes against Libya in 1986. The US also, along with Britain and France, successfully pursued the application of UN sanctions to Libya over the Lockerbie affair.

Finally, I argue that while the roguing process was a construction of various US Administrations, it also restricted US behaviour – thus firming its quasi-institutional character. This meant that on occasion the Administration was forced to take action that it otherwise would not have. One example in the Libyan case is the sacking of US Ambassador to the Vatican, William Wilson, after it became public that he had taken an unauthorised trip to Libya. In addition, the moral certitude of the need for Libyan isolation over the 1980s prevented opportunities for diplomatic contact regarding the Lockerbie affair and Libya's WMD programmes throughout the 1990s, which may have led to changes in Libyan rogue like behaviour. Libya, from a US perspective, also came to be collectivised with the other rogue states of Iran, Iraq and North Korea which further fixed the frame for interpreting Libya and the possible foreign policy practices that could be taken in respect of it.

2.2 Libya and the US in the pre-Reagan Years

The argument of this chapter that the establishment of roguing as a quasi-institution was a construction of US Administrations from Reagan onwards depends, in part, upon demonstrating that there was a significant change in the practice towards Libya from previous Administrations. However, the framing of Libyan foreign policy and the decision making of Qadhafi by the US as erratic, irrational and driven towards terrorist activities was also a dominant feature of pre-Reagan Administrations. What these Administrations did not do in a significant way was draw a link between these objectionable characteristics and the roguing of Libya from international society. That is, although Libya was an objectionable state, it was not a rogue state in the contemporary usage of the term. This is not to say that US Administrations did not describe Libya and Qadhafi in rogue-like terms on occasion in the pre-Reagan years. However, the systematic attachment of the rogue frame to Libya, along with the practice of actively restricting

Libya's participation in international society, developed significantly under Reagan and was cemented with the rogue state doctrine that developed after the Cold War. The purpose of the remainder of this chapter therefore, is to illustrate this process of roguing Libya, showing how it developed over time and how it related to the US practice towards similarly 'distasteful' states that were not subject to the roguing process.

The relationship between the US and the Qadhafi regime began with some level of optimism. Directly following the coup that ousted King Idris on 1 September 1969, the new regime gave assurances to the major powers that it would honour the previous government's agreements and not harm foreign property and people in Libya.[197] Within a week, the United States, France, Italy and the United Kingdom had all granted diplomatic recognition to the Qadhafi regime.[198] The readiness with which the US accepted the coup was such that it issued instructions to its embassies in Lebanon, Saudi Arabia and Morocco about how to respond to criticism from these US-friendly states about its inaction and lack of support for King Idris.[199] The US was reluctant to interfere with the internal politics of Libya following the coup and adopted a wait and see policy.[200] In particular, the US was positive about the anti-communist orientation of Qadhafi. In these early years, Qadhafi expressed to US officials that he had no great sympathy for the Soviet Union or for communist ideology. Instead, Qadhafi claimed to the US that he was being pushed towards the Soviet Union because of the reluctance of the US to sell military hardware to Libya.[201] While Qadhafi's expression of these views to US officials may have been seen as a bargaining threat against the US at the time, his comments are consistent with the uneasy relationship that developed between Libya and the Soviet Union over the 1970s.

Despite the early recognition of the Qadhafi regime and some encouragement about Qadhafi's independence from the Soviet Union, relations with the US quickly became problematic over the

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[197] *The New York Times*, 3 September 1969.
[198] *The New York Times*, 7 September 1969.
[199] Telegram 158075 from the Department of State to the Embassies in Lebanon, Saudi Arabia, and Morocco, 17 September 1969, 2104Z. Foreign Relations, 1969-1976, Volume E-5, Part 2, Documents on Africa, 1969-1972.
[200] Telegram 158075 from the Department of State to the Embassies in Lebanon, Saudi Arabia, and Morocco, 17 September 1969, 2104Z. Foreign Relations, 1969-1976, Volume E-5, Part 2, Documents on Africa, 1969-1972.
[201] Telegram 1699 from the Embassy in Libya to the Department of State, 30 October 1972, 1600Z, Foreign Relations, 1969-1976, Volume E-5, Part 2, Documents on North Africa, 1969-1972.

course of the 1970s. Libya withdrew permission for the US to use the Wheelus airbase and later nationalised American-owned oil companies operating in Libya. The US Administration saw Libya's support for Palestinian extremism as a serious issue, and Libya's opposition to the US policy regarding Israel made the Arab/Israeli issue a defining feature of the difficulty in US/Libyan relations.[202] Furthermore, even at this early stage, the perception of Qadhafi as an unstable personality was developing among US foreign policy elites. David Newsom, the Assistant Secretary for African Affairs, referred to "Qadhafi's erratic behaviour" in correspondence to the then US Ambassador to Libya Joseph Palmer regarding military supplies from the US to Libya. The letter also outlined the reasoning of the Secretary of State, William Rogers, that there was little that the US could do to alter any potential desires of the Libyan regime to move against US interests.[203] Similar frustrations with the motivations of the Qadhafi regime were outlined in a National Security Council memorandum (18 March 1971) written by staffer Harold Saunders and initialled with agreement by National Security Advisor, Henry Kissinger, that claimed the "Libyan government is not going to like us no matter what we do."[204] In reporting to the US Government about his final meeting with Qadhafi as Ambassador in 1972, Joseph Palmer concluded that Qadhafi "is an obsessed man, a curious mix of 7th century Islami, Bedouin warrior and modern idealistic nationalist. His judgements are simplistically sharp: he persists in seeing everything as either completely right or completely wrong. Unfortunately he perceives the U.S. as wrong."[205]

The concerns of US officials regarding Qadhafi's personality were exacerbated by evidence that Libyan officials were sponsoring terrorist activities abroad. In a State Department memo dated 13 December 1972, the Deputy Assistant Secretary of State for African Affairs noted that the FBI had reported that the Libyan Ambassador was "connected with potential terrorist activities

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[202] Memorandum from Harold Saunders of the National Security Council Staff to the President's Assistant for National Security Affairs (Kissinger), Washington, August 9, 1972. Foreign Relations, 1969-1976, Volume E-5, Part 2, Documents on Africa, 1969-1972.
[203] Letter from the Assistant Secretary of State for African Affairs (Newsom) to the Ambassador to Libya (Palmer), Washington, January 7, 1972. Foreign Relations, 1969-1976, Volume E-5, Part 2, Documents on Africa, 1969-1972.
[204] Memorandum from Harold Saunders of the National Security Council Staff to the President's Assistant for National Security Affairs (Kissinger), Washington, March 18, 1971. Foreign Relations, 1969-1976, Volume E-5, Part 2, Documents on Africa, 1969-1972
[205] Telegram 1699 from the Embassy in Libya to the Department of State, October 30, 1972, 1600Z. Foreign Relations, 1969-1976, Volume E-5, Part 2, Documents on Africa, 1969-1972

in the US."[206] The memo went on to report concerns that Qadhafi, while primarily concerned with terrorist activities in the Middle East over the Palestine/Israeli issue, was taking a more global approach. The memo lamented the inability of the US Government to advise the Libyan Ambassador that such behaviour is improper for a diplomat without compromising the FBI report but stated that general concerns about terrorism could be raised at future meetings. US officials also noted their concern about terrorism in an earlier report when the US Government became aware of the intentions of the Qadhafi regime to loan USD3 million to the Nation of Islam in the US.[207] Despite the evidence of Libyan involvement in terrorist activities however, there was no real prospect of the US discontinuing diplomatic dialogue. Indeed the opposite appeared to be true as US officials were concerned that Libya was avoiding the diplomatic process. David Newsom explained that the US decision to deny Qadhafi military hardware was because by 1973-74, US officials felt that Libya was not reciprocating US cooperation and nor was Ambassador Palmer "getting access to Qadhafi."[208] The terrorist frame of interpreting Libya continued into the mid and late 1970s under the Carter Administration. As ElWarfally illustrates, the Carter Administration's perception of Libya was dominated by the terrorism issue.[209] In 1979, Libya was included on the first State Department state sponsors of terrorism list.

Although it is apparent that US officials in the 1970s had perceptions of Qadhafi as unpredictable, erratic and irrational, and relations between the two states were cool, there was no attempt to isolate Libya to the extent that the Reagan Administration did in the 1980s. That is, despite a common perception among the Nixon, Ford and Carter Administrations, and despite the regular framing of Libya as a state that pursued terrorist activities and Qadhafi's threatening behaviour towards other states, there was no great attempt to link this to the practice of roguing Libya. These Administrations practised limited engagement with Libya and both bilateral and

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[206] Memorandum from the Deputy Assistant Secretary of State for African Affairs (Ross) to Armin H. Meyer of the Office of the Secretary, Washington, December 13, 1972. Foreign Relations, 1969-1976, Volume E-5, Part 2, Documents on Africa, 1969-1972.

[207] Memorandum from the Counsel to the President (Dean) to the Deputy Assistant to the President for National Security Affairs (Haig), Washington, February 3, 1972. Foreign Relations, 1969-1976, Volume E-5, Part 2, Documents on Africa, 1969-1972.

[208] David Newsom quoted in Mahmoud G. ElWarfally, *Imagery and Ideology in U.S. Policy Toward Libya 1969-1982*, University of Pittsburgh Press, Pittsburgh, 1988, p 90.

[209] ElWarfally, *Imagery and Ideology*, pp 115-125.

multilateral avenues of diplomatic contact were more open. Although Joseph Palmer was the last Ambassador-level appointment to Libya when he left in 1972, the US maintained diplomatic representation in Libya at the level of Charge d'Affaires. It was not until the last Charge d'Affaires William Eagleton was recalled on 8 February 1980 and the embassy closed on 2 May the same year that formal bilateral diplomatic representation of the US in Libya ended.[210]

Although the Carter Administration closed the US embassy in Libya, it was initially intended to be temporary. Furthermore, the link between Libyan terrorism and a policy of enforcing diplomatic isolation was not clearly articulated in practice. Libya was placed on the first state sponsors of terrorism list by the State Department on 22 December 1979. However, this did not directly correlate with a severing of diplomatic ties between Libya and the US. Although Charge d'Affaires Eagleton had been temporarily withdrawn from Libya at the time of the publication of the terror sponsor list – he left on 2 December – it was because of the failure of the Libyan government to stop an attack by Libyan citizens on the US embassy, albeit an attack that the Qadhafi regime did little to prevent.[211] Eagleton returned to Libya on 31 December. In February, the embassy was reduced to two diplomats and Eagleton was recalled following an attack by Libyans on the French Embassy. The US embassy continued to be manned in Libya until May 1980. The 'temporary' closure of the embassy in May followed attempts by Libya to assassinate Libyan dissidents abroad.[212] The reluctance of the Carter Administration to completely sever diplomatic ties was evident in the decision to allow the Libyan embassy in the US to stay open after a siege in May 1980. Carter labelled the embassy's staff as "would-be assassins" when four Libyans accused of intimidation towards Libyan opponents of Qadhafi living in the US defied an expulsion order by staying in the Libyan embassy for four days before they were recalled to Libya.[213] Despite this, it was the Reagan Administration that took the action to close the Libyan embassy a year later.

[210] http://www.state.gov/r/pa/ho/po/com/10907.htm accessed 26 May 2009.
[211] Ronald St. John, *Qaddafi's World Design: Libyan Foreign Policy, 1969-1987*, Saqi Books, London, 1987, p 81.
[212] US State Department Office of Historian, "Chronology of U.S.-Libyan relations, 1986-2006", at http://www.america.gov/st/texttrans-english/2008/September/20080909135234eaifas0.9841425.html accessed 14 March 2009.
[213] J. Ritchie, "Libya Ends Standoff with U.S., Recalls 4 Envoys" *The Washington Post*, 10 May 1980.

2.3 The Reagan Administration

Although the US under the Carter Administration made some initial moves that could be seen as the start of the roguing of Libya, they were limited and ad hoc and fell well short of developing as a quasi-institution. The closing of the US embassy in Libya was intended to be temporary and it was more typical of the practice of normal diplomatic protest between states. The inclusion of Libya in the publication of the first terror sponsor list was more significant as it set down trade restrictions against Libya, and it remained on the list until 2006. It was not until the Reagan Administration that the multilateral process of roguing Libya began and started to take a quasi-institutional form. The Reagan Administration began this process from the beginning of its first term by closing the Libyan embassy in the US and maintaining the closure of the US embassy in Libya. These bilateral actions were framed in terms that linked Libyan 'terrorist' behaviour to the removal of diplomatic contact. To publicly justify the increasing level of bilateral diplomatic and economic sanctions, and the use of military action that the US took against Libya, the Administration framed Qadhafi as irrational, evilly intentioned, a sponsor of terrorism, regionally belligerent and a proxy of the Soviet Union.

However, more importantly, the Reagan Administration gradually took steps to persuade other states to isolate Libya from international trade and diplomacy. Although the justification for the multilateral isolation of Libya focussed on terrorism, another important aspect in the process of roguing Libya was Libya's relationship with the Soviet Union. The way that the US framed this relationship was complex and changed over the course of the Reagan Presidency. Initially, Libya was cast as a Soviet proxy or satellite, pursuing Soviet imperialist aims in Africa and undertaking international terrorism on its behalf. However, as the US/Soviet relationship improved, the framing of Libyan terrorism was made more independent of the Soviet Union and instead it was the Soviet Union that became tainted by its association with Libya, rather than Libya being tainted as a Soviet proxy. An important contrast between the Soviet Union and Libya throughout the Reagan Presidency was that although the Soviet Union was often framed in similarly abhorrent terms to Libya – as it was famously dubbed the 'evil empire' – it was not rogued as Libya was. Ultimately, however, it was the 'Libya as terrorist therefore international outlaw' frame that dominated the Reagan years. The Reagan Administration framed Libya as the

standard bearing terrorist state and used it to reinforce its opposition to international terrorism. The Administration particularly sought European support to develop a strong Western response to isolate Libya from international society.[214]

2.3.1 Terrorism and the Construction of Libyan Rogue Statehood

The Reagan Administration differed little from previous Administrations in that it was fully aware of Libyan support for international terrorism. However, from the beginning, the Administration took a harder line against Libya as a state sponsor of terrorism. The first major action that the Reagan Administration took against Libya was to order the closure of the Libyan embassy in the US on 6 May 1981 on the grounds that Libya supported international terrorism and had a "disregard for international norms of behaviour."[215] This included the expulsion of 27 members of diplomatic staff. There was little detail publicly announced to explain the closure beyond citing Libyan support for international terrorism and "unacceptable behaviour."[216] However, the Administration did make reference to the shooting of a Libyan student dissident living in the US that was alleged to be connected with the Libyan embassy. At the time, the Defense Secretary Caspar Weinberger referred to the need to protect the people's safety and labelled the Libyan embassies as "really almost assassination headquarters". The opinion within the State Department appeared to differ from this view, claiming that, while the shooting was a factor, the overwhelming reason behind the embassy closure was to make "a loud public statement that there will be no business as usual until Libya decides to play by the rules of international conduct."[217] This represents the fundamental shift from continual dialogue as an option for conducting relations with Libya.

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[214] This 'Western' response to Libya is reflective of a broader approach that the Reagan Administration took to responding to terrorism in general, Rita Parhad, *Illegitimate Violence: The Creation and Development of the International Norm Against Terrorism*, Unpublished Thesis, University of California, Berkeley, 2006, p 167.

[215] US State Department Office of Historian, "Chronology of U.S.-Libyan relations, 1986-2006", at http://www.america.gov/st/texttrans-english/2008/September/20080909135234eaifas0.9841425.html accessed 14 March 2009; the US Government ordered the closure of the embassy – but stopped short of a complete break in formal diplomatic ties, *United Press International,* 6 May 1981. The Belgian Embassy became the protecting power but did not include an interest section staffed by US personnel until 2004.

[216] D. Nunes, "Libyan Diplomats Ponder Expulsion Order", *The Washington Post*, 8 May 1981.

[217] Michael Getler, "Despite U.S. Ouster of Libyans, Concern over Activities Continues", *The Washington Post*, 19 May 1981.

The Reagan Administration viewed Libya as a terrorist threat based on both past and current behaviour. In 1981, Reagan was informed of intelligence reports that Qadhafi had an assassination squad that was targeting US officials including Reagan himself. The threat of the assassination squad was a concern for Reagan for the latter half of 1981, and on 8 December, he noted that it was agreed at a National Security Council meeting to send a "secret or private warning" to Qadhafi from Reagan "that harm to any of our people by his terrorist goons will be considered an act of war."[218] Reagan's diary entries about the Libyan assassination squad seem to reflect a genuine sense of concern for the safety of US officials – and himself – and contempt for Qadhafi as the man responsible. Unknown government officials leaked information of these threats to the media. While denying responsibility for the leak, the Administration discussed the issue extensively in the media to reinforce the framing of Qadhafi as a terrorist and escalate the perception of threat from Libya.[219]

The threat from the Libyan assassination squad also represented another justification for the US taking further action to isolate Libya from interaction with the US. In December 1981, the US placed travel restrictions on US citizens, preventing them from entering Libya and asking those in Libya to leave. In announcing the travel ban the US Secretary of State Alexander Haig asserted that the US "no longer believe that a double standard with respect to international lawlessness and terrorism... is a contributor to international peace and stability and the rule of law which we all seek to espouse. And therefore we've taken these minor steps."[220] Haig articulated this link between Libyan terrorism and the travel restrictions the day after informing a private meeting of foreign affairs ministers of European NATO states. However, he did not advocate in the meeting that these states take a similar approach to that of the US towards Libya and restrict or cease diplomatic relations and communication with Libya. Indeed, it was reported that the Italian Foreign Minister, Emilio Colombo, responded to Haig's discussion of US policy

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[218] Ronald Reagan, entry Tuesday 8 December 1981, *Reagan Diaries*, p 54; this message was reportedly sent to Libya via Belgian intermediaries, T. Hunt, "Libya Warned", *The Associated Press*, 9 December 1981.
[219] Ronald Reagan, "The President's New Conference" *Presidential Papers*, 17 December 1981; Bernard Gwertzman, "Reagan Weighs Economic Steps Against Libyans", *The New York Times,* 8 December 1981; Lescaze and G. Lardner Jr., "Reagan: 'We Have Evidence' of Libyan Plot", *The Washington Post,* 8 December 1981.
[220] Bernard Gwertzman, "Haig Links Moves Against Qaddafi with Moral Anger", *The New York Times*, 12 December 1981; See also S. Weisman, "Reagan Requests Americans To Quit Libya Immediately", *The New York Times,* 11 December 1981.

during the meeting and indicated that EEC states had decided as early as September not to restrict diplomatic communication with Libya on the basis of these threats or at this point in time. Following the meeting, a number of European foreign ministers and officials, including those from Britain, France and West Germany, reasserted that diplomatic isolation on the basis of Libyan policy at the time would not be pursued.[221] Despite this, diplomatic communication was not completely removed as the US used the Belgian embassy to send and receive limited messages with Qadhafi over the issue.[222]

Haig made a point of publicly stating that he did not ask the European foreign ministers to take similar action and he highlighted the uniqueness of the problems with the US/Libyan relationship. Although this may be explained in terms of the US Administration wanting to avoid the public rejection of requests, it also shows that the multilateral process of roguing Libya was not instantaneous but was constructed through practices over time. Indeed, while the first few years of the Reagan Administration marked a number of actions that isolated Libya from the US bilaterally, the multilateral approach was more limited. The Administration maintained the terrorist frame as a feature of Libyan behaviour and asserted that the "ultimate objective" of US policy toward Libya was to alter its "policy of international terrorism and subversion."[223] In August 1984, the US Government further restricted the movements of Libyan diplomats to the UN, requiring them to gain special permission to travel outside New York City. Although the US placed travel restrictions on the diplomats of other states to the UN including those from Cuba, Iran, Vietnam, the Soviet Union and China, the new Libyan restrictions were the most severe. In laying down the restrictions the US provided no reasoning except security concerns.[224] By itself this action meant little, but it fell within the increasing trend of the US to actively prevent Libyan diplomatic involvement not just with the US but with other states and international organisations.

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[221] Gwertzman, "Haig Links Moves Against Qaddafi"; D. Oberdorfer, "Haig Tells Europeans Of Stand on Qaddafi; Haig Explains Libya Policy at NATO, Doubts Parallel Moves by Europeans", *The Washington Post*, 11 December 1981.

[222] NSC Metting – Libya Monday, December 7 1981, Near East and South Asia Affairs Directorate, NSC Records, Box 91144, Ronald Reagan Archives.

[223] D. Oberdorfer, *The Washington Post*, 20 August 1981.

[224] "U.S. Limiting Libyans At U.N. to New York", *The New York Times*, 1 September 1984.

Although the above shows how the Reagan Administration had taken significant steps to promote the framing of Libya as a terrorist state and had begun to institutionalise the practice of roguing Libya, the second term of the Administration provided the most systemic and successful attempts to impose the multilateral exclusion of Libya from international society. On 8 July 1985, in remarks to the American Bar Association, Reagan made one of the most significant speeches outlining the Administration's policy on terrorism. In it, he framed a small number of states in terms of a quasi-institutional collective of states united in engaging in international terrorism and upsetting international order. He labelled these states – which included Libya – as "a confederation of terrorist states... a core group of radical and totalitarian governments -- a new, international version of Murder, Incorporated. And all of these states are united by one simple criminal phenomenon – their fanatical hatred of the United States, our people, our way of life, our international stature."[225]

In December 1985, Libya was implicated in terrorist attacks at airports in Rome and Vienna. The attacks killed 20 people – five of whom were American including one 11 year old girl who became a very public symbol of the attacks.[226] In response, Reagan issued two executive orders on January 7 and 8 1986, which placed significant restrictions on Libyan trade and travel with the US, and blocked Libyan government property in the US. The executive order 12543, which was introduced on 7 January, asserted that the "policies and actions of the Government of Libya constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat."[227] These two executive orders followed the executive order 12538, which was issued on 15 November 1985, and specifically referred to the use of "terrorism as an instrument of state policy" and as a result placed import restrictions on Libyan oil.[228]

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[225] Ronald Reagan, "Remarks at the Annual Convention of the American Bar Association" *Presidential Papers,* 8 July 1985.
[226] Brian Davis, *Qaddafi, Terrorism, and the Origins of the U.S. Attack on Libya,* Praeger, New York, 1990, pp 115-118
[227] Ronald Reagan, "Executive Order 12543", *Presidential Papers*, 7 January 1986.
[228] Ronald Reagan, "Executive Order 12538", *Presidential Papers,* 15 November 1985.

By 1986, the US strategy towards Libya was clearly aimed at not only isolating Libya from US interests, but at consciously and systematically taking steps to have Libya isolated by other states. On 8 January 1986, Reagan administered the National Security Decision Directive Number 205, entitled "Acting Against Libyan Support of International Terrorism", which outlines the policy of isolating Libya. In addition to US unilateral actions it states:

> Every effort shall be made to seek Allied implementation of comparable economic sanctions and agreement not to replace U.S. business and personnel …
>
> In addition to these economic measures, the United States will initiate a global diplomatic and public affairs campaign to isolate Libya. To that end the Department of State shall prepare a plan designed to curtail Libyan political activities inimical to western interests. (C)[229]

The day before issuing this directive, the Administration publicly articulated its strongest link between Libyan behaviour and the necessity to rogue Libya from international society. It placed normative commitments above material interest as the driving force for Libya's relationship with the world. As Reagan put it:

> Civilized nations cannot continue to tolerate in the name of material gain and self-interest the murder of innocents. Qadhafi deserves to be treated as a pariah in the world community. We call on our friends in Western Europe and elsewhere to join with us in isolating him.[230]

The Administration extended this strategy in August 1986 and ran a propaganda campaign against Libya, which leaked false information to the US press about Libyan terrorists, uncovered by the *Washington Post*.[231] However, by this stage, the Administration had moved away from the reluctance shown by Secretary Haig in 1981, to directly call for the multilateral isolation of Libya. Furthermore, Reagan clearly cast the issue as a moral imperative for international society to deal with and reiterated the moral standard again on 10 January in an interview with European

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[229] National Security Decision Directive 205, 8 January 1986, reproduced in Christopher Simpson, *National Security Directives of the Reagan and Bush Administrations: The Declassified History of U.S. Political and Military Policy, 1981-1991*, Westview Press, Boulder, 1995, pp 654-655.

[230] Ronald Reagan, *Presidential Papers*, "Presidential News Conference" 7 January 1986.

[231] Eleanor Randolph, "In the Dog Days of August, the Media Missed the Hottest Story", *The Washington Post*, 3 October 1986; In September, when Vernon Walters was again in Europe to convince states of the need for further sanctions he was given a 'cool reception' with Thatcher not even meeting him, see for example "Cool Reception for Walters in London and Other West European Capitals", *BBC Summary of World Broadcasts*, 12 September 1986.

journalists where he questioned the moral validity of conducting trade and 'everyday relationships' with Libya as a state responsible for terrorist attacks.[232]

The collective responsibility for dealing with Libya as a rogue, however, did not necessarily extend to all states. In the Cold War period under the Reagan Administration, the conception of the core of international society was Western centric. On 10 January 1986, Reagan told European journalists of the need for the "Western World" to say "the line is drawn; we're no longer going to tolerate this activity" [terrorism].[233] In the same interview session, Reagan was much more equivocal about the involvement of the Soviet Union in isolating Libya when he was asked to respond to the Soviet Foreign Minister's comments that US actions violated Libyan sovereignty. Reagan stated: "I've recognized that there are certain elements of propaganda that go on in this relationship. But at the same time, in my talks with Mr. Gorbachev, he expressed his repugnance, the feeling that he had of repugnance for terrorist acts."[234] The public framing of the western response to Libya's actions was consistent with subsequent practice of the US which sought to build a coalition of support among European states and use the Group of 7 (G7) summit in Tokyo as a platform for gaining the commitment of states to remove of Libya from participation in diplomacy.

In April 1986, a bomb exploded in the La Belle nightclub in West Berlin. Among the fatalities were 2 US soldiers, and a further 79 Americans – out of a total of more than 200 – were wounded. Again, Libya was implicated in the attack and the Reagan Administration held Qadhafi responsible.[235] The campaign to isolate Libya went further and included military intervention in April 1986, representing the most significant adoption of war as part of the roguing process. On 14 April, the US conducted an air strike against Libya. It was reported that amongst the casualties was Qadhafi's adopted infant daughter.[236] That the US decided to launch military action against Libya in response to the La Belle bombing is not as important to this thesis as the particular way the Reagan Administration framed its justification and reinforced the

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[232] Ronald Reagan, *Presidential Papers,* "Comments to European Journalists" 10 January 1986.
[233] Ronald Reagan, *Presidential Papers,* "Comments to European Journalists" 10 January 1986.
[234] Ronald Reagan, "Comments to the European Journalists", 10 January 1986.
[235] Davis, *Qaddafi, Terrorism,* pp 115-118.
[236] Davis, *Qaddafi, Terrorism*, pp 141-142.

need for Western states to take responsibility in preventing state sponsored terrorism. Reagan asserted that it "must be the core of Western policy that there be no sanctuary for terror" in his address to the US public regarding the air strike against Libya.[237] The Administration would later use the G7 as an institutional platform to continue the practice of imposing diplomatic isolation on Libya, but in the case of the military strikes the Administration also decided it was worth adding material risk to its own military to try to maintain an image of Western unity against Libya.

Multilateral engagement with other states deepened in respect to the roguing process and consultation with European allies was considered extensively as part of the military strike planning.[238] In the lead up to the military strikes on Libya, the Administration sent Vernon Walters as Ambassador at Large to inform the Governments of France, Spain, Italy, West Germany, and the United Kingdom and potentially garner support.[239] In recounting the trip, Walters noted that one of the most pressing and sensitive issues was how to ask for permission for US aircraft to fly over French and Spanish airspace on the way to and from Libya. The permission for the aircraft to take off and land at a US base in Britain was granted by Prime Minister Thatcher.[240] If flyover permission was not granted, the aircraft would have a considerably lengthened trip, be required to refuel mid air, and as a result add to the physical risks to the pilots during the offensive in Libya. Although it was later reported in the press that the French, in particular, rejected flyover permission, Walters writes that he was only to ask if he was sure that the answer would be favourable. Walters believed that Mitterand took a harder line towards Qadhafi than the US. When he informed Mitterand of their intended strike against Libya, Mitterand responded: "That will only be a pinprick, it will not achieve our real objective of overthrowing him. If you want to do that, I will help. If not, I do not want to be any part of the

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[237] Ronald Reagan, *Presidential Papers*, "Address to the Nation on the United States Air Strike Against Libya", 14 April, 1986.
[238] Libyan Working File (02/07/1986-04/10/1986), Situation Room Support Staff, White House Official Records, Box 92498, Ronald Reagan Archive.
[239] Vernon Walters, *The Mighty and the Meek: Dispatches from the Front Line of Diplomacy*, St Ermin's Press, London, 2001, pp 324-331; M. McDonald, "Vernon Walters: A master of shadow diplomacy", *Maclean's*, 9 June 1986; D. Winder, "US pressure on Libya strains ties with Western allies" *The Christian Science Monitor,* 14 April 1986.
[240] Margaret Thatcher, *The Downing Street Years*, HarperCollins Publishers, New York, 1993, pp 443-449.

pinprick".[241] Walters found a similar response when informing the Spanish of the airstrikes, with Spanish Prime Minister Gonzalez also implying he preferred the option of a major military offensive to overthrow Qadhafi but not the operation the US was launching. In both cases, Walters did not ask for flyover permission after ascertaining the response would not be favourable. Indeed, in the Spanish discussions, Walters rejected the implied offer from Gonzalez that although he would not officially offer flyover permission, if asked, he may turn a blind eye if the US went ahead regardless.[242]

The issue of whether to ask for flyover permission was considered very carefully by the Administration as Walters continually received updated advice about the issue throughout his trip. The Reagan Administration seemed to be very keen to establish support, particularly Western support, for the strikes, given the collective of states that were informed prior to the strikes by Walters's visit. Indeed in writing to Prime Minister Thatcher in the lead up to the meeting Reagan personally noted that he saw the lack of a 'Western' response to international terrorism as part of the reason it continued.[243] The decision not to even ask for flyover permission given the material risks to the pilots of having to fly around suggests that the Reagan Administration saw the symbolic cohesion of the US and its Western European allies as more important than the material risks involved to the US in the attack. The Reagan Administration continued its drive for presenting symbolic cohesion among Western states against Libya at the G7 meeting in May 1986 following the Libyan strikes.

Following the military strikes against Libya, the Reagan Administration sought to institutionalise diplomatic isolation as a response to state sanctioned terrorism and the US made an example of Libya in this regard. In 1986, the G7 released the Tokyo Economic Summit Conference Statement on International Terrorism. Libya was the only state specifically named in this statement, which sought to condemn international terrorism and outline diplomatic measures to counter terrorists and supporting states. The statement set out commitments by the respective G7

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[241] Walters, *The Mighty and the Meek*, pp 168-169. See also William Safire, "Essay: Vive le Pinprick" *The New York Times*, 18 April 1986.
[242] Walters, *The Mighty and the Meek*, pp 326-327.
[243] Thatcher, *The Downing Street Years*, p 444.

governments to refuse arms exports, limit diplomatic mission size and travel activities for states that sponsor terrorism and restrict (or deny) the entry of persons – including diplomats – on the grounds of suspicion or conviction of terrorist acts. The statement also included language that not only condemned terrorism but claimed it had "no justification". It also called upon other states to adopt the measures above and advocated for the use of international organisations including the UN to make efforts to prevent terrorism.[244]

Although the statement was not the first instance of the G7 discussing terrorism, it was the first time terrorism as an issue dominated a G7 summit, and marked a significant advancement by the G7 members in responding to terrorism.[245] The statement was potentially contentious as it followed shortly after the US military attacks on Libya which were subject to significant protest from other states and European domestic publics.[246] However, the Reagan Administration, with strong support from Margaret Thatcher, was successful in gaining a consensus from the G7 states in generating a statement that the US was publicly very pleased with.[247] The use of the G7 by the US to characterise Libya as a terrorist sponsoring state was perhaps the most significant multilateral platform for roguing Libya until the UNSC placed sanctions on Libya because of the Lockerbie bombing, which will be discussed later in this chapter. The exclusiveness of the Group's membership (based on economic size and the democratic nature of the states) meant that it was a platform and resource that could only be used by seven states to advance the roguing of Libya as a terrorist state while denying access to other states – in particular Libya – who may contest such frames. The G7 also provided a greater chance for the US to gain an international commitment against Libya, from a small, yet powerful, group of states. A UN General Assembly

[244] Tokyo Economic Summit Conference Statement on International Terrorism, *Reagan Presidential Papers,* 5 May 1986.

[245] Andre Belelieu, "The G8 and International Terrorism: The Evolution of Terrorism at the Summits and Prospects for the 2004 Sea Island Summit", Speech delivered to Center for Strategic and International Studies, Washington, D.C., 5 March 2004.

[246] See for example E.J. Dionne Jr., "Attack On Libya: Reproaches From Far And Wide; China Condemns Raid And All Acts of Terror", *The New York Times*, 16 April 1986; A. MacLeod, "Thatcher draws fire for Libya raid", *The Christian Science Monitor,* 21 April 1986; J. Stobart, "Italy fears further reprisals from Libya", *The Christian Science Monitor,* 17 April 1986.

[247] Sudhir Sen, "Tokyo Economic Summit in Retrospect", *Economic and Political Weekly,* vol 21, no 25/26, 1986, pp 1103-1104, and George Shultz, *Turmoil and Triumph: My Years as Secretary of State*, Charles Scribner's Sons, New York, 1993, pp 687-688; Thatcher was credited with ensuring the strong wording of the statement in the final stages of negotiations, see "The Summit in Tokyo", *The Washington Post*, 6 May 1986.

resolution would later condemn the US military action in Libya,[248] thus highlighting the difficulty the US faced at this stage in extending its roguing of Libya beyond Western states.

Although the US had gained some notable success in persuading other states, particularly Western allies, of Libya's outlawry, not all states took this view. However, the 'Libya as outlaw' frame had become so successful in domestic US politics that it curtailed the flexibility of the Administration to deal with Libya as a normal state. In diplomatic terms the most significant example is that of the resignation of William Wilson, ambassador to the Vatican in 1986. As recounted by then Secretary of State George Shultz, Wilson undertook an unauthorised trip in November 1985 to meet with Qadhafi in Libya. Although Secretary Shultz claimed the meeting was unauthorised, Wilson maintained that he had permission from Bill Clark when he was an advisor on the National Security Council. The meeting was apparently the culmination of some informal messages intended to be sent to Libya via the then Italian Foreign Minister, which suggested a softer line towards Libya than Reagan's public announcements at the time stipulated.[249] In March 1986, the story of Wilson's visit to Libya was reported in the *New York Times*[250] and on 20 May, Wilson resigned as ambassador.[251]

The requirement that Wilson resign due to the meeting with Libya was only necessary once the story of his visit became public. When Wilson's superiors found out, Wilson was not removed from his post but reprimanded by Secretary Shultz.[252] It is a strong example of certain diplomatic actions being forced due to the extent of the entrapment of Reagan's framing of Libya. Reagan is clear in his diaries that he did not see the resignation of Wilson as necessary from the fact that he undertook the unauthorised visit to Libya, but rather that it was a relief that Wilson's reputation would not be smeared any further by the "Capitol Hill Lynch mob."[253] Furthermore, the necessity of the resignation only came about because of the particular framing of Libya that

[248] "U.N. Vote Adopts Resolution Rebuking U.S. on Libya Raid", *The New York Times,* 21 November 1986.
[249] Shultz, *Turmoil and Triumph*, pp 678-679.
[250] L. Gelb, "U.S. Diplomat Reportedly Held Talks in Libya", *New York Times*, 23 March 1986.
[251] US State Department Office of Historian, "Chronology of U.S.-Libyan relations, 1986-2006", at http://www.america.gov/st/texttrans-english/2008/September/20080909135234eaifas0.9841425.html accessed 14 March 2009.
[252] "Envoy Admits Visiting Libya In 1985" *The New York Times,* 19 June 1986.
[253] Ronald Reagan, entry Monday 19 May 1986, *Reagan Diaries,* p 412.

Reagan had created which included irrationality, terrorism *and* isolation as the appropriate moral response, whereas the experience of previous Administrations had shown that Libya's character did not necessarily preclude diplomatic contact even following very public knowledge of Libyan terrorism.

The Reagan Administration clearly used the terrorist frame for interpreting Libyan behaviour as a major feature of its foreign policy. Although this was not a new way of viewing Libya, establishing the link between terrorist behaviour and the need to outlaw Libya as a state only became an established practice over the course of the Reagan Administration. The Administration had some success in convincing Western allies that this link was imperative to the legitimate conduct of diplomacy among states. Of course, the extent to which the link was accepted across international society was more limited, but as I have shown above that was not necessarily the Administration's aim. Instead, Reagan placed special responsibility to impose Libyan outlawry on Western states. As will be discussed below, this is due in a significant respect to the political context of the Cold War and another feature of the Libyan frame advocated by the Administration; Libya as a proxy of the Soviet Union. In addition, the Administration highlighted Libyan belligerency and threats to US security through support of regimes hostile to the US and through interventions against African states. These two aspects of the US framing of Libya and the consequences during the Reagan Administration will be discussed in turn.

2.3.2 Libya's Belligerent Foreign Policy

Although the terrorist frame came to dominate US articulation of Libyan outlawry, the Reagan Administration also framed the Qadhafi regime in terms of other belligerent forms of foreign policy. Three key behaviours that the Administration highlighted were: Libya's excessive claim over territorial waters in the Mediterranean; Libya's interventions in Africa; and Libya's support for regimes hostile to the US such as Nicaragua. In 1973, Qadhafi made a declaration that the territorial waters of Libya extended to include the entire Gulf of Sidra. This claim extended well beyond the usual state claims to territorial waters and Qadhafi threatened military attacks against unauthorised entry of ships and planes into the Gulf. Although previous US Administrations had

not recognised the claim (legally recognising only 3 miles from the Libyan coast), according to a Pentagon statement in 1981, they 'respected' the claim up to 12 miles.[254] On 19 August 1981, during what the Pentagon described as "routine" manoeuvres, the US navy shot down two Libyan planes that had engaged in an "unprovoked" attack on US fighter jets flying approximately 60 miles from the Libyan coast – well within Qadhafi's declared zone.[255] While previous US naval operations had taken place in the Gulf between 1973 and 1981, this was the first to lead to a significant military engagement since Libyan planes fired upon a US transport ship in March 1973.[256] However, Reagan implied that the manoeuvres had a strong symbolic purpose to confront Qadhafi. In describing his initial thoughts of the manoeuvres in his diary on 1 June, Reagan writes: "I'm not being foolhardy but he's [Qadhafi] a madman. He has been harassing our planes out over international waters & it's time to show the other nations there Egypt, Morocco, et al that there is different management here."[257] There is also evidence that the Administration was advised that Qadhafi would consider the exercise in such a provocative way.[258] The US maintained the fleet in the Mediterranean and over subsequent years conducted a number of further manoeuvres inside Libya's declared zone and in April 1986 the US fleet in the area was used as part of the military strike against Libya.[259]

The Administration also opposed Libyan actions in Africa, in particular its military interventions in Chad and the Sudan. In 1973, Libya sent a small number of troops into Chad, and increased the level of its intervention in 1980 to side with the President, Goukouni Oueddei, who was being challenged by Chad's former Prime Minister, Hissene Habre, in the Chadian civil war. From 1980 to 1987, Libya had more than 5 000 troops stationed in Chad and it used the intervention not only for military action in Chad but to launch airstrikes against Sudanese border towns supporting the Chadian opposition. Libya was finally forced to retreat in 1987 after a

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[254] D. Feaver, "Just a Routine Exercise, 'Like a Skeet Shoot,' Pentagon Says", *The Washington Post*, 20 August 1981.

[255] Michael Getler, "U.S. Navy Fighters Shoot Down 2 Libyan Jets", *The Washington Post,* 20 August 1981.

[256] A more minor incident occurred in 1979. Michael Getler, "U.S. Navy Fighters Shoot Down 2 Libyan Jets", *The Washington Post,* 20 August 1981; D Feaver, "Just a Routine Exercise".

[257] Ronald Reagan, entry 1 June 1981, *Reagan Diaries*, 2007, p 22.

[258] Executive Secretariat NSC: Country File, Libya – Confrontation over the Gulf (2), Box 3, Archives of Ronald Reagan.

[259] G. Arnold, *The Maverick State: Gaddafi and the New World Order*, Cassell, London, 1996, pp 99-100.

series of military setbacks.[260] In 1982, Habre had taken control of the Government and Libya was supporting Oueddei in opposition. The US opposed Libyan intervention in the conflict and in 1983 provided its first military equipment to aid Habre. While the US tried to avoid extensive entanglement in Chad, insisting the French take the lead,[261] the Administration did use Libyan activities to promote the frame of Libya as a subversive state. In 1983, the US *Department of State Bulletin* framed "virtually all African and Arab moderate regimes" as "targets of Libyan-supported subversion."[262] In 1984, when Libyan forces bombed a Sudanese village, Permanent US Ambassador to the UN Jean Kirkpatrick condemned the attack at the UN, labelling Libya as "masters of violence."[263]

Significantly, Libya's subversion in Africa was used as the justification for one of the US's first major multilateral attempts to rogue Libya when it opposed the OAU holding its annual conference in Tripoli in 1982 with Qadhafi assuming OAU Chairmanship.[264] The conference failed to achieve the quorum of states required after two attempts and therefore did not take place. Prior to the conference, the US State Department issued advice to a selection of friendly African states regarding the consequences of Qadhafi assuming the OAU Presidency. The document implied that the US would use the reaction of OAU states to Libya's actions as an indicator of their suitability, on normative grounds, as members of international society, and importantly, it framed Qadhafi's impediment to international dialogue as stemming from belligerent foreign policy rather than terrorism. The document provided seven points, three of which dealt directly with Qadhafi. These stated that the US would find it "impossible ... to work with him as OAU Chairman" and that the OAU members would find ways to "limit the damage he could do to the organization". The document went on to say that should Qadhafi become Chairman then it was imperative that the post of Secretary General should be filled by "someone

[260] "Chad and Sudan; Libya's long arm", *The Economist*, 10 October 1981; René Lemarchand, "The Case of Chad" in René Lemarchand, *The Green and the Black: Qadhafi's Policies in Africa,* Indiana University Press, Bloomington, 1988, pp 121-122.
[261] "Statement by Deputy Press Secretary Speakes on the Situation in Chad", *Reagan Presidential Papers*, 9 August 1983.
[262] *Department of State Bulletin*, October 1983.
[263] "Sudan Asks Action By U.N. In Bombing" *The New York Times*, 28 March 1984.
[264] The document discussed was used as part of a tour by US officials of African states, M. El-Khawas, *Qaddafi: His Ideology in Theory and Practice*, Amana Books, Brattleboro, 1986, pp 165-168; The Administration had earlier stated it would support African states that publicly oppose Libyan intervention, see Bernard Gwertzman, "U.S. Pledges To Aid Countries In Africa That Resist Libyans", *The New York Times,* 3 June 1981.

truly representative of the continent, someone who will have the international respect and access which Qaddafi does not." Finally, the document warned that delegates would face "great pressure by the Libyans and their allies... We would hope that delegations have authority to withdraw from the meetings, should Libyan behavior prove to be such that responsible Africans would not want to be associated with it."[265]

That the conference failed was certainly not entirely due to the pressure applied by the US over Qadhafi's Chairmanship. However, Qadhafi blamed the US (and France) and this was reportedly the view held by some other African states, with others claiming that the conference could have been held anywhere else but Libya.[266] Even if it was only a contributing factor to the failure of the conference, the document is instructive regarding the US strategy toward Libya and Qadhafi. The language of the document aims to separate Qadhafi from other African states by claiming that he is not "representative" and that the US will only deal with members of the OAU executive that it considers such, regardless of the process through which OAU member states decide to select their leadership. The description of the need for "responsible Africans" to withdraw from the conference in response to potential Libyan behaviour prescribes a strong normative element to how the US State Department viewed the way in which OAU member states should relate to each other. By implication the US is framing Libya as an irresponsible state that will jeopardise OAU/US diplomatic relations by assuming the Chairmanship and therefore denying Qadhafi a diplomatic platform to engage with other states and organisations with the legitimacy that may be granted through his representation of the OAU as opposed to his representation of Libya as a state.

2.3.3 Libya's Association with the Soviet Union

The threat from the Soviet Union dominated US strategic thinking during the Cold War.[267] The level of confrontation between the two superpowers and the extent to which the East/West divide was used as the prism for interpreting the foreign policy of states waxed and waned across

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[265] Colin Legum, "Africa resents US 'Friendly Advice'", *The Christian Science Monitor*, 16 May 1983.
[266] J. Ross, "OAU Crisis Seen Isolating Qaddafi; Libya Blamed for Letting Issue of Chad Block Summit; News Analysis" *The Washington Post*, 27 November 1982 – note the specific states are not listed in the media report.
[267] This was especially true of the Reagan Administration, see John Dumbrell, *American Foreign Policy: Carter to Clinton*, MacMillan Press Ltd, 1997, p 56; also ElWarfally, *Imagery and Ideology*.

different Administrations. The Reagan election marked a high point in the confrontational approach to the Soviet Union and a strong and unrelenting framing of the struggle between the US and Soviet Union, often in biblical terms. Most famously, Reagan referred to the Soviet Union as the 'evil empire' which, *prima facie*, appears very similar to the framing that the US applied to Libya. However, Reagan had earlier prefixed this with the assertion that the US should not "isolate" itself from the Soviet Union or "refuse to seek an understanding with them."[268] This reflected reality in that the US did not sever diplomatic ties with the Soviet Union or undertake attempts to isolate them from diplomatic dialogue under the Reagan Administration. Therefore, the US framing of the Libyan/Soviet relationship is interesting not just because the US lumped Libya together with the Soviet Union despite significant divisions between the two states, but because despite Reagan attributing such similar characteristics to the two states, Libya was constructed as an outlaw and the Soviet Union was not.

The association of Libya with the Soviet Union was by no means a consistent aspect of the history of Qadhafi's regime. In the early stages of his regime from 1969, Libya had no attachment to the Soviet Union. Instead, Qadhafi took a strong anti-Communist stance as it, like US capitalism, conflicted with the Islamic socialism of Qadhafi's Third Universal Theory due to the relationship between religion and the state. In 1973 he fell out with Fidel Castro because Castro was too close to the Soviets.[269] However, the relationship between Libya and the Soviet Union developed over the course of the 1970s, not least because of Soviet/Libyan arms trading,[270] and the ties between Libya and the Soviet Union became even closer during the Reagan Administration. In 1981, Qadhafi visited the Soviet Union, and, for the first time, Soviet warships visited the port of Tripoli. In September of that year, Qadhafi announced that he would consider turning the Gulf of Sidra into a 'red' Gulf, and might even join the Warsaw Pact.[271] Despite this, Libya's relationship with the Soviet Union during the Reagan period was still marked with strong underlying tensions.[272] During Qadhafi's visit, he criticised the Soviet role in Afghanistan to the point that *Pravda* (the official Communist Party newspaper) reportedly

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[268] Ronald Reagan, *Public Papers,* Remarks at the Annual Convention of the National Association of Evangelicals in Orlando, Florida, 8 March 1983.
[269] G. Arnold, *The Maverick State*, p 122.
[270] St John, *Qaddafi's World Design*, pp 74-75.
[271] ElWarfally, *Imagery and Ideology*, pp 147-148.
[272] St John, *Qaddafi's World Design*, pp 77-78.

altered the wording of Qadhafi's speech to save Soviet embarrassment.[273] Similarly, the threats to join the Warsaw Pact and significantly improve Soviet/Libyan relations were articulated in response to perceived threats to Libya by the US.[274] In 1981, it was reported that Qadhafi stated joining the Warsaw Pact "would be necessary if America became a real threat for Libya or if Egypt, the Sudan and other neighboring countries band together and put themselves in the service of the Atlantic Alliance."[275] Although Libya continued to receive technical and military trade from the Soviet Union, the relationship was primarily driven by Qadhafi's rejection by the US. Libya traded with the Soviet Union because it agreed to deal with Libya without requiring behavioural or policy changes by Qadhafi.[276]

Despite the instrumental nature of the Libyan/Soviet relationship, the US framed Libya as a proxy[277] for the worst characteristics of the Soviet Union – and as a conduit for Soviet terrorism and subversion.[278] In March 1981, Secretary of State Haig said that the Administration saw "Libya as a Soviet satellite."[279] Similarly, in the same month the *New York Times* reported that Reagan saw Qadhafi's operations in Chad as a primary example of how the "imperialism of Soviet surrogates" was undermining the opportunities for a US/Soviet summit.[280] The 'Libya as proxy' frame is important as it seeks to delegitimise the Qadhafi regime as the appropriate government of Libya. As James points out, the perception that governments are simply proxies for other states – James uses the term 'puppet' – is used as a justification for denying said government sovereign recognition.[281] Of course, the Qadhafi regime did not have sovereign recognition withdrawn, but the Soviet surrogacy frame did form part of the discourse that the US used to undermine Libya as a legitimate participant in international society. Indeed, ElWarfally argues that the attachment of Soviet proxy in describing Libya was so strong as to dominate US views of the motives behind Libyan terrorist activities. That is, according to ElWarfally, the

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[273] ElWarfally, *Imagery and Ideology*, p 148.
[274] ElWarfally, *Imagery and Ideology*, p 149.
[275] *United Press International*, 16 June 1981.
[276] Saif Aleslam Al-Qadhafi, "Libyan-American Relations", *Middle East Policy*, vol 10, no 1, Spring, 2003, p 37.
[277] Proxy, surrogate and satellite are used interchangeably.
[278] Michael Getler, "Soviets and Terrorist Activity: World of Shadow and Shading" *The Washington Post*, 7 February 1981.
[279] Quoted in ElWarfally, *Imagery and Ideology*, p 155.
[280] William Safire, "Qaddafi in Chad", *The New York Times*, 5 March 1981.
[281] James, *Sovereign Statehood*, pp 139-143.

primary concern of US policy makers was not Libyan terrorism *per se* but Soviet imperialism manifested by Libyan terrorist actions.[282] ElWarfally is right in pointing to the inconsistencies in the Reagan Administration's opposition to terrorism among different states. However, the Administration's framing of Libyan terrorism became more removed from the Soviet proxy interpretation over time.

From the mid 1980s, Soviet/US relations improved and became less antagonistic. In 1985, Mikhail Gorbachev became the General Secretary of the Communist Party of the Soviet Union, and pursued a less belligerent approach to the US. This approach was met by a Reagan Administration that had already softened its stance against the Soviets.[283] As this rapprochement developed, the casting of Libya as a Soviet proxy that threatened international order became more problematic. However, while the Reagan Administration gradually thawed relations with the Soviet Union, there was no similar attempt to do the same with Libya. Indeed it is telling that at the end of his Presidency, Reagan would comment that, while the political reforms in the Soviet Union pointed to a promising future relationship with the US, the Soviet Union was still "known by the company they keep: Cuba, Nicaragua, Ethiopia, Libya, Vietnam, North Korea."[284] The implication is that the Soviet Union, itself, had come to be as negatively characterised by its association with those states as those states had been rogued because of their relationship with the Soviets. Furthermore, by the end of the 1980s, the Soviet Union was about to collapse and the Libyan/Soviet relationship became a redundant feature in framing Libyan foreign policy. Instead, post-Reagan Administrations radically redefined their framing of international security in the absence of the Soviet/US divide towards a new collective threat from 'rogue states'.

2.4 The Bush Senior and Clinton Administrations

Two key features of US foreign policy practice towards Libya in the 1990s are particularly relevant to this thesis. First, the Bush Senior and Clinton Administrations developed a doctrine of

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[282] ElWarfally, *Imagery and Ideology*, pp 162-163.
[283] Beth Fischer, *The Reagan Reversal: Foreign Policy and the End of the Cold War*, University of Missouri Press, Columbia, 1997, pp 1-5.
[284] Ronald Reagan, *Presidential Papers*, 16 December 1988.

identifying a small group of states as 'rogue states'. The term 'rogue' increasingly entered the lexicon of US foreign policy makers and was commonly applied as a descriptor to Libya, Iran, Iraq and North Korea. While US officials also identified other states as rogues, these four made up the core of this newly articulated collective. O'Reilly analysed the use of the term 'rogue state' by leading US foreign policy makers – the President and Secretaries of State and Defense – from 1993 to 2004 and identified, in order of frequency, Iraq, Iran, North Korea, and Libya as constituting 94% of references to rogues.[285] After the Cold War, US Administrations singled out Libya less as *the* archetypal rogue, as Iraq (following its invasion of Kuwait) and Iran became more of a focus for US policymakers.[286] The formal articulation of the rogue state doctrine in US Government policy documents and speeches and opinion pieces of key officials imposed a small set of defining characteristics for framing the behaviour and nature of rogues. The key behaviours were the state support of terrorism, pursuit of or possession of WMD, and attempts to threaten regional governments and regional US interests. These behaviours were combined with the depiction of regime leaders as irrational and harbouring 'evil' intentions against international order. Finally, this framing of rogues carried with it the implication that they should be isolated from normal participation in the institutions of international society. Therefore, from this point on roguing gains strength with a more settled meaning and practice being applied to more states.

Second, in contrast to the framing of Libya as a member of the rogue collective, the US dealt with Libya on the Lockerbie bombing issue which was unique to the US/Libyan relationship. While the Lockerbie bombing was an example of rogue behaviour, it also had particular consequences for Libya that were not applied to other rogue states. The Lockerbie affair did not simply represent an example of terrorist activity because of which Libya should be rogued; it developed a particular dynamic because the US advocated that UN sanctions should be placed on Libya to secure the release of the bombing suspects for trial[287] and for the payment of compensation to victims' families. As a result, the Lockerbie issue became the most

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[285] O'Reilly, "Perceiving Rogue States", p 304.
[286] Although I do not have quantitative data for the 1980s, Libya was singled out a number of times, including at the 1986 G7 summit. Iraq was a high priority in the early 1990s due to the Gulf War. In a study of countries referred to as rogue states by US policy elites from 1993-1998, Iran and Iraq received 29% and 28% of mentions and Libya 19%, Hoyt, "The 'Rogue State' Image", p 302.
[287] Initially the US demanded that the suspects be released for trial in Britain or the US, but they eventually agreed to the trial in the Netherlands, under Scottish law.

internationalised and formalised basis on which Libya was isolated from international society and represented a shift away from Reagan's 'Western' based response to Libya. However, it also set much more narrow and specific justifications for Libya's isolation than the framing of Libya under the rogue state doctrine.

The interaction between the Lockerbie affair and the rogue state doctrine was complex. The Lockerbie bombing did provide a major example of the behaviour that was representative of rogue states. However, on some occasions, the US used the Lockerbie affair as a barrier to Libya addressing other rogue behaviours, such as its WMD programmes. At other times the rogue state doctrine and its logic of diplomatic isolation prevented the more timely resolution of at least some of the stated aims of the Lockerbie sanctions, including bringing the bombing suspects to trial. The US Administrations used both the Lockerbie affair and the identification of Libya as a rogue state as justifications for further restricting its participation in diplomatic practice – through, among other things, UN sanctions. Alternatively – as will be discussed in later chapters – the pursuit of the Lockerbie dispute through the UN, while formalising and internationalising the practice of roguing Libya, also provided Libya with political resources for contesting the roguing practice. The remainder of this chapter details the above issues and continues to trace the roguing of Libya throughout the 1990s in light of the US's articulation of the rogue state doctrine and the dynamics of the Lockerbie affair.

2.4.1 The Rogue State Doctrine

The formal articulation of the rogue state doctrine by US Governments was a product of the end of the Cold War. Although the Reagan Administration framed Libya as an outlaw prior to the 1990s, the actual word 'rogue' was used sporadically. After the Cold War, US policy makers used the word increasingly and it became a dominant descriptive term for a few states.[288] Of course, US officials used other terms as synonyms to the term 'rogue', such as 'outlaw', 'pariah' and 'backlash state', and these descriptors had been applied to states, including Libya, prior to the 1990s. However, the rogue state doctrine was a substantial change to the way that US

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[288] O'Reilly, "Perceiving Rogue States"; Hoyt, "The 'Rogue State' Image"; Saunders also shows the significant increase in its use in the *Congressional Record*, Saunders, "Setting Boundaries", p 27. The term rogue also made an increasing appearance in the *National Security Strategy* of the United States, from 1995 onwards.

Administrations framed their foreign policy and the perceived threats to US national security, as it was applied more consistently and systematically to a small collective of states than had happened before. While the roguing of Libya occurred before the development of the rogue state doctrine it was not a direct cause of it. Rather the development of the rogue state doctrine in US foreign policy circles is attributed to the collapse of the Soviet Union and the Iraqi invasion of Kuwait.[289]

As discussed above, the Libyan-Soviet relationship was used as part of the US framing of Libyan outlawry in the 1980s. As the US-Soviet relationship improved, this aspect of Libyan foreign policy featured less in the roguing of Libya. The collapse of the Soviet Union led to a fundamental shift in US foreign policy to provide more prominence to roguing as a quasi-institution. The Soviet threat had dominated US military strategy and foreign policy for decades and the rapid end to the Cold War meant this quickly dissipated. As the *National Security Strategy of the United States 1991* put it: "The bitter struggle that divided the world for over two generations has come to an end. ..." and the US faced "new challenges" to its "ways of thinking about security."[290] The 1993 *Bottom Up Review*, commissioned by the Department of Defense to set the direction of US post Cold War military strategy, opened with a similar declaration of the fundamental shift from the Soviet threat that "drove" US "defense decision-making" and "determined" US "strategy and... doctrine".[291] This shift in thinking went beyond direct US/Soviet relations; it also meant that US policy makers re-interpreted the international politics of other regions. As Paul Wolfowitz, Undersecretary of Defense, asserted "One result of the new era in superpower relations is that... regional conflicts can now be treated more independently of the East-West context."[292]

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[289] Klare, *Rogue States.*
[290] *National Security Strategy of the United States*, 1991, accessed at http://www.globalsecurity.org/military/library/policy/national/nss-918015.htm (16/03/09).
[291] Les Aspin, Secretary of Defense, *Report on the BOTTOM-UP REVIEW*, October 1993, accessed http://www.fas.org/man/docs/bur/index.html 11/08/09.
[292] Paul Wolfowitz, "The New Defense Strategy" in Graham Allison and Gregory F. Treverton, *Rethinking America's Security: beyond Cold War to new world order*, W. W. Norton & company, Inc., New York, 1992, p 178; Albright also articulates a post-Cold War conception of international society with former Soviet states wishing to join the democratic core of international society and rogue states being the main threat to international order: Madeleine Albright, *Remarks at Tennessee State University*, Nashville, Tennessee, 19 February 1998.

Due to this sudden shift in the US perception of international security, Michael Klare argues that General Colin Powell as Joint Staff Chief directed the US military establishment to develop a military strategy that focussed on threats other than the Soviet Union.[293] The timing of Iraq's invasion of Kuwait on 2 August 1990, which threatened US interests in a particularly important region, was essential to the construction of the new set of 'rogue state' threats as it provided a suitable candidate for framing post Cold War security concerns. However, given that the Soviet Union was far greater in power than new regional threats like Iraq, military spending levels needed further justification and so, Klare argues, military officials developed the two theatre strategy which asserted the need to maintain military capability to engage in operations against two states.[294] The motivations behind developing the two theatre concept are not as important to this thesis as the salience it gained among policy makers and its formal articulation by the Clinton Administration in the 'dual containment' policy in 1993.[295]

As Litwak points out, the dual containment policy – first publicly announced by Martin Indyk, a senior National Security Official – focussed on Iran and Iraq and rejected the US policy practice of the 1980s of power balancing against either Iraq or Iran as required.[296] Instead the policy sought to contain both Iran and Iraq at the same time. Indyk made clear that the Clinton Administration saw the Iraq regime as a "criminal regime" that was "irredeemable". Iran on the other hand could achieve a normalisation of relations with the US through wholesale policy changes of rejecting support for terrorism, discontinuing WMD programmes and ceasing to destabilise the region. In 1994, National Security Advisor Anthony Lake reinforced and elaborated the policy in an article in *Foreign Affairs*. In advocating the need for countering both Iraq and Iran, Lake also articulated the newly perceived threat from a collection of what he called 'backlash' states. This group, according to Lake, included Cuba, North Korea and Libya, as well as Iraq and Iran. Lake identified the common and abhorrent characteristics of these states

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[293] Klare, *Rogue States*, p 11.
[294] Klare, *Rogue States*, p 30; Despite the two theatre concept, military spending was still reduced by about 25% as part of the strategy; Litwak, *Rogue States*, p 28.
[295] Martin Indyk, "Challenges to U.S. Interests in the Middle East: Obstacles and Opportunities", *The Soref* Symposium, Washington Institute for Near East Policy, Washington, 1993, pp 4-5, and Litwak, *Rogue States,* pp 56-64.
[296] Litwak, *Rogue States,* p 57-60.

and went on to detail the application of the dual containment policy to Iraq and Iran.[297] The dual containment policy underpinned the general policy response to rogue states that became manifest in the rogue state doctrine.[298] Furthermore, this projected threats to US security onto a *collective* of states, and the frame that applied to the collective increasingly became the way that the US articulated the nature of the members of this collective. As a result, the rogue state doctrine homogenised US foreign policy towards rogue states, and defaulted to the policy position of isolation and containment.[299]

The US foreign policy literature and the key policy documents such as the US National Security Strategies have consistently identified the primary characteristics that US officials ascribe to rogue states under the rogue state doctrine. These states are framed as sponsors of terrorism, pursuers of WMD and regionally belligerent with irrational and evilly motivated leaders.[300] These characteristics are similar to those that the Reagan Administration used to frame Libya. The most significant change, however, occurred with the new predominance given to WMD under the rogue state doctrine. This aspect of rogue framing was new to the post Reagan era, as especially in Libya's case the Reagan Administration did not place much weight on WMD programmes as a characteristic of outlawry. This change is reflective of the rogue state doctrine's roots in the dual containment policy, which focussed on Iraq as the quintessential rogue that invaded Kuwait and had its history of chemical weapons use against Iran recast as a potential threat against US troops during the first Gulf war. It signified a new US Government practice of casting the pursuit of WMD programmes not simply as an objectionable breach of an international norm, but a breach that could be used to impose international outlawry on states.

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[297] Lake, "Confronting backlash states".
[298] Litwak, *Rogue States,* p 57-60; Lake, "Confronting backlash states".
[299] Litwak, *Rogue States*, p 64.
[300] These characteristics are listed in Lake, "Confronting backlash states"; Terrorism and WMD are attributed as rogue state policies in *National Security Strategies* of the United States from 1994 until after 2000; The undeterrable feature of rogue states is articulated by Defense Secretary Perry, "Remarks Prepared For Delivery By William J. Perry Secretary Of Defense", *FDCH Federal Department and Agency Documents*, April 26 1996, see also Nolan and Strauss, "The Rogues' Gallery", pp 21-38; O'Reilly and Hoyt have also described these characteristics as the most common traits attributed to rogues in speeches from foreign policy elites, Hoyt, "The 'Rogue State' Image; O'Reilly, "Perceiving Rogue States". See also Tanter, *Rogue Regimes*, and Litwak, *Rogue States*; Litwak, *Regime Change*.

The Iraq case illustrates this change in the link between WMD and the imposition of roguing. On 11 June 1981 Reagan wrote in his diary about protests he had received from a number of ambassadors of Arab states over the Israeli bombing of a nuclear reactor in Iraq on 7 June. He concluded that "Arab indignation on behalf of Iraq is a waste. Saddam Hussein is a "no good nut" and I think he was trying to build a nuclear weapon. ... he wants to be the leader of the Arab world – that's why he invaded Iran."[301] At this point, the US had not had diplomatic relations with Iraq since the 1967 Arab-Israel war. However, with the weakening of Iraq's position in the Iran-Iraq War, the Reagan Administration decided to help Iraq counter Iran. Among a series of other meetings, Donald Rumsfeld (appointed as a presidential envoy) visited Iraq in December 1983 and again at the end of March 1984 to establish a channel for dialogue between Reagan and Hussein.[302] On 26 November 1984 the Deputy Prime Minister and Foreign Minister of Iraq, Tariq Aziz, met with President Reagan and Secretary Shultz after which Iraq and the US formally restored diplomatic relations.[303]

Although the change shows the importance of changing strategic interests in diplomatic engagement it also show that roguing is a constructed process often dissociated from norm-breaking behaviour. Over the same period the Administration became aware of Iraq use of chemical weapons against Iranian soldiers. In November 1983 Iran asked the UNSC to investigate Iraq's chemical weapons use.[304] On 5 March 1984, the US Administration publicly condemned Iraq for its chemical weapons use, stating that there "can be no justification for their use by any country."[305] That the US could acknowledge Iraq's pursuit and use of WMD and then formally restore diplomatic ties shows that, in the 1980s, WMD – even when pursued by a regime of Iraq's perceived character – were not a necessary reason for roguing a state. Furthermore, the US could already communicate with Iraq through a US Interests Section in the

[301] Ronald Reagan, entry Thursday 11 June 1981, *Reagan Diaries*, p 25.
[302] J. Battle, "Shaking Hands with Saddam Hussein: The U.S. Tilts toward Iraq, 1980-1984" *National Security Archive Electronic Briefing Book No. 82*, 2003, http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB82/
[303] Bernard Gwertzman, "U.S. Restores Full Ties With Iraq But Cites Neutrality In Gulf War" *New York Times*, 27 November 1984.
[304] J. Battle, "Shaking Hands with Saddam Hussein".
[305] Department of State, March 5, 1984 "Chemical weapons and the Iran-Iraq war; transcript GL Iraq GL Iran GL United States GC AWIQ GC AWIR GC NNUS", *US Department of State Bulletin.*

Belgian embassy (established in 1972), which by 1982 Iraq treated as a de facto embassy.[306] Indeed the Administration seemed much more concerned with the ramifications of framing Iraq as a terrorist state. Despite having knowledge of Iraq's involvement in terrorism,[307] the Administration prevented Congressional attempts to reinstate Iraq on the terrorist list, claiming that it would be "severely disrupting [to] our diplomatic dialogue on this and other sensitive issues."[308]

Over the course of the 1990s, the pursuit of WMD became a characteristic feature of the threat posed by rogue states.[309] Indeed this period finds the US Congress attempting to codify the multilateral roguing of Libya through the development of legislation with extra-territorial power. A primary example of the wholesale imposition of the WMD characteristic of the rogue state doctrine onto Libya is the *Iran and Libya Sanctions Act of 1996*. The Act is a manifestation of the pervasiveness of the rogue frame in US domestic politics and Iran and Libya's membership of the rogue state collective. The Act sought, through economic sanctions, to prevent trade to Iran and Libya from the US and other states. Specifically, in the Libyan case, the Act targeted its petroleum, aviation and weapons capabilities and resources.[310] It was originally drawn up to apply only to Iran, however, due to lobbying by the families of victims of the Lockerbie bombing, the Act included provisions regarding Libya. It was passed unanimously and there was virtually no debate at all regarding the inclusion of provisions applying to Libya.[311] Although the provisions that apply to the Lockerbie bombing can be explained as the manifestation of the frustration of victims' families in the UN process, the inclusion of Libyan WMD policies cannot.

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[306] W. Eagleton, "Evolution of the U.S. Interests Sections in Algiers and Baghdad" in Newsom, *Diplomacy under a Foreign Flag*, pp 96-97.

[307] State Department memorandum, "Iraq's Retreat from International Terrorism," July 1 1986 to Secretary Shultz, quoted in Bruce W. Jentleson, *With Friends Like These: Reagan, Bush, and Saddam, 1982-1990*, W. W. Norton & Company, New York, 1994, p52.

[308] Letter dated 20 June 1985, from Secretary of State George Shultz to congressman Howard L. Berman (D-California) quoted in Jentleson, *With Friends Like These*, p54; Iraq was removed from the list in 1982.

[309] The *National Security Strategy of the United States*, 1991 sums up concerns with Libyan behaviour as "terrorism, proliferation of WMD and attempts to destabilize neighboring governments." accessed at http://www.globalsecurity.org/military/library/policy/national/nss-918015.htm (16/03/09): See also the *National Security Strategies of the United States,* from 1994 onwards.

[310] *Iran and Libya Sanctions Act of 1996.*

[311] At Congress there were no voices of opposition to the Act, Tanter, *Rogue Regimes*, pp 129-130.

The references to Libyan pursuit of WMD in the Act are vague, especially in comparison to the references to Libyan terrorism and the provisions that apply to the Iranian WMD programme.[312]

The WMD characteristic of the rogue frame had significant implications in this case because the vagueness of the Libyan WMD provisions in the ILSA Act were combined with the Act's mechanisms which forced a multilateral response of isolating Libya. The Act contained provision for penalising non-US firms that conducted business with Libya by including secondary boycott provisions for foreign firms also operating in the US. Investments of more than USD40 million would result in such a firm being subject to boycott provisions in the US.[313] The European states argued that this was extra-territorial application of US law and the EU imposed a statute banning member state compliance with the Act. Ultimately, the Clinton Administration – concerned by a backlash from European states – was able to secure a presidential waiver into the act, which allowed the President to prevent sanctions against firms in the case of the national interest. The use of this waiver to protect foreign firms went some way to placating European states over the issue given that it was used in a large investment case in Iran and the Administration made some assurances for future cases.[314] The potential for a waiver aside however, the Act imposed a considerable barrier and risk for foreign firms investing in Libya, which was in part due to a nebulous perception of Libyan WMD drawn from its identity as a rogue state.

The Iraq case is again illustrative as by 2003, not only had WMD become the primary public justification for launching the invasion in Iraq, it developed as a strong discourse within the US bureaucracy. As Paul Wolfowitz, one of the main advocates for the war conceded, WMD was only one of a number of reasons for the war and not even the most compelling one but "For bureaucratic reasons we [the Administration] settled on one issue, WMD, because it was the one

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[312] The Act calls on Libya to end "all support for acts of international terrorism" which is prefixed by specific reference to citing the need for Libya to comply with UNSC Resolutions 731, 748, and 883. In addition, while the general call for Libya to end "efforts to develop or acquire WMD" is not explained in further detail, significant sections of the Act detail aspects of the Iranian WMD programme and the appropriate response.

[313] In 2001, Congress extended the Act – through the *Iran and Libya Sanctions Extension Act* – until 2006 and lowered the investment threshold for imposing sanctions on firms from USD 40 million to USD 20 million.

[314] Litwak, *Regime Change*, pp 179-181; J. Bennet, "To Clear Air With Europe, U.S. Waives Some Sanctions" *The New York Times,* 19 May 1998.

reason everyone could agree on."[315] This shows how ubiquitous WMD became in interpreting Iraq, which was the standard bearing rogue under the rogue state doctrine. That the Bush Administration was so keen to tout the Libyan commitment to discontinue its WMD programmes shortly after the invasion of Iraq and to claim the two events were so clearly linked[316] reinforces the WMD part of the rogue state frame and its application to Libya. The argument that the link between Libya and the Iraq War was simply a public relations stunt in light of the Bush Administration's embarrassment at not uncovering WMD in Iraq, instead of trivialising this point, reinforces it because it shows the attempt of the Administration to impose a public re-interpretation of Libya through the WMD characteristic of the rogue state doctrine.

2.4.2 Libya and WMD

The logic of diplomatic isolation that had been imposed on Libya through both its roguing under Reagan and the development of the rogue state doctrine had the effect of delaying, rather than accelerating, Libyan abandonment of its WMD programmes. On at least two occasions, once in 1992 and again in 1999, Libya made approaches to the US Government – either directly or through intermediaries – and offered, among other things, to abandon its WMD programmes. In 1992, Libyan officials sought out Democratic Senator Garry Hart as an intermediary to the US Administration regarding the Lockerbie bombing suspects and negotiations with the US. In one of these meetings, held in March with the Libyan Prime Minister Abdul Salaam Jalloud, Hart stated that any negotiations over the normalisation of relations with the US would have to include "confirmed abandonment of WMD programs" in addition to the handover of the Lockerbie bombing suspects. Jalloud's reply was "everything will be on the table."[317] Despite the promising avenues for resolving the WMD and Lockerbie issues, Hart was directed by the State Department to reject any further contact with Libyan officials. Although often connected primarily with the Lockerbie affair, the rejection of Libya's attempts at dialogue with intermediaries was a prominent feature of the Bush and Clinton Administrations. Even at the

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[315] Paul Wolfowitz interview with Sam Tanenhaus, "Bush's Brain Trust" *Vanity Fair*, July 2003; See also Morton H. Halperin and Priscilla Clapp, with Arnold Kanter, *Bureaucratic Politics and Foreign Policy* 2nd Ed, Brookings Institution Press, Washington, p 140.

[316] See Flynt Leverett, "Why Libya Gave Up on the Bomb", *The New York Times*, 23 January 2004; also Jentleson and Whytock, "Who 'Won' Libya?", pp 48.

[317] Gary Hart, "My Secret Talks With Libya, And Why They Went Nowhere", *The Washington Post*, 18 January 2004.

time of his meetings, Hart was told that he was one of a number of potential intermediaries that Libya had sought for contact with the US.[318] In August 1995, the US publicly reaffirmed this position as State Department Spokesperson Pelletreau told the House International Relations Committee: "The Government of Libya continues to seek out intermediaries in hopes of negotiating a settlement and bringing an end to sanctions. Let me say that the international community's message is clear: There are no alternative avenues to resolution of this problem other than through the United Nations."[319]

The second case of Libya attempting to negotiate its abandonment of WMD programmes occurred during secret dialogue between Libyan, British and US officials in 1999, again over the Lockerbie affair. Although the fact the negotiations were taking place at all showed a softening in the US approach to the diplomatic isolation of Libya, US officials laid strict rules that the talks remain secret. Furthermore, the Administration discontinued the negotiations in the lead up to the 2000 Presidential election because of concerns it may interfere with the election campaign,[320] which again points to the strength of the rogue state narrative and its normative logic of isolation among the domestic US public. In these negotiations Libya offered again to abandon its WMD programme. However, as Indyk recalls, the option was not considered because of the lack of immediate threat posed by Libya's WMD programmes and because the Lockerbie affair was given such priority that no other issues would be considered until it was resolved.[321] There are two important points here. First, the conditionality placed on dialogue over Libya's WMD was set extremely high and the prevention of diplomatic dialogue was given precedence over potential opportunities to resolve the WMD threat. Second, while the US refused diplomatic dialogue over Libya's WMD programme, it continued to use WMD as a key feature in the public framing of Libya as a rogue state. Therefore, the rogue state doctrine used WMD as a reason for justifying diplomatic isolation whilst diplomatic isolation placed barriers to the abandonment by

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[318] Hart, "My Secret Talks".
[319] Robert Pelletreau, "Prepared Statement Of Robert H. Pelletreau Assistant Secretary Of State For Near East Affairs Department Of State Before The House International Relations Committee" *Federal News Service,* 2 August 1995.
[320] Ronald Bruce St John, "Libya and the United States: A Faustian Pact?", *Middle East Policy*, vol 15, 1 2008, p 134.
[321] Martin Indyk, "The Iraq War did not Force Gadaffi's Hand" *Financial Times*, 9 March 2004, accessed at http://www.brookings.edu/opinions/2004/0309middleeast_indyk.aspx

rogues of their WMD programmes.[322] The result was that the rogue state doctrine dictated not only that rogue states must abandon WMD to resolve their outlaw status; it dictated that the process of abandonment should not result from diplomatic engagement. Therefore, WMD became a self-reinforcing aspect of roguing as a quasi-institution.

Despite the new prominence given to WMD under the rogue state doctrine, it is not directly reflective of Libyan policy regarding WMD. This is not to say that Libya's WMD programme was completely inconsequential. Since the 1970s, the Qadhafi regime has sought to acquire and develop WMD.[323] Qadhafi announced his intention to acquire nuclear weapons as early as the 1970s and in 1975 Libya purchased a reactor from the Soviet Union – although the purchase of the reactor came with the ratification of the nuclear non-proliferation treaty by Libya.[324] In the 1980s and 1990s, Libya made some successful attempts to obtain uranium enrichment technologies that could be used for civil and weapons based nuclear activities.[325] The US Administration was aware of Libya's nuclear weapons ambitions from at least the early 1980s, even though Libya capability was very limited at the time it began planning for the possibility of its acquisition.[326] According to Martin Indyk, at the end of the 1990s Libya's "nuclear programme barely existed".[327] In 2003, during the course of secret negotiations between Libya, Britain and the US regarding Libyan WMD, the US, Britain, Germany and Italy intercepted a shipment of nuclear centrifuge equipment that was bound for Libya.[328] This shipment which was linked to A.Q Khan's illicit nuclear proliferation network and the episode gave the clearest assessment of Libya's nuclear program which was dismantled only months later. Until this point,

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[322] Zoubir makes a similar point, that the rogue state doctrine delayed the Lockerbie affair's resolution as the US used it to continually isolate Libya due to Libyan opposition to the US. See Yahia H. Zoubir, "The United States and Libya: From Confrontation to Normalization", *Middle East Policy,* vol 13, no 2, 2006, p 61.

[323] Joshua Sinai, "Libya's Pursuit of Weapons of Mass Destruction", *The Nonproliferation Review*, vol4, no 3, Spring/Summer 1997, pp 92, 98.

[324] Augustus R. Norton, "Nuclear Terrorism and the Middle East" in Augustus R. Norton and Martin H. Greenberg, *Studies in Nuclear Terrorism*, G.K. Hall & Co, Boston, 1979, p 283.

[325] Bahgat, "Proliferation", pp 106, 109-111.

[326] NSC Meeting on Libya, June 4, 1981, Near East and Asia Affairs Directorate Records, Box 91144, Ronald Reagan Archives; Directorate of Intelligence, *The Libyan Nuclear Program: A Technical Perspective*, February 1985, National Security Archive.

[327] Indyk, "The Iraq War"; Bahgat notes that there was no work between the Libyan scientists operating the nuclear research and the Libyan authority developing missile capabilities. Also the interception of the AQ Khan network has been claimed as a Libyan tip off as a good will gesture: Bahgat, "Proliferation".

[328] Bahgat, "Proliferation", pp 106, 109-111.

US officials did not generally consider Libya had developed nuclear capabilities that could pose a real threat.

Libya's chemical weapons programme was more substantial than its nuclear programme. Although Libya signed the Geneva protocol on the prevention of the use of chemical and biological weapons in 1971, it did not sign the Chemical Weapons Convention until 2004. Libya regularly took significant steps to purchase and develop chemical weapons over the 1980s and 1990s. As early as 1980 Libya began development on a chemical weapons plant outside Tripoli.[329] Although denied by Libya, there were accusations that it used chemical weapons – purchased from Iran – against Chadian soldiers in 1987.[330] By 1985, Libya was developing a major chemical weapons plant in Rabta and US intelligence analysts became aware of its existence in late 1987.[331] In 1996, the US publicly announced that it believed Libya was building a large underground chemical weapons facility near the town of Tarhunah that in the words of Defense Secretary Perry was of "profound concern" to the US.[332] Despite this, White House official Martin Indyk who was involved in the initial secret negotiations with Libya, stated that Libya's chemical weapons programme posed no imminent threat to the US and hence rejected the opportunity to negotiate Libya giving them up in 1999.[333] Overall, the desire for and pursuit of WMD was a relatively constant feature of Qadhafi's security policy. However, it only became a consistent feature of the roguing of Libya in the post-Cold War era. The US framing of Libyan WMD was not a direct response to Libyan behaviour, but a construction which combined interpretations of Libya's identity drawn from the rogue state doctrine and Libya's actual WMD programmes.

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[329] Anthony H. Cordesman, *Weapons of Mass Destruction in the Middle East: Regional Trends, National Forces, Warfighting Capabilities, Delivery Options, and Weapons Effects*, Center for Strategic and International Studies, Washington, 2002, p 17.
[330] Sinai, "Libya's Pursuit", p 92.
[331] David B. Ottaway, "Behind the New Battle With Libya; How the CIA Tracked Gadhafi's Push to Make Chemical Weapons", *The Washington Post,* 8 January 1989.
[332] "World News Briefs; U.S. Pressing Libya On Chemical Arms", *The New York Times*, 3 April 1996.
[333] Indyk, "The Iraq War".

2.4.3 Libya and the Lockerbie Bombing

The bombing of Pan America Flight 103 on 21 December 1988 as it flew over the town of Lockerbie in Scotland killed 270 people. The plane was a US commercial airliner and a large number of the victims were US citizens. The responsibility for the bombing was not immediately clear, and other states including Iran and Syria were initially suspected of being involved.[334] It was not until 14 November 1991, after a lengthy investigation, that the Lord Advocate of Scotland publicly charged two Libyan officials, Al Megrahi and Fhimah, for carrying out the bombing. The Lockerbie bombing and the bombing of the French UTA 772, which also formed part of the justification for UN Sanctions against Libya, will be discussed in later chapters dealing with the roguing of Libya at the UN. However, the US's advocacy of a UNSC response to the Lockerbie bombing is relevant here. The Libyan case was the first time the UNSC applied sanctions against a state for involvement in or support for an act of terrorism, and represented a shift from the Reagan Administration's 'Western' based response to state-sponsored terrorism of the US towards advocating a partially legalistic and widely international response through the UNSC.[335] The US's pursuit of the Lockerbie case through the UNSC was coupled with a clear rejection of the International Court of Justice as the legitimate authority for resolving the dispute. This continued the US's approach of seeking multilateral – instead of just bilateral – opposition to the Qadhafi regime. Furthermore, the sanctions placed on Libya were coercive and punitive, and included directing states to inhibit Libya's participation in diplomatic activities. The Security Council also required Libya to denounce terrorism in general, in addition to cooperation regarding the Lockerbie issue.[336]

The pursuit of the Lockerbie dispute through the UNSC was not an automatic process. The US legal strategy in the Lockerbie case suggests that the Libyan Government, rather than simply the bombing suspects, was the main concern of the US Administration. The US/UK, as part of their joint declaration to the UN which formed the basis of the sanctions, imposed the requirement that

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[334] Michael P. Scharf, "The Broader Meaning of the Lockerbie Trial and the Future of International Counter-Terrorism", *Syracuse Journal of International Law and Commerce*, Volume 29, Issue 1, 2001, p 52; Boyd-Judson, "Strategic Moral Diplomacy", p 80.

[335] Parhad, *Illegitimate Violence*, p 206.

[336] UNSC resolution 748 (1992).

the Libyan Government pay compensation to the victims' families.[337] Furthermore, as Scharf argues, the use of a public indictment in a US court against the suspects was aimed at securing UNSC sanctions against Libya rather than gaining access to the suspects for trial. This was a divergence from the more usual strategy of using a sealed indictment against terrorist suspects so that the Libyan agents – who would be unaware of US suspicion of their involvement and likely to continue to travel – could be arrested when they left Libyan territory.[338] This public indictment was then presented to the UNSC as part of the lobbying for sanctions and forms the main focus of the written submission the US provided for UNSC debate of resolution 748.[339]

The sanctions placed on Libya were more focused on restricting Libyan diplomatic practice than necessarily providing measures that could, for example, bankrupt the Qadhafi regime. Although the sanctions were financially burdensome on Libya, the resolution presented to the UNSC did not include an oil embargo that was originally drafted by US officials.[340] In this regard the sanctions were weaker than those placed on Iraq for its invasion of Kuwait.[341] Instead the main restrictions on Libya were a direction to reduce the level and numbers of Libyan diplomatic representation in other states and the prohibition of flights in and out of Libya.[342] The practice of isolating Libya from diplomatic participation as part of the sanctions went beyond the Lockerbie case. The language of the joint declaration of the Governments of France, Britain and the US was framed in a way that included a general appeal against state involvement in terrorism in general and also called for Libya to "commit itself concretely and definitively to cease all forms of terrorist action and all assistance to terrorist groups. ... [and] prove its renunciation of terrorism."[343] The UN resolution 748 that imposed sanctions also included direct reference to

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[337] United Nations Document, A/46/827 S/23308, "Letter dated 20 December 1991from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General", 31 December 1991.
[338] Scharf, "The Broader Meaning of the Lockerbie Trial", pp 57-58.
[339] United Nations Document A/46/831 S/23317, "Letter dated 23 December 1991 from the Acting Permanent Representative of the United States of America to the United Nations addressed to the Secretary General", 23 December 1991.
[340] Scharf, "The Broader Meaning of the Lockerbie Trial", p 58.
[341] Scharf, "The Broader Meaning of the Lockerbie Trial", p 58.
[342] UNSC Resolution 748 (1992).
[343] United Nations Document A/46/828 S/23309, "Letter dated 20 December 1991 from the Permanent Representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General", 31 December 1991.

Libya's broader involvement in terrorism and – framed in very similar terms to the joint declaration – the need for Libya to renounce terrorism as a requirement of the resolution.[344]

The presentation of the public indictment for the Libyan suspects at the UNSC and the advocacy for sanctions against Libya were combined with the US's rejection of Libya's application to have the dispute over location of the trial of the Lockerbie suspects heard in the International Court of Justice. The US challenged the application and argued that the Security Council was the forum for resolving the dispute. Although the ICJ did have some subsequent involvement in the Lockerbie dispute, it ultimately became secondary to the role of the Security Council[345] (the details of the UNSC/ICJ relationship will be discussed in later chapters). The US contestation of the Court's involvement illustrates the efforts the US made to choose an international forum that suited its diplomatic objectives. As Schwartz points out, the pursuit of the Lockerbie case in the ICJ had the potential to limit the US's opposition of Libyan actions to a bilateral dispute. In other words, international law was considered by the US as providing too much of an advantage to Libya to avoid this aspect of the roguing process. The involvement of the Security Council on the other hand effectively globalised the dispute and the issue of Libyan terrorist activities.[346] In addition to providing a formal mechanism for marginalising Libya from diplomatic practices through the direction to reduce Libyan personnel in embassies abroad, the Security Council resolutions were used extensively by the US to justify further isolation of Libya.

The *Iran and Libya Sanctions Act of 1996*, discussed above, was an example of US Congress using the Lockerbie affair to justify the imposition of multilateral trade restrictions on Libya. Although the Administration sought to moderate the effects of the Act, it used the Lockerbie bombing as a barrier to Libya involving itself in diplomatic practice. By the mid 1990s, Libya had begun to re-engage diplomatically with states with which it had previously severed ties. Over the following ten years, it also made two serious attempts at attaining a non-permanent seat on the UNSC. The US remained opposed to Libya's attempts at re-engagement with international

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[344] UNSC Resolution 748 directed all states to "significantly reduce the number and the level of the staff at Libyan diplomatic missions and consular posts and restrict or control the movement within their territory of all such staff who remain".

[345] Schwartz, "Dealing with a 'Rogue State'", pp 558-562.

[346] Schwartz, "Dealing with a 'Rogue State'", pp 561-562.

society and the Lockerbie bombing formed a major part of the framing of this opposition. It also shows that the roguing process remained dynamic and that the US had to constantly reinforce the construction of Libya's outlawry.

In 1995, Libya was seeking to secure its nomination for a non-permanent seat on the Security Council for the 2-year term beginning in January 1996. Under the conventions that African states used to decide nominations from their region, the North African region was due to have its turn at having a state on the Security Council. Libya was a leading unrepresented state at the time for the North African region and it received the endorsement of the OAU at the Addis Ababa Conference in July 1995.[347] The final UN General Assembly vote for Security Council seats was to be held in October/November. As early as April 1995, however, the US had publicly announced its opposition to Libya's candidacy. In reporting on the US policy in the Middle East to the US House International Relations Committee on 6 April 1995, the Assistant Secretary of State for Near East Affairs, Robert H. Pelletreau, stated that the US was "waging a vigorous diplomatic effort to thwart seating this international pariah on the Security Council." He added that "Libya's position on the Security Council would give it frequent opportunities to oppose international cooperation on a range of important issues. It is also repugnant to consider Security Council membership for a nation. [sic] in flagrant violation of the Council's resolutions and so clearly opposed to the character and principles of that body."[348] Reporting to the same House Committee on 2 August 1995, Pelletreau reaffirmed that the US along with Britain and France, undertook an "intensive worldwide diplomatic effort to prevent Libya from gaining the seat." He added that he believed nothing "would more deeply diminish the integrity of the United Nations than a country currently facing Security Council sanctions gaining a seat in that group."[349] The lobbying was successful, and by this stage Pelletreau told the Committee that he was confident that the voting in the UN for the Security Council seat would fall against Libya.[350] By mid

[347] "Libya: Libya Withdraws Bid For Security Council Seat", *Inter Press Service*, 18 October 1995.
[348] Robert Pelletreau, "Prepared Statement Of Robert H. Pelletreau Assistant Secretary Of State For Near Eastern Affairs Before The House International Relations Committee", *Federal News Service*, 6 April 1995.
[349] Robert Pelletreau, "Prepared Statement Of Robert H. Pelletreau Assistant Secretary Of State For Near East Affairs Department Of State Before The House International Relations Committee", *Federal News Service,* 2 August 1995.
[350] Robert Pelletreau, "Prepared Statement Of Robert H. Pelletreau Assistant Secretary Of State For Near East Affairs Department Of State Before The House International Relations Committee", *Federal News Service,* 2 August 1995.

October 1995, Libya announced that it was withdrawing its candidacy for the Security Council at this time. Libya's General People's Committee for Foreign Liaison and International Cooperation cited the US, British and French "feverish campaign threatening each and every state in support of this candidacy" for its withdrawal.[351] The withdrawal included Libya backing the candidacy of Egypt for a Security Council seat instead. Egypt was comfortably elected to the Security Council for the 1996-97 term.[352]

The US ran a similar campaign to prevent Libya taking a place for the 2004-2005 term at the Security Council. The US lobbied against Libya's candidacy, as a State Department official put it: "We worked hard behind the scenes to discourage a Libyan candidacy... The issue is: how can a country that's under Security Council sanctions become a member of the Security Council?"[353] At this stage, the Security Council had suspended its sanctions against Libya following the release of the Lockerbie suspects for trial. However, while sanctions were suspended they were not permanently lifted. The then Secretary of State Madeline Albright claimed in her memoirs that the decision by the US to insist that sanctions against Libya were suspended rather than lifted was a symbolic rather than substantive move. Albright notes that Libya was able to conduct business without the restrictions of the sanctions and that imposing sanctions that were suspended would effectively require the same process (with the risk of Security Council blocking such a move) as it would had the sanctions been permanently lifted. However, Albright argues that the symbolism of suspending rather than lifting was important as it still held a "cloud over Libya".[354] This symbolism did have a lasting effect as the George W Bush administration was able to use it as the primary justification for opposing Libya's candidacy for the UNSC term of 2004-2005. Unlike in1996-7, the outcome was that Libya made a straight swap with Algeria for the candidacy in the 'rotation' system. As a result, Algeria was a non-permanent member of the Security Council for 2004-2005 and Libya subsequently became a non-permanent member for a two-year term beginning in 2008.[355]

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[351] "Libya withdraws its application for UN Security Council seat", *BBC Summary of World Broadcasts*, 18 October 1995.
[352] "United Nations: General Assembly Approves New Council Seats", *Inter Press Service*, 8 November 1995.
[353] F. Barringer, "U.S. Blocks Libya's Attempt to Gain Security Council Seat", *The New York Times*, 11 July 2003.
[354] Madeleine Albright, *Madam Secretary: A Memoir,* Pan Books, London, 2004, p 330.
[355] F. Barringer, "U.S. Blocks Libya's Attempt".

Although somewhat less successful in achieving its objectives, the US publicly expressed its opposition to bilateral relationships between Libya and other states, which were also framed in terms of the Lockerbie affair. In October 1996, the Prime Minister of Turkey, Necmettin Erbakan, made a high profile visit to Libya which included signing a trade deal. The visit became extremely controversial because of Qadhafi's speech condemning the US, commenting on the Turkish/Kurdish issue, and the Libyan media reporting that Erbakan had claimed Libya was a victim of terrorism. State Department Spokesperson Burns stated that it was "highly surprising indeed if the prime minister of an allied country, a NATO country, were to defend a terrorist like Muammar Qadhafi when Qadhafi's responsible for the shoot-down of Pan Am 103 and the deaths of hundreds of Americans..."[356] Burns reiterated the importance of Lockerbie as a defining feature of the relationship states should have with Libya on other occasions.[357] Although Erbakan initially resisted the US criticism, the US continued to publicly express its displeasure with the Turkish Prime Minister. This was followed by a number of private meetings to discuss the issue.[358] In October 1997, Nelson Mandela as President of South Africa presented Qadhafi with South Africa's medal of Good Hope, the highest award given to non-citizens, for Qadhafi's long time support of the ANC. Mandela's recognition of Qadhafi was also part of a South African and Saudi Arabian mediation effort between the US/UK and Libya over the Lockerbie dispute.[359] In criticising the planning of the visit a US State Department Spokesperson reinforced the Administration's view that diplomatic relations between Libya and other states "ought to be maintained at a low level."[360] The US criticism had little effect as Mandela's support of Qadhafi would go on to have an important role in resolving the Lockerbie dispute.

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[356] Nicholas Burns, "State Department Regular Briefing", *Federal News Service*, 7 October 1996.

[357] Nicholas Burns, "State Department Regular Briefing", *Federal News Service*, 9 October 1996.

[358] Nicholas Burns, "State Department Regular Briefing", *Federal News Service*, 10 October 1996; The meeting caused significant controversy in Turkey as Erbakan did not appropriately respond to a series of inflammatory comments made by Qadhafi including those discussed above. Erbakan also faced a Parliamentary censure motion – albeit unsuccessful – on his return to Turkey. Herve Couturier, "Turkish parliament opens preliminary date on censure", *Agence France Presse*, 16 October 1996.

[359] Boyd-Judson, "Strategic Moral Diplomacy".

[360] State Department Spokesperson James Foley quoted in "U.S. Upset at Mandela's Plan to Visit Libya", *The New York Times*, 17 October 1997.

The US made similar and unsuccessful protests about the Vatican decision in 1997 to establish diplomatic relations with Libya and send a permanent Papal Nuncio to Tripoli. In this case the US took two approaches. First, it lobbied strongly and privately to the Vatican prior to the public announcement of diplomatic ties with Libya to prevent such actions occurring.[361] Given its lack of success in this, the US then publicly opposed the Vatican decision and urged that in virtually all diplomatic talks with Libya, the Vatican should discuss Libya's association with terrorism and its need to resolve the Lockerbie dispute in favour of the US. That is, if diplomatic relations were to be restored then the US Administration argued, at the very least, the diplomatic dialogue should be dominated by a discourse of condemning terrorism.[362] However, the extent to which the US was able to criticise the Vatican for its decision was limited. The State Department Spokesman Burns was at pains in drawing the distinction between the Vatican policy and the character of the Pope.[363] Although these examples highlight the limitations in the US's ability to continually impose Libya's outlawry among other states, it also shows the extent to which the 'Libya as outlaw' frame dominated US/Libyan relations. Burns was aware that criticism of the Vatican could upset a large domestic constituency of American Catholics but made the comments regardless. The US criticism of other states for not continuing to outlaw Libya shows that it considered the practice a priority over the potential diplomatic conflicts the criticism could cause.

2.5 Conclusion

The main argument of this chapter has been that Libyan rogue statehood was a construction of the Reagan Administration. Although Libya was seen by previous Administrations as a state that pursued highly objectionable behaviours such as terrorism, it was the Reagan Administration that drew the link between Libya's characteristics and the need to isolate it from participation in international society. The Bush and Clinton Administrations continued this practice as Libya was cast as one of the core members of rogue states under the rogue state doctrine. However, the roguing of Libya was not an even process and changed over time and Administrations. Although terrorism was a constant feature of the rogue frame of Libya, the approaches that the US used to

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[361] "Vatican Establishes Full Ties With Libya" *The New York Times*, 11 March 1997.

[362] Nicholas Burns, "State Department Regular Briefing" *Federal News Service*, 10 March 1997.

[363] Burns, "State Department Regular Briefing", 10 March 1997.

rogue Libya on this basis changed. The Reagan push to rogue Libya was most intense from 1985 to 1986 when it aimed to construct a strong Western response to Libyan behaviour. In subsequent years, however, the Bush and Clinton Administrations pushed Libyan terrorism through the UNSC which, while providing a more internationalised response, also narrowed the grounds for roguing Libya.

In addition to pursuing different paths for roguing Libya, the US Administrations' justifications for roguing Libya also changed. While terrorism was a constant, Reagan at varying times justified roguing Libya on the basis of its interventions in other states in Africa and elsewhere. He also at the beginning of his Administration articulated a strong association between Libya and the Soviet Union. In doing so, he framed Libya as a proxy for the Soviet Union's worst characteristics. However, over the course of the Reagan Administration, this justification was less prominent and with the end of the Cold War it was redundant. Instead in the post-Cold War era, US Administrations placed more weight on WMD programmes as a feature of roguing through the newly developed rogue state doctrine. Libya was included as a key member of the rogue state collective and its behaviour was increasingly framed in this way. As a result, the rogue state doctrine interacted with policy issues that were unique to the Libyan case, most notably the Lockerbie bombing, and had the effect of reinforcing Libya's rogue image as the logic of its diplomatic isolation became a barrier to Libya's behavioural change.

The Libyan case, as discussed above, makes two general points about rogue statehood. First, roguing is not based on the breaking of a predetermined set of a type or volume of norms. Instead, it is contingent on the agents that construct the rogue status of the target state. Second, roguing was based on drawing a link between threat or abhorrent characteristics and behaviour and the normative requirement that isolation is the appropriate response. However, it is also apparent that once Libya had been rogued by the Reagan Administration, subsequent Administrations came to see increasing diplomatic dialogue not as a tool for problem solving between states but as a practice that would grant legitimacy to the Qadhafi regime and certain characteristics and behaviours such as terrorism. The way that the US used the rogue state doctrine to frame Libya implies that diplomatic isolation for Libya was either the primary aim of

US foreign policy toward Libya during the Clinton regime or it was at least considered the only legitimate path to Libyan behavioural change. That is, the US imposed contrition as an essential feature of Libya's increased participation in diplomatic practice in addition to behavioural change. Instead of seeing continual dialogue as having the capability to socialise Libyan behaviour or diplomacy as practice that did not imply any support for Libya's regime, the US made a normative link between diplomatic isolation and Libya's rogue state status. The next chapter discusses how this construction of Libya's roguing by the US transferred to the rest of international society.

3. The Roguing of Libya in International Society

3.1 Introduction

This chapter argues that the US roguing of Libya was adopted in modified form as a quasi-institution of international society. Three key characteristics of rogue statehood were gradually fixed to a growing normative commitment to restrict Libya's participation in international society. These characteristics were Libya's regional subversion and belligerence, terrorism and the pursuit of WMD. Unlike Libya's roguing in the US, these characteristics of Libya's roguing were more distinct and developed in their own way. The practice of roguing Libya by international society is more subtle and diverse than the US practice. The terms rogue and outlaw and the tendency to lump Libya with other rogue states were less prevalent. In general the sub-frames, such as terrorism, set the criteria more clearly for roguing and de-roguing. Overall, Libyan roguing was mixed but still significant. Libya suffered from a series of severances in bilateral relations. However, its membership of international organisations (such as the OAU and the UN) was not seriously under threat. On the other hand the development of Libyan roguing did result in the collapse of the OAU meetings in 1982 and prevented Qadhafi becoming OAU Chairman in subsequent years. In addition, its position in relation to Europe was seriously undermined.

The modified and weak adoption of roguing as a quasi-institution shows the resistance of international society as a whole to the roguing process. Regardless, the impact of different components of international society's institutions was not uniform, as some reinforced roguing, while others resisted the roguing process. For example, states showed a strong commitment to continual dialogue as a norm guiding interactions with Libya. Some states used continual dialogue in attempts to socialise Libya from its rogue state status into a constructive member of international society, but as the roguing process gained in strength, the socialisation policies became more politically risky. The principle of reciprocity acted in a manner that reinforced Libya's roguing. Reciprocity guided Libya towards taking actions that further isolated it from participation in diplomacy, as it responded in a tit-for-tat fashion to multilateral restrictions placed on its own diplomats. It also had the effect of motivating Libyan actions that were easily reframed as the characteristics of a rogue state. The restrictions on the use of war clearly placed

initial limitations on the US confrontation with Libya in the Gulf of Sidra; however, war later acted as a key institution for the US to escalate the roguing process and achieve the adoption of roguing by key European and G7 states, following the La Belle Disco bombing.

The empirical analysis in this chapter initially focuses on the UNSC as the main institutional body in international society that legitimises or constrains the formal development of the roguing process. However, while I assert that the UNSC is the ultimate test for the development of Libyan roguing it is certainly not the only one. Indeed the story of the development of Libyan roguing is a complex interrelationship between Libya, various states and collectives of states, and the UNSC. The rogue state frame for Libya and its isolation from international society developed unevenly between regional collectives of states, such as Africa, the Arab world and the West (defined as the US and Western Europe), and among key actors within those collectives. Furthermore, as Libya's roguing developed among different states at different times, it was not always well reflected at the UNSC. Indeed, for much of the 1980s, the UNSC was as important to Libya as a place where it could undermine attempts to rogue it as much as it was an institutional body that could formalise Libya's rogue state status. Therefore, the importance of examining the UNSC stems not simply from its ability to formalise the roguing of Libya – as happened most obviously with the introduction of sanctions against Libya for the Lockerbie and UTA plane bombings – but from the disconnect between the debates, deliberations and actions of the UNSC and the practice of various other collectives of states in roguing Libya.

The chapter is set out in terms of the three characteristics of Libyan roguing: regional subversion and belligerence, terrorism, and WMD. This also corresponds with a roughly chronological development of Libya's roguing. I trace how they played out in the UNSC and among key actors in international society. The controversies of Libyan belligerence and subversion focus on the regions of Africa, the Middle East and the Mediterranean. This means that the key episodes regarding regional belligerence I discuss are Libyan involvement in Chad, Libya's relationship with Morocco in the early 1980s, and the US/Libyan confrontation in the Gulf of Sidra. There are number of other bilateral relations which led to Libyan tensions in the regions, such as its intervention in Uganda in the 1970s and problematic relations with Egypt, Sudan, and various

states in the Middle East. However, these are not dealt with directly in this chapter because they either represent controversies not clearly related to roguing (for example Uganda), or they are explained in more relevant terms as part of the de-roguing in the next chapter (such as Egypt). The second section discusses Libya's involvement with international terrorism. This was the main driver behind the entrenchment of Libya's rogue state status. Libya's roguing in international society was slow to start on this basis but escalated significantly following the US's retaliatory attacks for the La Belle disco bombing in 1986. Libyan rogue statehood was universalised through UN sanctions in the 1990s which were in turn contingent on a fundamental shift in the Russian approach to international society, and Libya's position in it. WMD were largely absent from the initial processes of roguing Libya both inside and outside the UNSC. However, once Libya was rogued, the UNSC provided a forum for reinforcing Libyan roguing on these grounds.

3.2 Regional Subversion and Belligerence

Regional subversion was a key feature of the Libya rogue frame for the US. However, the development of Libyan roguing on this basis in international society shows the difficulties for the US in exporting the roguing process and the modifications that occurred when Libya's roguing was adopted throughout international society. This is because Libyan roguing in international society on the grounds of regional subversion developed both *independently of* and *in response to* the US roguing of Libya. This process was played out in a number of different ways. A large number of African states sought to isolate Libya from bilateral relationships because of its behaviour in the region, and undermined the credibility of the Qadhafi regime in multilateral organisations including the OAU and the UN. At other times, when bilateral practices between Libya and various regional actors signified acceptance of Libyan legitimacy as an international actor, the US practice of roguing limited the political circumstances for maintaining such practices. This was because a "guilt by association" frame emerged with respect to Libya and certain states were required to justify their relationship with Libya by claiming that they could reform Libya's behaviour. As I discuss below, in the case of Morocco, this placed unsustainable tensions on the bilateral relationship between Libya and Morocco.

The regional development of Libyan outlawry also highlights that while there was agreement to a certain extent over the constitution of Libyan outlawry, there was conflict over who had the authority to punish and respond to it. The state practice in international society, in the Libyan case, leans very much towards selective and regionalised authority to punish outlaw states. Even when the governments of African states have appeared willing to gain US assistance regarding Libya, they have had limited political space to do so as any non-regional actions have been highly vulnerable to charges of imperialism. This charge was also made at various points against the UNSC.

Libyan rogue statehood in its region on the grounds of African subversion tells us two key things in terms of its interaction with the norms and institutional practices of diplomacy. First, while the roguing process developed quite strongly, the norm of continual dialogue was prevalent and became manifest in a number of unlikely episodes, where bringing the Qadhafi regime inside the 'tent' was used as a justification for engagement to curb Libyan behaviour. Nonetheless, a strong tension remained and this approach was often short lived as it created a 'guilt by association' frame as states juggled relations with the US and Libya. Second, in multilateral forums of diplomacy, particularly at the OAU, the practices of continual diplomacy reinforced the image of Libyan rogue statehood as they highlighted the inappropriateness of Libyan legitimacy when leadership opportunities arose. To demonstrate the above, this section examines the ongoing tensions between Libya and Chad and how this case played out in the UNSC, OAU and important bilateral relationships. I also look at the implications of Libya's controversial engagements with Morocco, Sudan, Egypt and the Gulf of Sidra.

3.2.1 Libya and Chad

The most prominent example of Libya's controversial engagement with its region was its relationship with neighbouring Chad over the course of the 1970s and 1980s. Libya's interference in Chad began early in the Qadhafi regime and in some respects the roguing of Libya in this respect pre-dates the construction of Libyan rogue statehood by the Reagan Administration. It centred on Libya's occupation of the Aouzou strip from 1973 until 1994, and its support for various pro-Libyan factions in the Chadian civil war, starting with Libya backing

a failed coup against the Tombalbaye Government in Chad in 1971.[364] The two aspects are interrelated, with the former being a launch pad for the latter. However, Libya justified the actions in different ways, and they had different consequences for the development of Libyan outlawry. Although the substantial natural resources of the area, including uranium deposits, undoubtedly played a part in Qadhafi's motivations for taking hold of the Aouzou strip, Libya claimed it had been unfairly given to Chad as part of the colonial settlement of the Libyan/Chad boundaries. While Libya used the Aouzou strip as an aid for its other operations, it and other states still dealt with the issues somewhat separately. Although Libya itself argued that it had legal rights to the Aouzou strip, it continually denied greater levels of interference in Chad or insisted that troops were sent to Chad as the result of an invitation from the Goukouni Government. Similarly, while a number of other states conceded that Libya's claims over Aouzou strip may have had some legitimacy, they strongly condemned Libya's other actions in Chad.[365]

While Libya was able to contain the Aouzou strip in many ways as a 'legal' dispute, its support for and direct involvement in the Chadian civil war was more problematic. In the late 1970s, Libya supported FROLINAT (the Chadian opposition group) in a number of military attacks on Chad. By 1978, FROLINAT had made significant advances and as the major backers of the opposing factions, Libya and France reached an agreement that effectively partitioned Chad into French and Libyan spheres of influence divided by the 16th Parallel. [366] However, the Chad issue firmly became part of the practice of Libyan outlawry in correlation with the peaking of Libya's involvement in Chad on two separate occasions in 1980 and 1983. In 1979, Malloum's government in Chad was replaced by one headed by the pro-Libyan Goukouni Oueddei, although the anti-Libyan Hissene Habré had become Defence Minister in this coalition government. Libya continued its incursions into Chad throughout the year and conflict broke out between Goukouni and Habré in 1980.[367] On 15 December 1980 the Libyan military entered the Chadian capital and

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[364] Ronen, *Qaddafi's Libya,* p 159.
[365] See UNSC Resolutions 915 (1994) and 926 (1994).
[366] Benjamin Neuberger, *Involvement, Invasion and Withdrawal: Qadhdhāfī's Libya and Chad, 1969-1981*, The Shiloah Center for Middle Eastern and African Studies, Tel Aviv University, Israel, 1982, p 35; Ronen, *Qaddafi's Libya,* pp 159-161.
[367] Ronen, *Qaddafi's Libya,* p 161.

Habré fled the country. On 6 January 1981, Libya and Chad issued a statement announcing the "unity between the two countries" following a visit by Goukouni to Tripoli.[368]

In June 1982, Habré was able to use French support and Libya's partial withdrawal from Chad to launch a successful coup against the Goukouni Government. The Habré Government was subsequently recognised as the legitimate representative Government of Chad by the majority of members of the OAU and by the UNSC. In the meantime, Goukouni fled to Libya and re-assembled his forces. In June 1983 Goukouni's forces with the support of several thousand Libyan troops launched their first major attack against the Habré Government in Faya. The fighting continued through July and it was French intervention through the form of paratroopers and air support (that Mitterrand had initially been reluctant to provide) followed by 3000 troops reinforcing the 16th parallel that prevented further Libyan advancement.[369] In the latter half of 1986 Libya suffered a series of military setbacks that led to Libyan withdrawal from Chad. By 1988 Libya formally recognised the Habré Government in a move the USSR claimed represented Libya's new approach to the region.[370] Although there were reports of failed attempts by Libya to use chemical weapons against Chadian troops in 1987,[371] Libya's military failings meant the Chadian controversy began to subside in terms of Libyan outlawry. In 1990 Chad and Libya agreed to have the Aouzou issue adjudicated by the ICJ, and Libya withdrew from Aouzou in 1994 following the decision in Chad's favour.

The fundamental difference between the 1980 and 1983 operations was that in 1980 Libya was able to claim an invitation from the Goukouni Government, whereas in 1983 the Habré Government enjoyed formal recognition as the Government of Chad among the majority of OAU and UN states, although not Libya, denying Libya a similar justification.[372] However, even in 1980, a number of states recognised and framed Libya's involvement as essentially an invasion,

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[368] Ronen, *Qaddafi's Libya*, pp 162; Neuberger, *Involvement, Invasion and Withdrawal*, p 51.
[369] Lemarchand, "The Case of Chad", pp 118-p119
[370] Helen Desfosses, "The USSR and Africa in 1988: 'New Thinking' and Conflict Resolution" in Marion E. Doro, Colin Legum and Barbara Newson (eds) *Africa Contemporary Record: Annual Survey and Documents, Volume 21, 1988-1989*, Africana Publishing Company, New York, 1992, p A148.
[371] Sinai, "Libya's Pursuit", p 92.
[372] Lemarchand, "The Case of Chad", p118.

the result of threats and blackmail, and subsequently severed ties. A significant anti-Qadhafi sentiment was expressed by African leaders following the Libya-Chad unity announcement in 1981. Egypt, having had no diplomatic relations with Libya since 1977, decided that it was necessary to sever ties with Chad over the unification plan. President Sadat framed the unity plan as being "harmful to all Africa."[373] Taking a similar line towards Libya, the Senegalese President Abdou Diuof said: "the least one can say is that the present behaviour of Colonel Qadhafi is not designed to bring peace into African relations."[374] By early 1981, Libya had suffered from the reduction in diplomatic staff, status, or a severance of full diplomatic ties with the Central African Republic, Gabon, Ghana, Kenya, Mali, Mauritania, Niger, Nigeria, Upper Volta, Senegal and Sudan, in response to the unity agreement and concerns that similar behaviour could be directed at other African states.[375]

At the same time, however, Libya's legitimacy to participate in international society was also reinforced, even in the face of very objectionable policies. With the above forms of diplomatic communication curtailed, other forms remained. Even when Nigeria was greatly concerned with Libyan behaviour in Chad, and possible spillover or incursions into its own territory, Libya's second highest official (Major Jalloud) was in Lagos meeting with the Nigerian President. [376]The way in which France treated Libya in this period shows how little other states had taken on the US conception of roguing, not in terms of behaviour but in terms of pursuing isolation over continual dialogue. While Libyan behaviour was directly impacting on French strategic interests and there were substantial attacks on the French military, the French did not delegitimise Libya as an international actor like the US did throughout the 1980s. In 1984, France attempted to conclude the Chad dispute by entering into a ceasefire and troop withdrawal agreement with Libya, which not only increased Libyan participation in international society, but included a "spectacular political gesture", where Mitterrand met Qadhafi in Crete to negotiate the withdrawal of both sides from Chad.[377] This type of political activity, while motivated by the

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[373] Susan Linnee, "Call Meeting to Discuss Libya's Merger with Chad", *The Associated Press*, 9 January 1981.
[374] BBC Summary of World Broadcasts "President Abdou Diouf of Senegal on Relations with Libya and the Chad Situation," Part 4 The Middle East and Africa; B. AFRICA; ME/6627/B/3, 20 January 1981.
[375] Neuberger, *Involvement, Invasion and Withdrawal*, p 53.
[376] "Nigeria and Libya: Enemy at the Gate?", *The Economist,* 21 February 1981.
[377] Alistair Cole, *François Mitterrand: A Study in Political Leadership*, 2nd Edition, Routledge, London, 1997, p 146.

need to find a strategic solution to the conflict, nevertheless granted Qadhafi recognition as a legitimate negotiator in the conflict. It involved a risk to Mitterrand's reputation and was in stark contrast to the unilaterally set criteria for recognition that the US roguing process dictated. Even after Libya broke the agreement by not withdrawing troops, the French framed Libya as a legitimate player in the international sphere in terms of its state power within the region. As the French Foreign Minister Claude Cheysson put it in November 1984 in response to the US position against Libya, "Colonel Qaddafi is, I may say, a fact ... his action is significant for countries which are very close friends of France - Tunisia, Algeria, Niger, Chad, Egypt and many others. So to ignore him, would be a political mistake. We want to have with Libya normal relations."[378]

That the Chadian issues made it to debates in the UN is indicative of the extent to which Libyan outlawry developed due to its activities in Africa. As shown by Bernstein, one of the characteristics of the diplomacy of African states at the UN, at least in the 1980s, was to avoid discussing issues that divided African unity.[379] When the Chad issue made it to the UNSC, Libya's outlaw image, and the authority to deal with it, was pushed beyond the African regional setting. This shows how the authority to punish Libyan outlawry oscillated between more universal acceptance, and regional or restricted acceptance. Prior to 1983, the Chad issue had limited presence in UNSC debate. Although it was first discussed at the UNSC on 17 February 1978, there was a clear lack of response or interest from members. The only two states to speak on the issue were Chad and Libya themselves and the UNSC took no action. [380]

1983 marked a clear change in the approach taken by Chad to deal with Libya's actions in the Security Council. The Habré Government was now in power and had been aware in early 1983 of the likelihood of Libyan intervention and requested a UNSC meeting and support to prevent it. The Chadian/Libyan issue was discussed at the Security Council in 1983 in two series of

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[378] Quoted in "France Criticizes U.S. Policy on Libya", *The New York Times,* 21 November 1984.
[379] R. Bernstein, "Diverse African Nations Find Unanimity at U.N." *The New York Times,* 25 January 1984.
[380] UN Document S/PV.2060, "2060th Meeting of the United Nations Security Council", 17 February 1978, New York. The UNSC members at the time were: Bolivia, Canada, China, Czechoslovakia, France, Gabon, Federal Republic of Germany, India, Kuwait, Mauritius, Nigeria, USSR, UK, USA, Venezuela. The agenda was adopted from letter S/12553 submitted by Chad to the UN.

meetings, the first in March and April, and the second in August. In the first meeting held on March 22, Chad outlined the history of Libyan intervention in Chad, in particular in the Aouzou strip. The Chadian argument was framed essentially in legal terms, detailing the treaties and agreements from the colonial period onwards that Chad claimed placed the Aouzou strip legitimately within Chadian territory while dismissing the legal claims made by Libya. However, in order to gain UNSC support for the matter, Chad also highlighted the history of Libyan violence and subversion in Chad and Libya's attempts to frustrate any dispute resolution mechanism at the regional level.[381] Libya on the other hand, claimed essentially two things: first, that the Habré government was not the legitimate Government of Chad and should not be heard and that the issue was an internal political issue for Chad; second, that if any dispute existed, it was purely a legal dispute that should not be heard by the UNSC.[382] The meetings resulted in a UNSC statement appealing to Libya and Chad to make use of the OAU Good Offices Committee and resolve the dispute through peaceful means. The statement included most of the provisions that Chad had put forward as a draft resolution.[383]

The Chad issue, and Libyan conduct in general, also became indicative of the development of Libyan outlawry through the OAU during the late 1970s and early 1980s. Although tensions certainly occurred from time to time, the OAU was relatively successful over time at managing the radically different member governments. Much of this stems from the norms and practices of the OAU, which are based on a very pluralist conception of African affairs. Agenda control was an important feature of this management and initially Libya was able to take advantage of this in spite of its own tendency to break OAU norms, including non-intervention. When the Libya/Chad dispute was first raised by the Malloum Government at the OAU Heads of State meeting in 1977, it was under the title "aggression and occupation of Chad territory by Libya." This proposal was rejected by the then Libyan Foreign Affairs Minister Al-Treiki on the basis that the title was framed in a way "... usually levelled against non-African imperialist and neo-colonial countries but not against member-states of the Organisation." The Libyan delegation

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[381] See UN Document S/15643, "Letter dated 16 March 1983 from the Permanent Representative of Chad to the United Nations addressed to the President of the Security Council", 16 March 1983; UN Document S/PV.2419, 22 March 1983.
[382] UN Document S/PV.2419, 22 March 1983.
[383] UN Document S/15688, "Statement by the President of the Security Council", 6 April 1983; *Yearbook of the United Nations,* 1983, pp 180-181.

insisted that the wording be changed to the neutral "relations between Chad and Libya." The debate over the wording continued throughout the meeting, which only finished after a consensus was reached to have a delegation sent to Malloum to ask him to change the wording (as he was not present at the conference himself). As a result, there was substantive debate of the Libyan/Chad issue as both the Libyan and Chadian speeches were listened to and an ad hoc committee was set up to investigate the charges. The committee continually faced blockages from Libya, and little progress was made.[384]

However, while Libya was able to use the pluralist practices of the OAU to its advantage in the example above, it was significantly embarrassed from 1982 to 1984, when it failed to hold an OAU meeting in Tripoli or take on the Chairmanship. The Chad issue reflects a combination of factors that developed in relation to Libyan outlawry, as the timing of the final incursion into Chad coincided with the Libyan attempt to host the OAU conference in 1982. Qadhafi attempted to hold the conference in Tripoli twice that year, in August and then November. On both occasions the conference failed to gain the quorum of two thirds of OAU member states and Qadhafi was unable to secure the Chairmanship of the OAU which would have been granted to him until the following conference.[385] This shows that Qadhafi was most isolated when Libya's roguing coincided with his attempts to lead the OAU. This undermined the OAU credibility and ability to function as Qadhafi's attempt to hold the OAU put the Chad issue in full focus of other African states. In subsequent OAU meetings held in Addis Ababa in 1983 and 1984, the Chad issue was able to be smoothed over more easily to ensure that the conference continued. Although a statement was made in 1983 that outside interference by foreign states in Chad should cease, as with usual practice, no states were specifically named.[386] The Chairman at

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[384] As recounted in C.O.C. Amate (1986), *Inside the OAU: Pan-Africanism in Practice*, Macmillan Publishers, London, pp 452-454.

[385] The role of Chairman in the OAU was not one that was formally outlined in the OAU Charter but developed in a *de facto* manner. The practice was to give it to the Head of State following the hosting of the meeting in their state – or through an election of another head of state if a head of state has previously been chair. Despite its lack of formal power, the Chair took a significant role in guiding the OAU affairs and agenda and representing the OAU internationally. See for example: Amate, *Inside the OAU*, pp73-75; Kofi Oteng Kufuor, "The chair of the African Union", *African Journal of International and Comparative Law*, vol 15, no 2, 2007, pp 276-292.

[386] "Chad puts Libyan on display to back claim of involvement", *The Globe and Mail*, 18 July 1983; *BBC Summary of World Broadcasts,* "President Moi's Speech as Outgoing OAU Chairman", Part 4 The Middle East, Africa and Latin America; B. AFRICA; THE 19th OAU SUMMIT CONFERENCE IN ADDIS ABABA; ME/7356/B/1; 10 June 1983, Source: Nairobi television service in English 1800 GMT 8 Jun 1983.

Addis Ababa in 1984 controlled the agenda tightly to prevent the Chad/Libya issue from undermining the success of the talks in general and the Chad/Libya issue was generally avoided in discussions.[387] In the previous chapter, I discussed how the US rogued Libya at the OAU by instructing a number of African states that it would not be able to deal with the OAU with Libya as Chairman. This episode also suggests that the symbolism of Libyan outlawry was reinforced by a diplomatic practice designed to provide opportunities for diversity in African leadership.

3.2.2 Libya and Morocco

Aside from Libya's intervention in Chad, Libya's roguing remained a prominent – although not uncontested – aspect of Libyan foreign relations throughout the 1980s and 1990s. However, even in cases where the rogue character of the Qadhafi regime was readily identified and the practice of isolation strongly advocated by the US, it was often disregarded and substituted with continual dialogue. For example, the Algerian president Chadli Benjeded claimed in 1988, when discussing his preference for the creation of a Maghreb Union, that the best way to secure appropriate Libyan foreign policy "is to tie Gadhafi into a web of joint responsibilities and duties and thus to stabilize him" with a Presidential aide explaining it is better to have Qadhafi "inside than outside."[388] One of the most significant examples was the dramatic and short lived turnaround in Moroccan-Libyan relations. On 13 August 1984, Libya and Morocco announced that they would form a union through the signing of the Oujda agreement. The union included the scope for the sharing of significant government resources and overlapping of parliamentary and legal responsibilities for both states.[389] The agreement was a surprising development to most of the rest of the world and contrasted with the generally accepted alliances of North Africa and the marked tensions that had very publicly existed between Libya and Morocco.[390] The announcement drew immediate visits to Morocco from Ambassador Walters of the US and French President Mitterand to express concern and seek explanation. Morocco's major Arab allies - Egypt, Sudan, Saudi Arabia, and Tunisia - were also troubled by the announcement but

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[387] Michael Valpy, "OAU summit talks end with plea for world's aid", *The Globe and Mail,* 16 November 1984.
[388] Louis Wiznitzer, "Algeria: The way to beat Gadhafi is to join him", *The Toronto Star*, 15 February 1988.
[389] For a discussion of the Oujda Agreement see Richard B. Parker, "Appointment in Oujda" *Foreign Affairs,* vol 63, no 5, 1985, pp 1095-1110; Mark Tessler, "Libya in the Maghreb: The Union with Morocco and Related Developments" in Lemarchand, *The Green and The Black*, pp 74-75.
[390] Parker, "Appointment in Oujda", pp 1095-1110; Tessler, "Libya in the Maghreb", p 74.

their concerns were somewhat assuaged by their confidence in King Hassan's ability to manage regional affairs.[391]

In September 1984 Hassan helped broker the peace agreement between France and Libya for the withdrawal of troops from Chad. However, by November 1984, it was known that Libya had not withdrawn troops as promised, causing Mitterrand much embarrassment. Qadhafi also continued his terrorist policies which were embarrassing Morocco by association. And while Hassan issued a number of statements in 1984/5 saying that the US Administration's focus on "Qadhafi as a major source of international terrorism was both simplistic and inappropriate," moderation in Qadhafi's policy did not emerge.[392] Even though the US' roguing of Libya did not prevent the union with Morocco from occurring in the first place, it did have a detrimental impact on the agreement over its short lifespan. Indeed, a large amount of time given by Morocco to discussing the Oujda agreement internationally revolved around justifying it in terms of Libyan outlawry, attempting to soothe US concerns that its position towards Libya was not being undermined, and balancing this with the necessary niceties required to maintain the relationship with Libya. Hassan even had to postpone a visit to the US because of the Administration's opposition to Morocco's association with Libya.[393] That this occurred points to the importance of the development of Libyan outlawry even at this stage. While the union did provide Hassan with a number of domestic gains, it had little impact on altering Libyan behaviour, and it became unsustainable as Morocco was forced to re-accept the logic of Libyan outlawry and isolation, resulting in termination of the agreement in August 1986. In short, when bucking the trend of the logic of isolation, Morocco had to spend so much time justifying its decision that when gains were not realised in the short term, the logic of isolation became a natural fall-back position.

3.2.3 Libya and the Gulf of Sidra

Libya's other relationships and interference in the region and its confrontation with the US over its territorial claim to the Gulf of Sidra were also used by the US for roguing Libya and raised in

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[391] Colin Legum, "Morocco-Libya alliance could help calm N. Africa, tame Qaddafi", *The Christian Science Monitor*, 7 September 1984.
[392] Tessler, "Libya in the Maghreb", pp 97-99.
[393] Tessler, "Libya in the Maghreb", p 97.

the UNSC by the US to further Libya's roguing, or by Libya to contest it. These cases are examined because they demonstrate the divergence between the acceptance of Libya's rogue statehood and the authority of states to act against Libya on this basis. I focus primarily here on the UNSC and some relevant bilateral practices. The confrontation between the US and Libya over Libya's claim to the Gulf of Sidra was a key feature of the construction of Libyan outlawry. The US used the Libyan claim to justify a low level of military confrontation at various points, particularly in the 1980s. This was intended to deter objectionable Libyan behaviour, including terrorism. In this regard, the framing of the operations in terms of "securing freedom of navigation" was partly true, and formed a convenient cover for broader foreign policy objectives towards Libya. On the other hand, the confrontation over the Gulf of Sidra also provided Libya with some easy resources to re-frame its actions and gain support against the US. The US became particularly sensitive to charges of imperialist behaviour, even by states that were very sympathetic to its construction of Libyan outlawry.

The US first undertook naval manoeuvres in the Gulf of Sidra in August 1981 as a clear and powerful symbol of its opposition to the Libyan claim to these territorial waters. Furthermore, the manoeuvres provoked a Libyan military response as Libyan aircraft and the US navy engaged periodically throughout the 1980s**.** The Reagan Administration, instead of trying to avoid such confrontation, used the opportunity it created to further the frame of Qadhafi's regime as belligerent and inclined towards violence. The Pentagon, for example, released statements of Libya's attack as "unprovoked" and Secretary of State Haig used the incident to reinforce his claim of Libya as a Soviet proxy.[394] The August confrontation included an engagement between Libyan and US aircraft which resulted in the downing of two Libyan planes. Although Qadhafi later admitted that Libya fired first,[395] a Libyan spokesperson claimed that the US actions "endangered world peace."[396] Qadhafi also undertook trips shortly afterwards to Kuwait, Syria and the UAE to gain support for a conference of Arab leaders to discuss US "aggression" against Libya, potentially as a strategy to use the confrontation with the US as a way of improving

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[394] Michael Getler, "U.S. Navy Fighters Shoot Down 2 Libyan Jets", *The Washington Post*, 20 August 1981; "Haig Says Libyan Air Incident 'Managed' by Khadafy Regime", *The Associated Press*, 24 August 1981.
[395] *The New York Times,* 24 August 1981.
[396] Michael Getler, "U.S. Navy Fighters Shoot Down 2 Libyan Jets", *The Washington Post*, 20 August 1981.

relations with the Arab states more generally.[397] However, at the time there was no complaint made by Libya to the UNSC.[398]

It is not greatly surprising that the issue was not dealt with at the UNSC at that time. Libya's claim to the Gulf of Sidra would likely have lacked support on its own in a Security Council debate. The Reagan Administration, on the other hand, was most notably concerned with developing a Western response to Libya by lobbying European states to sever diplomatic and trading relations with Libya. However, on 31 January 1982, there was an encounter between a Libyan commercial airliner and a US Navy F14 aircraft. This time, on 5 February, Libya made a complaint to the UN Secretary General, to inform the General Assembly and the Security Council of US naval aircraft following the Libyan plane for 7 miles and engaging in what it termed "provocative manoeuvres"[399] although no UNSC meeting was sought or held.[400] The US denied the allegations, claiming that the US naval aircraft only sought to identify aircraft as commercial aircraft as they approached the US aircraft carrier *USS John F. Kennedy*.[401] Although this incident passed without any further implications, the UNSC held a series of meetings just over a year later to deal with renewed confrontation between Libya and the US in the Mediterranean.

In February 1983, the US responded to what it claimed was an attempted coup against the Sudanese Government that was orchestrated by Libya and which also included a significant build-up of the Libyan air force near the Sudan border. Although President Reagan had initially denied any naval movements, the US Administration later stated that it was responding to a threat to Sudan and the media reported that US Government officials claimed that the coup attempt was uncovered by the Egyptian intelligence services and that Egypt requested US assistance. As a result, the US sent four AWACS[402] to Egypt to monitor Libyan aircraft near the

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[397] "Qaddafi Said to Seek Meeting on U.S. 'Aggression'", *The New York Times*, 25 August 1981.
[398] Qadhafi's later acknowledgement that Libyan aircraft actually fired first may provide some explanation for this.
[399] UN Document A/37/82 S/14860, "Letter dated 3 February 1982 from the Chargé d'Affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General, 5 February 1982.
[400] UN Document A/37/82 S/14860.
[401] UN Document A/37/114 S/14902, "Letter dated 5 March 1982 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General", 15 March 1982.
[402] AWACS are surveillance aircraft operated under the Airborne Warning and Control System.

Sudanese border and dispatched the *Nimitz* to take manoeuvres near the Libyan coast and a holding position off Egypt. [403] On 19 February 1983 Libya requested a meeting of the Security Council to hear a debate on the international security of the Mediterranean.[404] The Security Council agreed to hold the meeting after closed negotiations.[405] Libya based its argument that US intervention in the region was a threat to international peace and security on two key reasons. First, that the US was taking provocative military action along the Libyan coastline and in doing so had on occasion trespassed on Libyan territorial waters. Second, the US was building up military threats in a state neighbouring Libya – Egypt – a practice which included the deployment of four AWACS by the US which Libya alleged were used for the purpose of espionage.[406] The latter allegation became a regular discursive tool employed by Libya in response to assertions of Libyan intervention in Sudan.

At the first meeting held on the issue on 22 February 1983, Libya outlined its allegations: two violations of Libyan territorial waters near Benghazi on 19 January 1983; the use of AWACS by the US to spy on the eastern part of Libya and to interfere with civil communications; the placement of the *Nimitz* aircraft carrier near the Gulf of Sidra on 13 February; a number (13) of violations of Libyan airspace on 16 February over the Gulf of Sidra; and the placement of the US Navy's Sixth Fleet at the limit of Libyan territorial waters. Libya claims that this constituted a threat to Libya's freedom and independence, international peace and security, and was 'terrorist' in its nature.[407] Although the allusion to US foreign policy being terrorist received little further support and attention, the "Libya as victim of US imperialism" frame received support from the majority of speakers at the Security Council debate. The US response to the Libyan allegations regarding the AWACS was that they were part of a joint military exercise with Egypt. In addition, the US claimed that the timing of the AWACS operations and the movement of the US

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[403] Henry Giniger and Milt Freudenheim, "Plain Talk on Libyan Threat" *The New York Times*, 27 February 1983; John M. Goshko, "Shultz Says U.S. Put Libyan Leader 'Back in His Box'", *The Washington Post*, 21 February 1983; David B. Ottaway, "Sudan, Egypt Minimize Report Of Coup Plot", *The Washington Post,* 21 February 1983; George C. Wilson, "Withdrawal Of AWACS Is Ordered; Carrier Returning To Lebanon Post as Libya Threat Cools", *The Washington Post,* 20 February 1983.
[404] UN Document S/15615, "Letter dated 19 February 1983 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council", 19 February 1983.
[405] "Egyptian Says Radar Planes Were Sent by U.S. Solely for Training", *The New York Times*, 22 February 1983.
[406] UN Document S/15615; *Yearbook of the United Nations*, 1983, p 260.
[407] United Nations, *Yearbook of the United Nations*, 1983, p 260.

navy close to Libyan territory was in response to the build-up of Libyan military forces near the Sudan and Egypt borders, and the deployment of US military close to Libya had had a deterrent effect on Libya in the past. While the US did not initiate the meeting of the UNSC, it took the opportunity to outline what it saw as a trend by the Qadhafi regime of subversion in its region and world-wide and to state that it was acting within the principles of the UN Charter in order to protect friendly states that were being subjected to threats from Libya.[408]

In general, the US confrontation with Libya formed a part of the construction of Libyan outlawry to domestic US audiences, but had limited effect in creating a consensus about Libyan outlawry at the United Nations Security Council, as the US spent little time actively pursuing the issue through this forum. Unlike the US, Libya actively sought to bring the issue to the UNSC and elicited the support of other governments in Africa, South America, the Middle East, Asia, the Eastern Bloc, and permanent Security Council members the USSR and China. The main implication of the use of the Security Council and the use of the US imperialism frame was that it helped make Egypt play down the threat of Libya and make it contradict the official statements of the US that it had sent the AWACS to Egypt at Egyptian request. Also, by not falling into the US-set trap of responding with a strike against the US navy, Libya retained the image of victimhood which it could use in its arguments at the UN. It also helps explain the public disagreement between Egypt and the US over when the AWACS would leave, as Egypt held that it would be necessary for them to stay until the training of Egyptian pilots had finished while the US Administration stated that once the threat to Egypt/Sudan had receded then the AWACS would leave.[409] Libya constructed the "Libya as victim of US imperialism" narrative by framing US naval manoeuvres in the Mediterranean and the placement of US AWACS in Egypt and Sudan as provocations and threats to Libyan sovereignty and territorial integrity and as a further example of US imperialism. The Gulf of Sidra and AWACS allegations against the US proved useful in later UNSC debates when Libya reframed complaints made by Chad and by Sudan about Libyan intervention as issues of US imperialism and threat (particularly posed by

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[408] United Nations, *Yearbook of the United Nations*, 1983, p 260.
[409] R. Halloran, "Libyan Affair Over, U.S. Says AWACS Will Now Leave Egypt", *The New York Times*, 22 February 1983.

AWACS).[410] As a result, Libya was able to undermine US attempts to rogue it and help prevent its isolation in Africa spreading and becoming an institutional response from the UNSC.

Further confrontation in Sidra and the downing of two Libyan planes in 1989 led to further UNSC meetings.[411] Again, Libya was able to solicit a fair degree of support, and at this stage it was perhaps even more genuine than that provided following the 1986 military attack on Libya (discussed below). The confrontation in Sidra was also the main issue of foreign relations between the USSR and Libya in 1989. The USSR supported Libya and the Foreign Minister Eduard Sheverdnadze labelled it as an episode of "air piracy."[412] However, it should be noted that this rhetorical support of Libya was limited and did not represent much further action on behalf of the USSR because of its concern about damaging its emerging relations with the US over the incident.[413] This is part of the broader context of general African relations being interpreted by the USSR in terms of the post-Cold War US (and Western) relationship.[414] This had significant implications for the construction of Libyan outlawry and indeed, three years later, Libya would become subject to UN sanctions over the bombing of the Pan Am and UTA flights. This in turn also reflects the primacy of terrorism for Libya's roguing which I will now discuss.

3.3 Terrorism

3.3.1 Libya and the UK

While most of Europe was reluctant to take on a practice consistent with the US construction of Libya's roguing, the UK followed an independent path to the development of Libyan rogue statehood.[415] The UK's involvement in constructing Libyan outlawry was later to become particularly significant because the bombing of Pan Am Flight 103, which led to UN sanctions

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[410] For a similar line of argument re Sudan in UNSC in 1984 see R. Bernstein, "The United Nations Security Council Seems Bent On Irresolution", *The New York Times,* 8 April 1984.
[411] UN Documents S/PV.2835-2837, S/PV.2839-2841 UNSC meetings 5,6,9,10,11 January 1989.
[412] Quoted in Helen Desfosses, "Soviet African Policy in 1989: The Triumph of Pragmatism," in Marion E. Doro and Colin Legum (eds), *Africa Contemporary Record: Annual Survey and Documents, Volume 22, 1989-1990,* Africana Publishing Company, New York, 1995, p A127.
[413] Desfosses, "Soviet African Policy in 1989", p A127.
[414] Desfosses, "Soviet African Policy in 1989", p A138.
[415] This section is exclusively concerned with terrorism and associated activities in relation to UK/Libyan relations. It should be noted that there were other tensions such as the UK's removal from the al-Adhem airbase in 1970 and the nationalisation of BP assets in Libya in 1971, see Joffé, "Libya and Europe", p 81.

against Libya, occurred over the Scottish town of Lockerbie and as a result the UK became central to the process of universalising the roguing of Libya. A key aspect of Libya's relationship with the UK was the Qadhafi regime's pursuit of Libyan dissidents in the UK. This issue had caused significant tensions between the two states in the early 1980s and culminated in the British police siege of the Libyan embassy (People's Bureau) in 1984. In contrast, the issue was underplayed in diplomatic terms elsewhere in Europe, with Italy, for example, making no public protest over the killing of Libyan dissidents in Rome in 1980 by the Qadhafi regime.[416]

Despite the significant controversy surrounding the dissident assassinations in the UK, diplomatic relations remained until the sudden cessation sparked by the shooting of a UK policewoman.[417] On 17 April 1984, Yvonne Fletcher was shot and killed at a demonstration of Libyan dissidents that was taking place outside the Libyan embassy in London. The British Government claimed that the shooting was from a gunman within the Libyan embassy and immediately afterwards British police surrounded the embassy. The Libyan embassy held 25 British citizens for a day in retaliation but the siege continued after their release. On 22 April the British Government announced that it was severing diplomatic ties with Libya and on 1 May the remaining Libyan diplomatic staff were expelled from Britain.[418] This example shows how quickly and specifically reciprocity operated on the Libyan side to enforce isolation as whenever Britain did something it was directly reciprocated by the Libyans. This reciprocal process was described by the then British Ambassador to Libya, Richard Oliver Miles. When Britain gave a week for Libyan diplomats to leave, the same order was made by the Libyans to the British embassy in Tripoli. The wives and families of diplomatic staff were held in the same fashion as those in Britain, and quite intriguingly the Libyans announced that they found a gun in the British embassy after the British police recovered one from the Libyan embassy.[419] By itself, this example represents a strictly bilateral roguing process in terms of UK/Libyan relations.

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[416] "Italy and Libya: Handle with care", *The Economist,* 6 September 1980.

[417] Despite the tension, as recalled by Ambassador Richard Miles on his posting to Libya in 1984, there was actually a significant amount of diplomatic business being conducted and planned. See Interview with Richard Oliver Miles, British Diplomatic Oral History Programme, Churchill Archives Centre, Interviewed by Malcolm McBain, 27 August 2004, p 39, http://www.chu.cam.ac.uk/archives/collections/BDOHP/

[418] See Ronen, "Libya's Conflict with Britain", pp 274-275.

[419] Interview with Richard Oliver Miles, British Diplomatic Oral History Programme, Churchill Archives Centre, Interviewed by Malcolm McBain, 27 August 2004, pp 40-42, http://www.chu.cam.ac.uk/archives/collections/BDOHP/

However, it later becomes indicative of Libya's reciprocal approach to multilateral roguing, where Libya is left more isolated than other states. Furthermore, as the process of reciprocal expulsions of students and businesspersons from each state continued, Libya became less and less able to rely on the informal network of influence that it had used in the past to smooth over Libya's foreign policy controversies.[420]

3.3.2 Libya and European Sanctions

Unlike the UK which came to rogue Libya somewhat independently of the US to begin with, the general European adoption Libya's roguing only developed in the mid 1980s largely in response to the US. Prior to this, although European/Libyan relations had significant difficulties, the roguing of Libya by European states had not developed in any significant form. For example, France was having increasing trouble with Libya over the Chad issue but, as discussed above, this had not yet moved towards a construction of Libya's rogue statehood. Austria had kept cordial relations with Libya in the early 1980s, and Qadhafi undertook a major visit to Austria in 1982.[421] Italy sustained a strong interest in Libya and continued to work through a number of post-colonial issues. Italian Foreign Minister Andreotti noted the value in both pragmatic and normative terms in describing his meetings with Qadhafi in Libya in 1984. Qadhafi himself was especially aware of the relationship and asked Andreotti for Italian help with its European relations.[422] Evidence of the engagement between Libya and Europe is also illustrated in the contrast between the US response to the simultaneous shootings at the Rome and Vienna airports on 27 December 1985 and that of the Italian and Austrian governments. The shootings in Rome were carried out by the Abu Nidal group and resulted in 17 deaths (5 US citizens) and 80 injuries. The Austrian attack killed 3 people and wounded 30. While the US was quick to accuse Libya of responsibility for the shootings and put in place the most severe unilateral sanctions it had applied to Libya, Italy played down the Libyan involvement. Indeed in the months following, it claimed that Syria (although not necessarily sanctioned by the Syrian Government) provided greater overall support, with Libya providing, according to Antonio Badini, the diplomatic advisor to Italian Prime Minister Craxi, "nothing more than financing logistical

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[420] Joffé, "Libya and Europe", p 84.
[421] "Austria and Libya: Holding Hands", *The Economist*, 20 March 1982.
[422] Giulio Andreotti, *Lives: Encounters with History Makers*, Sigwick & Jackson Limited, London, pp 176-190.

support."[423] Similarly, the Austrian government was publicly reluctant to support the allegation of Libyan culpability to the same level as the US. Indeed, Austrian officials were denying any evidence of Libyan involvement at the time when the US, the UK and West Germany among others, were citing evidence of the Qadhafi regime's support for the attacks.[424]

Despite the above, there was some movement by Europe in response to the Rome and Vienna bombings, but this focused on terrorism in general even if it implicated Libya in the process. On 27 January 1986, the EEC met and announced an arms embargo against states for equipment that could be directly attributed to supporting international terrorism. The timing of the announcement, as well as the comments of the British Representative, left no doubt that Libya was a prime target for the embargo but it was not specifically mentioned in the statement – due to the insistence of Spain, Greece, and to a lesser extent, Italy and France. Furthermore, at the time the major European arms exporters had already ceased arms sales to Libya. Italy announced its ban shortly after the Rome attacks, France in 1983 due to its support of Chad, the UK following the shooting of Yvonne Fletcher and West Germany because Libya was in an area of tension.[425] The effect was mainly to formalise a European response to international terrorism, although the embargo remained in place in reference to Libya until 2003.

While Libya's support for terrorist attacks was a major factor behind the changing approaches of a number of European states towards Libya, also of importance to the construction of Libyan outlawry was the European reaction to the US's Libyan policy. This came only a few months after the January arms embargo when the US decided to bomb Libya in response to the La Belle Disco attack in Berlin in April 1986. Among the fatalities were 2 US soldiers, and a further 79 Americans – out of a total of more than 200 – were wounded. On 14 April, the US launched a military strike against Libya which included military installations and Qadhafi's headquarters. Qadhafi survived but members of his family were wounded and his adopted daughter killed. The US bombing of Libya and corresponding US policies, while widely condemned and unsupported,

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[423] Quoted in E. J. Dionne Jr., "Italy Sees No Proof Of Official Syrian Link To Airport Attack", *The New York Times*, 23 May 1986. However, as will be discussed shortly, despite this attitude, Italy was forced by US actions to take a number of measures against Libya.
[424] James M. Markham, "Kohl Explains Refusal To Move Against Libya", *The New York Times,* 10 January 1986.
[425] Paul Lewis, "Europe Agrees To Ban Arms To Countries Backing Terror", *The New York Times*, 28 January 1986.

nevertheless had the effect of escalating Libyan outlawry and forcing Western European states to take on some of the practices of roguing Libya.

There was some support for the US in the UNSC but it generally fell short of justifying the military attacks. Instead, those states that were supporting the US only went as far as reframing the issue to highlight Libyan involvement in terrorism. The US and the UK – as the only state to offer material support for the attack on Libya – primarily justified the attack in terms of self-defence against Libya and its policies of terrorism. Specifically, they both relied on the provision for self-defence under Article 51 of the UN Charter.[426] The UK Government was most determined that this line of public justification for the attacks be used jointly by the US and UK. The then UK Prime Minister, Margaret Thatcher, delayed giving full support to the raid until she had received legal advice suggesting that the action would be defensible under the UN Charter. She also urged President Reagan to publicly frame the justification of the military action in this way. There is evidence that it was Thatcher's request that ensured the appeal to Article 51 of the Charter was included in the speech made by Reagan that announced to the US public that the operation had taken place – one of the key mechanisms for framing the US public response.[427] This approach to the framing of the US attack was presented consistently in the UK and US statements regarding the issue in the UNSC. Situating the attack in light of the UK's previous restraint towards Libya's support of terrorism, including the Yvonne Fletcher incident, the UK re-affirmed its argument of self-defence for the military action.[428]

In general, this argument received little support in the UNSC. Most of the Western states were inconspicuous at the UNSC debates. The only real exceptions to this were the speeches of Denmark, France and Australia who voted, as members of the UNSC, against a draft resolution proposed by the non-aligned movement condemning the attack. Even here, these states asserted that they could not associate themselves with the US justification for the attack but that the

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[426] UN Document S/PV.2679, 17 April 1986.
[427] See Thatcher, *The Downing Street Years*, pp 440-445. The US National Security Council files include a handwritten exchange between the drafters of Reagan's speech, noting that Thatcher wanted the reference to Article 51 of the Charter included and some earlier drafts of the speech do not mention this. Donald Fortier, Libya – Fortier file, 9 of 12, Box 91673, Archives of Ronald Reagan.
[428] UN Document S/PV.2679, 17 April 1986, pp13-31.

resolution did not adequately acknowledge the Libyan support for terrorism.[429] The UNSC debates followed for the next few days and the framing of the US attack generally fell into two categories. A group of non-aligned states including a number of Arab states, led by India as the then President of the group, strongly condemned the attack on Libya. These states sponsored the aforementioned draft UN resolution, that was defeated by US, UK and French veto. In reading out the non-aligned movement statement on the issue, India framed the US bombing as a "dastardly, blatant and unprovoked act of aggression." [430] What is notable is that this group of states framed much of their argument in terms of the need to prevent terrorism, in general terms, and hence acknowledged the cause of the US attack somewhat. However, there was either a clear denial of, or no link made to Libyan culpability for the attacks. Specific condemnation was levelled at the US and Libya escaped any blame.[431]

The second group of states, made up primarily of the USSR, Eastern bloc, some African states, and closer Libyan allies such as Syria and Iran, were less charitable to the US. The previous group of states, while condemning the military operation, generally referred to it in isolation. This second group however, situated the "barbarism" of the US attack as part of a hegemonic project that sought to suppress Libya's independent state policy. This framing relied strongly on the narrative of US imperialism that was employed in the UNSC debates over the Chad, Sudan and Gulf of Sidra issues. The Soviet Union, for example, described the military operation in the following terms: "United States imperialism has perpetrated a new criminal, evil deed, posing a serious threat to world peace and security."[432] In this way, these states re-affirmed the framing of Libya as a victim of the US, and the broader US policy towards Libya was derided. This line of argument paid little to no attention to allegations of Libyan terrorism, or contested the accuracy of the US claims of Libyan guilt, at times suggesting the US was responsible. The references made to Libyan foreign policy in general focussed on the legitimacy of Libyan independence and its support for the Palestinian cause.[433]

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[429] UN Document S/PV.2682, 21 April 1986.
[430] UN Document S/PV.2675, 15 April 1986.
[431] UN Documents S/PV.2674, S/PV.2675, S/PV.2676, S/PV.2677, S/PV.2678, S/PV.2679, S/PV.2680, S/PV.2682, S/PV.2683, UNSC meetings 15, 16, 17, 18, 21, 24 April 1986.
[432] UN Document S/PV.2675, 15 April 1986.
[433] UN Documents S/PV.2674, S/PV.2675, S/PV.2676, S/PV.2677, S/PV.2678, S/PV.2679, S/PV.2680, S/PV.2682, S/PV.2683, UNSC meetings 15, 16, 17, 18, 21, 24 April 1986.

Despite the widespread claims of the illegitimacy of the attacks, US Secretary of State George Shultz was right when he summed up the US actions – and their purpose – as putting international terrorism "firmly on the international agenda."[434] On 14 April 1986, the Foreign Ministers of the 12 member states of the EEC made a joint statement about Libya and the military presence in the Mediterranean. The statement, while made just prior to the US bombing of Libya, was the result of a meeting held after France, West Germany and Spain had been given at least some form of indication by US ambassador Vernon Walters about the military operation, and the UK had been asked for the use of its airbases – although the leaders of West Germany and Spain publicly stated afterwards that they were not given details about when and how the operation would take place.[435] The statement is important because unlike the January statement, in reaffirming its commitment not to sell arms to terrorist states, this statement specifically named Libya. It blamed the tension directly on the terrorist actions of Libya and announced that the twelve member states would also limit Libya's diplomatic representation in Europe by placing "restrictions on the freedom of movement of diplomatic and consular personnel; reduction of the staff of diplomatic and consular missions; stricter visa requirements and procedures."[436]

The sanctions that the EEC applied did not simply assert the need to reduce Libyan participation in European diplomatic practice. West Germany, for example, ordered the expulsion of more than half of the Libyan diplomatic service in West Germany.[437] Italy, which had the greatest to lose in economic terms with Libya at the time and was the most reluctant to follow the US practice of Libyan outlawry, made significant moves to reduce the extent of Libyan participation in international society. On 26 April, Italy ordered the removal of 10 of Libya's diplomatic staff

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[434] Shultz, *Turmoil and Triumph*, pp 678-679.

[435] See E.J. Dionne Jr., "Attack On Libya: Reproaches From Far and Wide; West Europe Generally Critical of U.S." *The New York Times,* 16 April 1986. Reagan made the initial request to Thatcher on 8 April 1986, Thatcher, *The Downing Street Years*, p 443.

[436] European Political Cooperation Presidency, "Statement by Ministers of Foreign Affairs of the Twelve on International Terrorism and the Crisis in the Mediterranean", 14 April 1986, The Hague, the Netherlands, accessed: www.sipri.org/research/armaments/transfers/controlling/arms_embargoes/eu_arms_embargoes/libya/statement, 9 April 2010.

[437] "Reduction of Libyan diplomatic presence in the FRG" *Summary of World Broadcasts, ME/8242/A/7,* 25 April 1986, p 7.

(representing more than 20 per cent of diplomatic staff in Italy at the time), and significantly restricted the movement of the remaining diplomats. Other Libyan diplomats were arrested, had arrest warrants issued against them, or were expelled on the grounds of suspected involvement in terrorist activities[438] or for actions "incompatible with... diplomatic status."[439]

In the Libyan case, it also emerges that as part of the roguing process, the principle of reciprocity acts to reinforce outlawry by encouraging further outlaw-like behaviour, through the response of the outlaw to isolating and marginalising sanctions, and through the additional responses this cycle elicits from the roguer. The Libyan response to the US attack and the EEC common position was part of a pattern of behaviour that indicates how reciprocity as a normative feature reinforces the construction of Libyan outlawry. Following the EEC statement in April 1986, Libya told the "heads of the Italian, French, Greek, Spanish, Belgian, FRG, Danish and Dutch missions" that it rejected the accusations of the EEC statement, claimed that it was a result of US pressure and that Libya had "no option but to take reciprocal action for these measures which have been adopted without any justification."[440] Libya also made a significant number of further threats in addition to launching two missiles against the Italian island of Lampedusa, not far from the Tunisian coast, shortly after the US attack on Libya in April, which formed part of the Italian complaint about Libyan behaviour at the UN, and was followed by an instruction to the Italian military to forcefully respond to any further threat.[441] Libya carried out further reciprocal action following the G7 Tokyo statement on Libya in May. This statement (discussed in the previous chapter) outlined further diplomatic restrictions agreed to by the G7 states. The Qadhafi regime responded to the sanctions by expelling various European officials and citizens from Libya.[442]

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[438] E.J. Dionne Jr., "Italy Tells Libya To Cut Its Staff", *The New York Times*, 27 April 1986.
[439] "Italy Expels a Libyan Diplomat", *The New York Times,* 14 May 1986.
[440] "EEC Envoys Told That Libya Has 'No Option But to Reciprocate'", *BBC Summary of World Broadcasts*, Part 4 The Middle East, Africa and Latin America; A. THE MIDDLE EAST; ME/8244/A/1.
[441] E. J. Dionne Jr., "Italian Isle, Site of U.S. Base, is Fearful of Qaddafi's Anger" *The New York Times*, 27 May 1986; UN Document S/18007, "Letter dated 16 April 1986 from the Permanent Representative of Italy to the United Nations to the President of the Security Council", 16 April 1986.
[442] John Kifner, "Libya Expels 36 At Embassies of 7 West European Nations", *The New York Times,* 13 May 1986.

3.3.3 Libya and UN Sanctions

The UNSC passed three resolutions (731, 748, and 883) in 1992 and 1993 to impose sanctions on Libya. The sanctions were prompted by two key events: the bombing of Pan Am Flight 103 over Lockerbie in Scotland on 21 December 1988, killing 270 people including 190 US citizens; and the bombing of the French airline UTA flight 772 over Niger on 19 September 1989, killing 170 people including 54 French citizens and the wife of the US ambassador to Chad. The Libyan connection to the Lockerbie bombing (as asserted by the US and UK) was made public with the issuing of indictments in both Scotland and the US for two suspects: Lamin Khalifah Fhimah and Abdelbaset Ali al-Megrahi. The US and UK demanded that these two suspects be given up by Libya (as no extradition relationship existed between Libya and either the US or UK) to face trial in either the US or in Scotland. The attachment of the UTA bombing to the Lockerbie sanctions focussed primarily on Libya providing assistance to France in the investigation. France did not focus on securing suspects for trial, as the French legal system, which includes the capacity to hold a trial *in absentia,* allowed for and resulted in the trial of six suspects while they remained in Libya.

The Libyan case was particularly important because of the connection made between state responsibility and international terrorism, and because Libya was the first state subject to UN sanctions over terrorist activities. As discussed in the previous chapter, the pursuit of Libya through the UNSC was not an automatic process. The Lockerbie suspects could have been secured for trial through arrests when they next travelled abroad – something quite likely in their circumstances.[443] While the Lockerbie bombing was significant in terms of its scale as a terrorist attack, it was far from unprecedented and other options had been pursued in the past. Libya argued, quite rightly, that the *Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)* already provided a legal framework for dealing with the trial of those suspected of international terrorism in cases such as Lockerbie.[444] Furthermore, UN

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[443] Scharf, "The Broader Meaning of the Lockerbie Trial", pp 57-58.

[444] For discussion of the Libyan case at the ICJ (and its relationship to the UNSC) see, for example, Bernhard Graefrath, "Leave to the Court What Belongs to the Court: The Libyan Case" *European Journal of International Law*, vol 4, 1993, pp 184-205; Schwartz, "Dealing with a 'Rogue State'", pp 553-580; Vera Gowlland-Debbas, "The Relationship Between the International Court of Justice and the Security Council in the Light of the Lockerbie Case" *The American Journal of International Law,* vol 88, no 4, 1994, pp 643-677; Michael Plachta, "The Lockerbie Case: The Role of the Security Council in Enforcing the Principle *Aut Dedere Aut Judicare*", *European Journal of*

sanctions themselves were relatively new as a practice of international politics and prior to 1990, only two member states had been subjected to UN sanctions.[445] Unlike previous sanctions against other states, the Libyan sanctions were the first to be justified on the basis of state support for terrorist activities.[446]

The imposition of sanctions on Libya over the Lockerbie and UTA bombings in the UNSC was a significant step in universalising the construction of Libyan outlawry. Although states generally indicated in UNSC debates that the purpose of the sanctions was more narrowly concerned with securing Libyan cooperation with the UK, US and France for the relevant investigations and trials of suspects, the imposition of sanctions also marked a significant level of consensus regarding the illegitimacy and characteristics of international terrorism and its place on the UNSC agenda.[447] The framing of the resolutions also went further than any previous UNSC actions regarding terrorism. Resolution 731 opens with the UNSC being "*deeply disturbed* by the world-wide persistence of acts of international terrorism... including those in which States are directly or indirectly involved."[448] This was a significant step up from resolution 635 three years earlier (regarding aviation terrorism) where the UNSC was only "*conscious* of the implications of acts of terrorism for international security."[449] In addition, in resolutions 748 and 883 the UNSC framed, in general terms, the need for Libya to show though "concrete actions" its "renunciation of terrorism" and that Libya's failure to do so would constitute a threat to international peace and security.[450]

International Law, vol 12, no 1, 2001, pp 125-140; "Lockerbie Symposium", special edition of *Syracuse Journal of International Law and Commerce*, Volume 29, Issue 1, 2001.

[445] These were Rhodesia, with a series of sanctions beginning in 1966, and South Africa, with an arms embargo beginning in 1977. David Cortright, George A. Lopez, and Linda Gerber-Stellingwerf, "Appendix 4: UN-Authorized Sanctions, 1945-2006" in Vaughan Lowe, Adam Roberts, Jennifer Welsh and Dominik Zaum (eds.) *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945*, Oxford University Press, Oxford, 2008, p 679.

[446] This, however, was not the first time it was attempted as the US-proposed resolution in January 1980 to the UNSC for sanctions against Iran over the hostage-taking of US diplomatic personnel in 1979 was vetoed by the USSR – the USSR maintained it was a bilateral dispute and therefore not subject to the UN Chapter VII provisions, see Sydney D. Bailey, "The UN Security Council and Terrorism", *International Relations*, vol 11, no 6, 1993, pp 542-543.

[447] See UN Document S/PV.3033, 21 January 1992.

[448] UNSC Resolution 731 (1992).

[449] In June 1989 when the UNSC passed resolution 635 "Marking of Plastic or Sheet Explosives for the Purposes of Detection" it was the most significant move by the UNSC to engage with international terrorism up to that point.

[450] See UNSC Resolution 748, 1992 and UNSC Resolution 883, 1993.

In applying sanctions to Libya, resolutions 748 and 883 also adopted practices that the US and EEC developed throughout the 1980s. The provisions reflect the concerns that were previously held by these states regarding Libya. The UN sanctions mandated the "significant reduction" by host states (and international organisations) in the presence of Libyan diplomatic staff and the restriction of movement of those that remained. Echoing action taken in 1984, the US, when implementing the sanctions, used its status as host state of the UN to instruct the reduction of Libyan diplomatic staff to the UN.[451] Due to the nature of the terrorist attack, Libyan aviation was severely restricted, including the banning of flights and Libyan airline offices abroad. Libya also suffered from financial restrictions (with the exception of its oil industry) and the imposition of trading bans on military equipment, parts and technical labour and expertise related to any form of military use.[452] This latter concern, while aimed at weakening the Qadhafi regime, was also reflective of the British concern with Libya's previous material support for the IRA. It would also be used – as I discuss later – in attempts to construct Libyan outlawry on the basis of its pursuit of WMD.

With the UK, France and the US as the primary authors of the resolutions it is hardly surprising that their concerns dominated the sanctions imposed on Libya. However, only a few years earlier, the UN debate regarding Libyan terrorism – and the US reaction to it – had fallen in Libya's favour, and the abstentions of China, Cape Verde, India, Morocco, and Zimbabwe for resolution 748, and China, Djibouti, Morocco, and Pakistan for resolution 883 showed that some doubts lingered about the UNSC's new approach to Libyan terrorism. As such, as much as the UK, France and the US led the UNSC, it was the coincidence of the Lockerbie/UTA bombings with the shift of Russia to the West that ultimately paved the way for UN sanctions and helped formalise the practice of Libyan outlawry.

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[451] UN Document S/23931, "Letter dated 14 May 1992 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General", 15 May 1992; "U.S. Limiting Libyans At U.N. to New York" *New York Times,* 1 September 1984.
[452] UNSC Resolutions 748 (1992) and 883 (1993).

The collapse of the Soviet Union was a turning point for Libya's foreign policy and its rehabilitation. The Soviet power base had shaped Libyan policy (both foreign and domestic), facilitating its international belligerence and therefore its isolation.[453] During the 1970s and 1980s, the Soviet/Libyan relationship was generally instrumental in its nature, and unlike the US, the USSR did not place significant pre-conditions on its engagement.[454] Without the Soviet Union, there was less scope for Libya to maintain its belligerence towards the West.[455] In addition to Libya losing a powerful ally, Russia's readiness to buy into the practice of Libyan outlawry was essential to its development post-Cold War. This is indicative of the broader normative shift to Western-oriented practices in Russian foreign policy and its desire to retain/regain its status as a great power, readily identified by scholars in the post-Cold War era.[456] For Libya this meant that its relationship with Russia was determined as much by Russia's new approach to the West as it was by Russia's direct response to Libya. Importantly for the development of Libyan outlawry, the strongest normative shift of Russian foreign policy coincided with the indictments of the Libyan officials for the Lockerbie bombing. Although its policies were not as consistent and explicit as those applied by the US, Libya (and other rogue states) came to be metaphors for demonstrating Russia's new position in international society.

In the years immediately following the end of the Cold War, Russian foreign policy turned to view the West (particularly the US) as the leader in international affairs. In contrast to the Soviet practice, Russia sought not to balance the US but to pursue large scale integration with Western international organisations and adopt the "Western international security agenda."[457] Conveniently, the proposed resolutions against Libya provided an opportunity to demonstrate this. It is on this basis that universalisation of Libyan outlawry was dependent on the path

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[453] Ronen, *Qaddafi's Libya,* pp 100-101.

[454] St John, *Qaddafi's World Design*, pp 71-78; Al-Qadhafi, "Libyan-American Relations", p 37.

[455] For a similar argument, see Ronen, *Qaddafi's Libya,* pp 100-101.

[456] For discussions of this see for example, Andrei P. Tsygankov, *Russia's Foreign Policy: Change and Continuity in National Identity,* Rowman & Littlefield Publishers, Inc, Lanham, 2006, pp 68-76, 168-169; James Richter, "Russian Foreign Policy and the Politics of National Identity" in Celeste A. Wallander (ed), *The Sources of Russian Foreign Policy After the Cold War*, Westview Press, Boulder, 1996, pp 84-88; Bobo Lo, *Vladimir Putin and the Evolution of Russian Foreign Policy,* Blackwell Publishing, Malden, 2003, pp 97-114; For the primacy of the US in Russian foreign policy see also "Foreign Policy Conception of the Russian Federation (1993)" reproduced in Andrei Melville and Tatiana Shakleina, *Russian Foreign Policy in Transition: Concepts and Realities*, Central European University Press, Budapest, 2005, pp 27-64.

[457] Tsygankov, *Russia's Foreign Policy*, pp 68-76, 168-169.

developed by the West in the 1980s in response to state sponsors of terrorism. At this point, Libyan outlawry represented a civilisational test for Russia. Libyan sanctions also allowed Russia to signify at the time that its closer relationship with another US framed "rogue" state – Iran – was based on more practical economic and strategic purposes.[458] In outlining its decision to vote in favour of resolution 731, Russia applauded the new trend in "international cooperation" towards dealing with terrorism. It sided with the US, UK and France regarding having the trials take place under their respective legal systems and it drew the link between international (aviation) terrorism and the threat to international peace and security.[459] The cost of Russia's position was significant. In 1992, the Russian Parliamentary Committee on International Affairs and External Economic Relations reported that the economic cost of Libyan sanctions for Russia was about $US 8.5 billion.[460]

This "Liberal" practice of Russian foreign policy was short-lived and started to unravel in 1993 and 1994.[461] However, the timing was crucial for Libyan outlawry and the effects well outlasted the more disengaged policy towards Libya that Russia began to adopt. The sanctions regime had placed a level of inertia on Libyan outlawry, and by this time Russia had already voted in favour of resolution 748, and been persuaded to do the same for resolution 883 after it voiced concerns about the servicing of debt that Libya owed to Russia.[462] Some more conciliatory efforts were made in the 1990s between Libya and Russia, including discussions with Libya by Russian Intelligence head Yevgeny Primakov,[463] and by 2000, Russia's relations with Libya and other rogue states were used by Putin as a signal of Russia's independence from Western foreign

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[458] Amin Saikal, "Russian Policy Toward Central Asia and the Middle East" in Peter Shearman (ed), *Russian Foreign Policy Since 1990,*Westview Press, Boulder, 1995, pp 272-278.

[459] UN Document S/PV.3033, 21 January 1992.

[460] "Russia counts the cost of sanctions against Libya, Iraq, Serbia and Montenegro", BBC Summary of World Broadcasts; Part 1 The USSR; C. SPECIAL SUPPLEMENT; SU/1564/C1/ 1; 15 December 1992.

[461] Richter, "Russian Foreign Policy" – for a discussion of the Liberal interpretation of Russian foreign policy and the engagement with the West and standards of civilisation in the post-Cold War years – importantly this Liberal approach also saw the acceptance of Russia to the Western club as a part of Russia maintaining great power status, pp77-79. As Richter argued this later gave way to a more Statist approach which saw Russia disengage somewhat from the West, and great power status more focused on balancing the US and Russia being a 'neutral mediator' between North and South states (including Islamic radical states), pp 81-82.

[462] "Russia threatens to veto UN resolution on new sanctions against Libya" *BBC Summary of World Broadcasts*, Part 1 Former USSR; RUSSIA; INTERNAL AFFAIRS; SU/1842/B, 10 November 1993.

[463] Yevgeny Primakov, *Russian Crossroads: Toward the New Millennium* (translated by Felix Rosenthal), Yale University Press, New Haven, 2004, pp 233-234; and Yevgeny M. Primakov, *A World Challenged: Fighting Terrorism in the Twenty-First Century,* Brookings Institution Press, Washington DC, 2004, pp 4-5.

policy. [464] However, Russia did not make a substantial contribution to the lifting of sanctions and indeed, as Libya's relations with the West improved from 2000 onwards, Russia became less of a concern for Libya in general. [465]

The implementation of the UN sanctions points again to the role of reciprocity as a diplomatic norm in reinforcing the roguing process. This process re-emerged with the imposition of UN sanctions against Libya in 1992. Similar practices to those that followed the episode in 1986 (discussed above) occurred. Libya made a number of threats and was involved in or tacitly supported a number of low-level violent confrontations against embassies and other representations of foreign states in Libya. This behaviour was not only framed in terms of the terrorist style of practices that Libya was already accused of, it also contributed to further entrenching Libyan isolation.

Shortly after the passing of resolution 748, a group of Libyans protesting against the sanctions attacked the Venezuelan embassy, causing significant damage. There were similar attacks with protestors throwing objects at, or trying to enter, the embassies of Russia, Belgium, France and Austria. [466] Russia demanded an apology for the incident and when the Libyan Permanent Representative to the UN Al-Trieki provided one to Russia, he claimed that it was not against Russia individually but a protest against the UNSC in general. The symbolism of the attack as a form of Libyan retribution against the UNSC and its members was not lost. The UNSC reconvened on 2 April 1992 to issue a statement on the Venezuelan complaint, condemning the act of violence and demanding Libya pay Venezuela damages. The Security Council statement was unanimous at this time as it reminded Libya of its responsibility to secure embassies from acts of "terrorism" and the "extremely serious and totally unacceptable" nature of the motive for the embassy attack. [467] This represented a unification of the roguing frame against Libya even

[464] J.L. Black, *Vladimir Putin and the New World Order: Looking East, Looking West,* Rowman & Littlefield Publishers, Inc., Lanham, 2004, p 322.
[465] Mark N. Katz, "The Russian-Libyan Rapprochement: What has Moscow Gained?" *Middle East Policy*, vol 15, no 4, pp 122-128.
[466] "The Demonstrations In Tripoli And Their Aftermath In Brief; Spanish Embassy Official In Tripoli Describes Attacks On Embassies", *BBC Summary of World Broadcasts*, Part 4 The Middle East, Africa and Latin America; A. THE MIDDLE EAST; ME/1347/A/1.
[467] UN Document S/PV.3064, 2 April 1992.

after the voting for resolution 748 showed some level of division within the UNSC on the Libyan case.

The gravity of the attacks was confirmed shortly afterwards as Libya became increasingly isolated. As Russia began a process of withdrawing a number of its military advisors and technicians from Libya as part of the UN sanctions, Radio Russia used the opportunity to frame the withdrawal in terms of responding to the "threat of terrorist attacks against foreigners of states which have supported the United Nations sanctions."[468] Beyond the attacks on the embassies in Libya, Libya began implementing a process of reciprocal diplomatic expulsions in a similar vein to those following the EEC diplomatic sanctions in 1986. When Russia directed the reduction of the Libyan diplomatic staff in Moscow in April 1992, in line with the UN sanctions, Libya replied with the request for the reduction of Russian diplomatic staff in Tripoli.[469] At the same time, when states continued to implement the sanctions, Libya ordered reductions in an increasing number of diplomatic staff. To begin with, this included the expulsion of diplomatic staff from Britain, France, Germany, Italy, Sweden, Belgium, Czechoslovakia and Japan.[470] When announcing the order to reduce the diplomatic presence of Spain, Hungary and Brazil in Tripoli, Libyan news source JANA reported that Libya was carrying them out "in the implementation of the principle of reciprocity."[471]

Even while UN sanctions were implemented, Libyan outlawry was being undermined by the diplomatic norm of continual dialogue. In the years following the US bombing of Libya in 1986 and the sanctions imposed, Libya moved to improve relationships with key European states, within the framework of EEC sanctions. Most significantly, Libya was being brought into an improved communal relationship with other North African states, in particular, Egypt. Qadhafi and Mubarak, who had previously had an acrimonious relationship, formed much stronger

[468] Quoted in P. Davison, "Palestinians shot at pro-Libya rallies", *The Independent* (London), 17 April 1992.
[469] "Russia, Libya end flights, withdraw diplomats" *United Press International*, 24 April 1992.
[470] Nejla Sammakia, "Libya Begins Expelling Diplomats; U.N. Considers Evacuation Flights" *The Associated Press*, 16 April 1992; Tony Walker, "Libya Expels Diplomats In New Attack On The West" *Sydney Morning Herald*, 17 April 1992.
[471] Quoted in Tony Walker, "Libya continues to throw out diplomats", *The Age*, 18 April 1992.

ties.[472] This will be discussed in more detail in the next chapter. Having Egypt as a new ally had some beneficial side effects for Libya and it is apparent that Qadhafi saw Boutros-Ghali's election as Secretary General of the UN as a way of solving the Lockerbie dispute – indeed Mubarak instructed Boutros-Ghali to try to find a solution.[473] Egypt, a number of other African states, and the OAU would later become instrumental in undermining UN sanctions against Libya.[474] Mubarak undertook a number of high profile visits to Libya in order to solve the dispute and while Egypt initially abided by the UN sanctions it was one of a handful of states that actually increased the size of the Libyan embassy in its capital city, in contravention of the sanctions.[475] Therefore, while the sanctions themselves were an indication of the universalisation of Libyan outlawry to some extent, the regional practice towards Libya was changing and the Qadhafi regime was being treated more as a legitimate and acceptable actor in regional affairs, as practices of regional isolation and the framing of the Qadhafi regime by important regional actors changed in Libya's favour.

The practice of China in the UN also highlighted that at the same time as Libyan outlawry was most institutionally formalised, continual dialogue remained important. Indeed, the China case is important because it shows the limitations of roguing, and that roguing is somewhat of a luxury for the great powers and the US in particular. Of the five permanent members with the institutional power at the Security Council to prevent the sanctions, it was only China that showed any opposition. International terrorism was a low foreign policy priority for China until the September 11 attacks and Libya was no exception to the general trend of Chinese engagement with terrorist-sponsoring states that had other interests relevant to China throughout the 1980s and 1990s.[476] Chinese diplomatic ties with Libya had increased during the years preceding the sanctions, including weapons sales and trade, industry and cultural cooperation

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[472] See for example, Yehudit Ronen, "Personalities and Politics: Qadhafi, Nasser, Sadat and Mubarak (1969-200)", *The Journal of North African Studies,* vol 6, no 3, 2001, pp 1-10.

[473] Boutros Boutros-Ghali, *Unvanquished: a U.S.-U.N. saga*, I.B. Tauris Publishers, London, 1999, p185.

[474] See for example; Matar and Thabit, *Lockerbie and Libya*, pp 93-104; Hurd, "The Strategic Use of Liberal Internationalism".

[475] UN Document, S/1996/606, "Letter dated 26 July 1996 from the Permanent Representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General", 30 July 1996.

[476] Robert G. Sutter, *Chinese Foreign Relations: Power and Policy Since the Cold War*, Rowman & Littlefield Publishers, Inc, Lanham, 2008, p 145.

agreements. In line with the foreign policy it was developing at the time – and which continued throughout the 1990s – China significantly developed its engagement with the Middle East and Africa. While this engagement included many US allies, China also increased energy and weapons trading with a number of US-identified rogue states (that were otherwise restricted from engagement with Western states) because it had less to offer other potential trading partners in terms of technological and economic support. [477] Most controversially, this included a Chinese shipment of arms to Libya in mid-April 1992 when the first UN sanctions against Libya were implemented. Although China claimed it technically adhered to the sanctions because the arms shipment was in Libyan waters just prior to the sanction deadline, the incident resulted in a direct protest by the US to China.[478]

In 1992, China voted with all the other UNSC members in favour of resolution 731 expressing its opposition to terrorism and its perpetrators. However the move from resolution 731, which laid out conditions for Libya to meet in response to the Lockerbie and UTA bombings, to resolutions 748 and 883, which imposed the sanctions against Libya for not complying with resolution 731, generated significant opposition from China. In describing its decision to abstain from voting for resolution 748, China reinforced its condemnation of terrorism but appealed for the perpetrators to be pursued and punished in terms of existing international laws and conventions. In stating the need for a full investigation and trial regarding the event China asserted that the good offices of the Secretary General were the appropriate avenue for settling international disputes and that it did not support sanctions, in principle, against Libya because of the consequences to it and the region.[479] Similarly, in abstaining from the vote on resolution 883, China condemned terrorism and said the investigation and punishment of the perpetrators should be done within international conventions. It argued that sanctions would complicate the matter, make Libyan people suffer and place economic difficulties on other countries.[480] China's opposition to sanctions was also apparent in its diplomatic practice towards Libya. In January

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[477] Zhiqun Zhu, "China's Middle East Policy and Its Implications for US-China Relations" in Sujian Guo and Shiping Hua (eds), *New Dimensions of Chinese Foreign Policy*, Lexington Books, Lanham, 2007, pp 172-175; Frank J. Gaffney, Jr., "China Arms the Rogues" *Middle East Quarterly,* vol 4, no 3, 1997; Guang Pan, "China's Success in the Middle East" *Middle East Quarterly*, vol 4, no 4, 1997.

[478] Jeffrey Smith, "U.S. Complains to China About Libyan Arms Shipment", *The Washington Post*, 28 April 1992.

[479] UN Document S/PV.3063, 31 March 1992, pp 59-61.

[480] UN Document S/PV.3312, 11 November 1993, pp 52-54.

1996, the Chinese Vice-Premier and Foreign Minister Qian Qichen undertook a visit to Libya in order to improve bilateral relations and urged a solution to the Lockerbie issue through diplomatic dialogue. This visit was followed by another meeting in September the same year between Qian and the Libyan Foreign Minister at the UN in New York.[481] Furthermore, in contravention of the UN sanctions China was one of only a handful of states to increase Libyan diplomatic presence in its capital – an issue which elicited a formal complaint by the UK, France and US to the UN Sanctions Committee responsible for Libya.[482]

Given its professed opposition to the sanctions, the Chinese decision to abstain, rather than veto sanctions, is explained both through the general pattern of Chinese behaviour as a UNSC member, and pragmatic concerns that would resulted from opposing the sanctions directly. Although Chinese practice in the UN has traditionally been against international sanctions and intrusive policies, and has generally fallen in line with support for the third world, it has also tended to avoid major controversy and being strongly opposed to incidents at the UN where it would be isolated. Even in cases where it has been opposed to major controversies like the 2003 war in Iraq, it has generally let other powers take the lead.[483] At the time, with China expressing its opposition to the sanctions and resolution 748, Western diplomats were unsure if it would maintain its usual practice of not using the veto. As a result, the UK and France warned China that a veto would seriously damage relations. In addition, the US was able to put further pressure on China as the sanctions vote was coinciding with a US review of China's trading position with the US that had only been granted a few years before. As such, the US Administration was able to argue that a veto on the sanctions resolution would create considerable domestic pressure to withdraw China's trading preferences and Most Favoured Nation status with the US.[484] While this secured the passing of the sanctions, the general Chinese diplomatic practice towards Libya

[481] "Foreign Minister Qian Qichen urges "peaceful settlement" of Lockerbie issue", *BBC Summary of World Broadcasts,* Part 3 Asia-Pacific; China; Foreign Relations; Libya; FE/D2509/G, 15 January 1996; "Foreign minister, Libyan counterpart discuss bilateral ties" *BBC Summary of World Broadcasts,* Part 3 Asia-Pacific; China; Foreign Relations; Foreign Minister's Meetings At Un; FE/D2728/G, 27 September 1996.
[482] UN Document S/1996/606.
[483] Sutter, *Chinese Foreign Relations*, pp 117-120.
[484] Paul Lewis, "China Is Warned Not to Veto Plan To Place U.N. Sanctions on Libya", *The New York Times*, 28 March 1992; Leonard Doyle and Sarah Lambert, "US tells China to back Libya vote or pay the price" *The Independent*, 28 March 1992.

shows the limitations of the roguing process and the difficulty caused by the strong diplomatic tendency for continual dialogue.

3.4 Weapons of Mass Destruction

As discussed in the previous chapter, the pursuit of WMD became an important feature of the US's process of roguing Libya as part of the rogue state doctrine following the end of the Cold War. However, while Qadhafi announced as early as the 1970s his intentions to gain WMD in the form of chemical weapons and nuclear weapons, the WMD frame was a limited part of Libyan outlawry outside the US and a small collection of Western states, at least until the 1990s. Indeed, with the exception of the Chemical Weapons Convention which Libya did not sign until 2003, Libya's professed pursuit of nuclear weapons had the ironic effect of increasing Libyan participation in the mechanisms of international society as the USSR persuaded Libya to sign the Nuclear Non-proliferation Treaty in 1975 as part of a deal to buy civil nuclear equipment.[485] Libya's involvement in WMD led to it increasing its participation in signing and ratifying international treaties such as the NPT, even if one could cast serious doubts over Libyan sincerity towards and compliance with such treaties. The main exception was the Chemical Weapons Convention which Libya did not become a party to until 2003 when it announced that it was giving up all WMD. However, in this case, the lack of participation was voluntary from Libya's perspective.

In general, the WMD issue was not a major part of the roguing of Libya throughout the Reagan Administration. However, at the very end of the Administration, the US and Libya faced increased tensions over the development of the Rabta chemical plant – a plant which Libya claimed was for pharmaceutical purposes. This issue was only just developing as part of Libyan outlawry, and unlike what would follow, 1988-89 represented a time where the UN, instead of increasing Libyan outlawry on these grounds, actually provided a fruitful avenue for Libya to contest the issue. Indeed, after the US presented evidence of Libyan contracts with European companies to develop the plant, Libya contested the claims through significant lobbying in the

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[485] Elena Geleskul, "The History of the Libyan Nuclear Program: The Reasons for Failure", *Security Index,* vol 15, No 2, p 141.

UN, and it achieved greater support from Europe and the Arab states in this regard.[486] At the same time as the US was publicly criticising Libya for the development of the Rabta plant, the issue failed to be discussed at the 1989 Paris Conference condemning chemical weapons use.[487]

The relatively consistent approach of Libya towards WMD over the course of the Qadhafi regime, its general absence from justifications for Libyan isolation from African and Arab states, its absence from arguments for the imposition of the UNSC sanctions, and the extent to which Libya was a signatory to various treaties regarding WMD, shows the loose attachment of WMD to the practice of Libyan outlawry.[488] Indeed in the Libyan case, some Western states placed a somewhat retrospective significance on Libya's decision to give up WMD. That is, although WMD was not a part of the initial outlawry process, it nevertheless became an additional qualification for the removal of outlawry status. The UK was the most significant in this regard when Tony Blair announced on the day that Libya made the decision that "Libya's actions entitle it to rejoin the international community."[489] While this statement provides a very clear assertion of the attachment of giving up WMD to the process of Libya's de-roguing, the general diplomatic practice of the UK towards Libya is less clear. Unlike the US, which at least abstained from the vote to formally lift UNSC sanctions against Libya in September 2003 on the grounds of pursuit of WMD among other things, the UK voted for the lifting and was instrumental in gaining US acceptance for the removal of the sanctions.[490] The US rogued Libya on the characteristics of terrorism and subversion in African states and then attached WMD as a feature of its outlawry in the post-Cold War era. However, even once the terrorism and African subversion issues were solved, the US maintained that Libyan removal of WMD was a necessary pre-condition of future diplomatic (especially formal) engagement with it at least in a bilateral sense – even if it had accepted that the partial solution to the Lockerbie dispute meant that efforts

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[486] "Libya: New Dogfight over the Gulf of Sirte Reinforces Qadhafi's Position", in Doro, Legum and Newson (eds), *Africa Contemporary Record Volume 21*, pp B480, B484.
[487] Michael R. Gordon, "Paris Conference Condemns The Use Of Chemical Arms", *The New York Times*, 12 January 1989.
[488] For Discussions of Libya's WMD history see Sinai, "Libya's Pursuit"; Geleskul, "The History of the Libyan Nuclear Program"; Norton, "Nuclear Terrorism and the Middle East", pp 278-289; Bahgat, "Proliferation".
[489] BBC, "Full transcript: Blair's Libya statement", 19 December 2003, accessed http://news.bbc.co.uk/1/hi/uk_politics/3336073.stm on 3/12/09.
[490] At this time the UK was leading negotiations with Libya and the US for Libya to give up its WMD program. See "Behind Libya's Diplomatic Turnaround", *Time*, 18 May 2006.

to continue Libya's multilateral isolation were not sustainable. However the UK, which had been one of the biggest supporters of roguing Libya outside the US, re-established formal diplomatic ties with Libya in March 2001, more than two years prior to Libya's announcement that it would give up its WMD programme.

The UNSC debates themselves tell us little about WMD and Libyan outlawry because they were not significant features of discussion in relation to Libya at the UNSC. Indeed, their absence suggests that at best, Libya's pursuit of WMD (but not the WMD issue in general) was a minor concern for most states. However, the UNSC played a subtle, somewhat indirect, yet nevertheless important role in attributing WMD as a feature of Libyan outlawry in two ways. First, the UN sanctions against Libya over the Lockerbie/UTA bombings provided a greater opportunity for the US to exploit and further entrench the anti-nuclear frame at least among its own domestic public and among some European and Western states. This happened through the implementation of the sanctions rather than in the framing of any of the sanction resolutions themselves. It highlights the important interplay between the rogue state image that the US had very publicly attached to the motives of rogue state leaders. This image had successfully linked WMD to the illegitimate aims of rogue states that would necessarily use them for terrorist purposes. It was essential that the arms ban on Libya under UN resolution 748 provided broad scope in its outline of banned military equipment, thus giving the chance for the confiscation of the importation of "dual use" nuclear technology.[491]

In March 1993, the UK used the UNSC Sanctions Committee to stop the purchase by Libya of a set of eight stainless steel reactors which had the potential dual use capability of being employed in a chemical weapons plant. As early as 1989, Libya had attempted to obtain the technology from the UK but the Government blocked the importation process because it did not accept Libyan claims that the technology was to be used for civilian purposes. By 1993, Libya had worked to obtain the technology from a company in Malaysia instead. The shipment was seized in Singapore in March and British officials raised the issue at the UN Sanctions Committee set up to monitor Libyan sanctions. The Sanctions Committee decided that the potential dual use

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[491] UN resolution 748 (1992).

capability of the reactors was a contravention of resolution 748. Both Libya and Malaysia claimed that the 1993 shipment was for civilian purposes.[492] As the then US Director of Central Intelligence, R. James Woolsey, put it, not only was the shipment seizure a beneficial consequence of the sanctions for the Lockerbie bombing, it was a significant further recognition by the UN that Libya possessed an offensive chemical weapons programme.[493] However, the concern with the reactors was more to do with highlighting Libya's ill intentions than with the actual existence of the technology. In February 1994, less than a year after the shipment had been stopped, the reactor vessels went missing and were unaccounted for in Malaysia. The main issue was the insistence that the technology stayed away from Libya, rather than the destruction of the technology. The *Independent* quoted one Western diplomat: "We are not 100 per cent happy, and won't be until we see this equipment in the hands of a non-Libyan end-user who actually wants it."[494]

This incident of the US and UK casting the dual purpose technology in negative terms because Libya was the end-user, served to reinforce the frame that Qadhafi was actively seeking technology that could be used for WMD, which in the 1990s, was increasingly attached to the general rogue state image. It also showed that there was an international process in place that applied to Libya and only a very few other states who were also subject to sanctions, and that could be used to delegitimise the trade to Libya of these goods. Although this incident was mainly an example of isolating Libya from trade as opposed to isolation in the diplomatic sphere, it did provide a significant opportunity to reinforce the rogue state image of Libya. By the 1990s terrorism and WMD were increasingly bundled together as the primary characteristics of rogue states. Furthermore, while the attachment of WMD to the process of outlawry was largely a construction of the US and a handful of other states, the UNSC Sanctions Committee provided a way of multilateralising the issue in relation to Libya. The UK's use of the UNSC as a means of preventing the shipment of this technology immediately multilaterised the issue beyond

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[492] UN Document S/1996/2, *Report of the Security Council Committee established pursuant to resolution 748 (1992) concerning the Libyan Arab Jamahiriya*, 2 January 1996, p 5; Charles Richards, "Libya cargo held under UN ban; Fear of chemical-weapons production", *The Independent*, 23 June 1993.

[493] R. James Woolsey, Testimony at the Hearing of the International Security, International Organizations And Human Rights Subcommittee of the House Foreign Affairs Committee, Subject: US Security Policy vis-a-vis Rogue Regimes, *Federal News Service*, 28 July 1993.

[494] See Raymond Whitaker, "Libyan nerve gas tanks go missing in Malaysia", *The Independent*, 17 February 1994.

Libyan/UK relations. This provided strong grounds to undermine Qadhafi's motivations in the use of the technology. This decision by the UNSC is all the more significant when one considers the reluctance of states even immediately threatened by Libya's chemical weapons programme to acknowledge the problem of pursuing chemical weapons as an outlawed behaviour.

The second important point to note regarding WMD and the roguing of Libya at the UN relates to the inertia that the US was able to maintain regarding the formal lifting of the UN sanctions. Although the sanctions were suspended in April 1999, it was not until September 2003 that they were finally lifted. While terrorism remained the primary issue, the consultation process that occurred between Libya, the UK and the US increasingly combined talks about WMD and the Lockerbie issue. Unlike previous negotiations, Lockerbie and WMD were not clearly prioritised and separated. In this regard, the UN sanctions process against Libya was used in a similar way to that imposed on Iraq, where the US was able to use its institutional position as a permanent and veto member of the UNSC to change the conditions laid down for lifting sanctions from those originally determined in the UNSC resolutions imposing sanctions.[495] Although it did not block the lifting of sanctions in September 2003, just three months prior to the announcement that Libya was giving up its WMD, the US abstained from voting. In justifying the abstention the US representative at the UNSC, James B. Cunningham told Libya that the abstention was not "tacit United States acceptance" of Libya's rehabilitation and that among the US's remaining concerns with Libya including human rights abuses, interference in Africa, and its history of terrorism, "most important" was Libya's "pursuit of weapons of mass destruction and their means of delivery" and that as a result full bilateral sanctions with the US would remain in place until it was resolved.[496] As Hurd points out, by this stage the US had little choice in sustaining sanctions without having the legitimacy of the UNSC seriously undermined by the challenges of Libya and a significant number of supporting states.[497] At best the US was forced into the position of abstaining, outlining its continued grievances and maintaining its bilateral sanctions.

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[495] David Cortright, George A. Lopez, Linda Gerber-Stellingwerf, "The Sanctions Era: Themes and Trends in UN Security Council Sanctions Since 1990" in Vaughan Lowe, Adam Roberts, Jennifer Welsh and Dominik Zaum (eds.) *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945*, Oxford University Press, Oxford, 2008, p 208.
[496] UN Document S/PV.4820 (Part II), 12 September 2003, p 3.
[497] Hurd, "The Strategic Use of Liberal Internationalism".

Although much of this will be discussed in later chapters regarding Libya's de-rouging, the time lapse between the suspension of UN sanctions, the lifting of UN sanctions and the final lifting of bilateral US sanctions does have some important implications for understanding Libyan outlawry. The final lifting of sanctions had important symbolic ramifications and most importantly it was used by the US as discussed in the last chapter to delay Libya taking up a position in the UNSC until they had been lifted – meaning that Libya had to take up its position on the UNSC in 2008 instead of 2004. In addition, although Libya participated as an observer to the Euro-Mediterranean pact from 1999 with the suspension of UN sanctions, full membership from the European perspective was conditional on the formal lifting of UN sanctions rather than simply their suspension.[498]

However, when looking at the wider implications, the WMD issue remained a limited part of Libya's roguing beyond a collection of Western states. Indeed, the relationship between Libyan roguing and WMD is best seen as an example where a limited number of states – most notably the US and UK – were able to manipulate the exclusion of Libya from full participation in international society for other reasons (such as terrorism) to encourage desired behavioural changes regarding WMD. The US in particular was able to use its formal and informal institutional power in the UNSC to stall the movement of Libya away from the rogue frame. In effect, the US had gained a somewhat limited but nevertheless significantly powerful, authority to impose the roguing process on other states. The US's material preponderance alone does not fully account for this development. Rather, it was through the sustained use of international society's institutional resources in combination with the articulation of the rogue frame that Libya's roguing took on the quasi-institutional form detailed above.

3.5 Conclusion

The development of Libya's rogue statehood demonstrates the success of the US imposition of the practice of roguing in international society. While in some respects Libya's roguing

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[498] See Ronen, *Qaddafi's Libya,* p 55. Libya has yet to take up full membership on the grounds of the Palestinian/Israeli issue.

developed independently of the US due to its behaviour in its region, Libyan outlawry was as dependent on the US's response to Libya's "rogue" behaviour as it was on Libya's behaviour itself. However, this success in roguing Libya was sensitive to regional and political contexts. The convergence of the US with a number of African states in framing Libya as an outlaw in terms of African subversion did not translate well to agreement on the right to punish Libyan outlawry. Unlike what would be expected from drawing on traditional conceptions of outlaws or pirate states as being open to universal punishment, the development of outlawry and the authority to impose and punish outlawry as a state practice, can and do take divergent paths and interact with different international norms, narratives and political contexts.

In the 1990s, the US was able to gain a near universal acceptance of Libyan outlawry by using the terrorism frame. Even this, however, was contingent on the major shock to international society brought about by the collapse of the Soviet Union. In the 1980s, the response to Libyan terrorism was politically constrained to being a Western response. In this case, the US was successfully able to use an internationally illegitimate military operation against Libya to encourage reluctant European states to implement practices that decreased Libyan participation in international society. Again, Libyan outlawry developed as much in response to the US practice towards Libya as it did in response to Libyan behaviour itself. The end of the Cold War and the coincidence of a new Russian normative shift to the West, with the indictments from the Lockerbie and UTA bombings, provided a formal institutionalisation of Libyan outlawry. Further avenues were then opened up for the US and the UK to establish the WMD frame of Libyan outlawry. This had some success as the UN sanctions provided for the interception of dual use chemical weapons equipment bound for Libya. However, the WMD frame remained largely unaccepted as a justification for Libyan outlawry and, ironically, Libya's behaviour towards such weapons increased rather than decreased its participation in international society.

As the construction of Libyan outlawry had mixed results on the basis of the characteristics ascribed to it, the interaction of the roguing process with the existing norms and practices of diplomacy had mixed results. This chapter paid closest attention to two major norms, reciprocity and continual dialogue, as they emerge from the empirical analysis as the most interesting. The

principle of reciprocity acts to reinforce outlawry. In the Libyan case it encouraged further outlaw-like behaviour such as threats and violence against embassies and retaliatory military action that were reinterpreted through the outlaw frame. It also encouraged a practice on Libya's behalf of further withdrawal from international society in response to sanctions against it. As the roguing process developed as a multilateral practice, reciprocity had a disproportionate effect on Libya as a rogue state as there was less scope in the international system to offset its marginalisation from some states (or international organisations) with further engagement with other states or organisations.

Finally, continual dialogue is a strong diplomatic norm in international society that directly clashes with the roguing process as practiced by the US. The result of this is a continual interaction that translates into practices of state resistance to full adoption of the roguing process, submission to the logic of isolation/marginalisation, and short-term gambles for political wins from successful socialisation of outlaws through engagement. In general, Libya maintained some level of diplomatic dialogue with most states, with its experience among African and Arab states in the 1980s being the main exception. However, in 1986 with the EEC and G7 diplomatic sanctions against Libya and again from 1992 to 1999 with the UN sanctions, the US was able to significantly reduce (but not completely remove) the capacity for Libyan attempts for meaningful continual dialogue. What is more, the roguing process produced the need for states to justify attempts to engage with Libya, which shows the pervasiveness of the rogue frame for interpreting state behaviour.

4. Libya's De-roguing in International Society

4.1 Introduction

The purpose of this chapter is to trace Libya's de-roguing in international society. As discussed in chapter 3, the process of roguing Libya began well before the Lockerbie bombing. However, Libya's de-roguing in international society also began before the Lockerbie bombing and the implementation of UN sanctions against Libya. Although many aspects of the de-roguing were halted or undermined by the UN sanctions, this does not mean they are insignificant in terms of Libya's de-roguing. The de-roguing emerged quickly as a response to Libya's roguing by the West and in Africa in the 1980s. Even as states generally accepted the practice of roguing Libya in terms of abiding by UN sanctions, some opposition to the sanctions developed from the de-roguing practices that were occurring prior to the indictment of the Lockerbie suspects. This meant that even though the sanctions were in place, over time the position of the US/UK regarding maintenance of the sanctions became more and more difficult, especially as the costs to Libya became more visible. As such, this chapter examines the de-roguing of Libya before and after the UN sanctions, and focuses on the Libyan development of bilateral and multilateral modes of de-roguing.

The first part of the chapter traces the development of Libya's re-integration in the African region, including both North Africa and the sub-Saharan region. Libya's de-roguing was uneven and there were a number of false starts that were problematic for Libya, particularly in North Africa. It was affected by external shocks to international society – notably the end of the Cold War (in positive and negative ways) – but it was also aided by the institutional practices of inter-state relations in the region. It also required Libya to actively use a variety of political, financial and normative resources to re-engage with states in the region. Libya did this in two ways: by forming a network of bilateral relationships that were drawn upon for political support in a number of instances, but primarily in order to oppose the UN sanctions both in symbolic and material terms; and through re-engagement with and even the creation of various multilateral forums in African politics which provided greater opportunities for de-roguing both within and outside the African region. This chapter also discusses the role of individual African and Arab states and regional organisations in undermining UN sanctions on Libya, particularly in light of

the UN sanctions being the most formalised and universalised development of Libyan outlawry. It shows how the sanctions were undermined by material and symbolic opposition to the sanctions process through some states' significant bilateral relations with Libya, the operation of informal coalitions of opposition and formal opposition through bodies such as the OAU. Overall, Libya's de-roguing in the African region (and the consequences this had for international society) was far less dependent on the characteristics of outlawry – such as subversion, terrorism, and WMD – than it was in the US. Libya also gained some important symbolic support from Arab states that facilitated Libya's de-roguing, although Qadhafi declared this was too little and shifted Libya's focus away from the Arab region. The guiding principles of diplomacy, including continual dialogue and multilateralism, combined with Libya's relative economic and military power in the African region, were used by Libya and other states to undermine Libyan outlawry and push it towards reintegration with international society.

Libya's de-roguing in Europe developed more slowly than in the African region but more rapidly than in the US. This chapter discusses the de-roguing of Libya in Europe by looking at Libya's relationship with four key states – France, Germany, Italy and the UK – and the approach taken by the EU towards Libya. There were six key aspects of Libya's de-roguing in this region. First, Libya was successful in constructing the narrative and policy of itself as a gatekeeper between Africa and Europe in relation to European security concerns in the areas of immigration and terrorism. Second, Libya was able to turn its existing contacts with a number of "terrorist" groups into political and diplomatic wins – such as hostage releases – to highlight its renunciation of terrorism. Third, Libya managed the significant economic opportunities that its oil and gas reserves provided for European companies to gain bilateral and multilateral diplomatic engagement and concessions. Fourth, payment of compensation became the main issue for resolving outstanding cases of Libyan involvement. The Lockerbie compensation payment became an important reference point for other cases and even affected their resolution. Fifth, the development of Libya's informal and formal diplomatic relations in Europe facilitated Libya's de-roguing in other states – including the US. Finally, in contrast to the African region which took a confrontational position to the UN regarding Libyan outlawry, Libya's de-roguing in Europe was framed heavily in reference to the UN and its practices regarding Libya's appropriateness as a member of international society.

The final section of the chapter reviews the implications of Libya's de-roguing in terms of Libya's relationship with Russia and China and the UN beyond the issue of UN sanctions. The Libyan/Chinese relationship remained remarkably constant during Libya's roguing and de-roguing as China sat apart from the practices associated with the construction of Libya's rogue statehood, reflecting its material capability to do so and possible concerns over the institutionalisation of the roguing process. The Libyan/Russian case, on the other hand, shows how significantly Libya's need for Russian support diminished after the Cold War and that re-engagement was slow and made significantly on Libyan terms. The chapter ends with a discussion about how Libya's de-roguing extended to the point where it was able to take some significant leadership roles in international organisations. This shows that the more formal aspects of Libyan de-roguing were not simply replaced with the informal marginalisation of Libya in international society – although as usual the results were mixed, and some informal aspects of Libya's roguing remained. This is discussed through the examples of Libya's membership of the UNSC – once finally permitted by the US – and the tenure of Libyan Ali Abdussalam Treki as President of the UN General Assembly.

4.2 Libya, the Arab States and the African Region

4.2.1 Libya and Egypt

The bilateral relationship between Libya and Egypt was an important starting point for Libya's de-roguing in international society. As discussed in the previous chapter, the relationship between Egypt and Libya became strained following the further Arab/Israeli war (1973), with Qadhafi being marginalised from major military planning.[499] By 1977, Libya and Egypt had severed bilateral relations. At this stage Libya had already been involved in at least one plot against President Sadat and in 1977 there were border scuffles between the two states.[500] However, at the end of the 1980s, Qadhafi shifted towards Egypt while Mubarak came to the view that engagement with Libya and with Qadhafi personally was the way to moderate Libyan

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[499] Mary-Jane Deeb, *Libya's Foreign Policy*, pp 91-95.
[500] Oye Ogunbadejo, "Qaddafi and Africa's International Relations" *The Journal of Modern African Studies*, vol. 24, no. 1, 1986, p 35.

foreign policy and improve Egyptian security and economic opportunities.[501] Although the relationship with Egypt failed to lead directly to the lifting of UN sanctions, it was an integral part of Libya's de-roguing. Egypt was one of the most notable states supporting Libya throughout the de-roguing process and was also a notable contributor to the general increase in diplomatic engagement with Libya, especially given the closeness of the relationship it had with the US. Most importantly, Egypt kept several controversial issues off the US-Libyan agenda or minimised the impact they may have otherwise had. This helped narrow the boundaries of dispute between Libya and the US which aided in the de-roguing of Libya in the US and in international society more generally.

The turnaround in Libyan/Egyptian relations was quite rapid. As late as May 1989, for example, Libya held out an objection to Egypt participating in the Arab League summit in Casablanca.[502] However, it was at this meeting that Qadhafi and Mubarak agreed to take steps to improve relations between the two states. After their rapprochement at the summit Qadhafi and Mubarak met 13 times up to the end of 1991.[503] Qadhafi's first visit to Egypt during the Mubarak regime occurred in the latter half of 1989. In Egypt the reception was kept relatively low key so as to avoid adverse reactions in states such as the US and Western Europe[504] – this difficulty for Egypt remained constant throughout the de-roguing process. Over this short period the meetings came increasingly to be a part of Libyan/Egyptian relations. A more publicly defiant symbolic gesture to the West was made on 24 March 1990 when Egypt joined Syria and Sudan in Tobruk, Libya, to aid in celebrations of the 20th anniversary of the evacuation of UK troops there.[505] The high frequency of meetings between the two leaders was part of a process of developing a personal relationship that would form an important aspect of Libyan/Egyptian relations. Given the extensive political control that Qadhafi had in Libya, personal relations with foreign leaders had

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[501] George Joffé, "Libya", in Colin Legum (ed), *Africa Contemporary Record*, *Volume 23*, 1990-92, Africana Publishing Company, New York, 1998 p B 476.
[502] The meeting was a major form of re-engagement with the Arab world for Egypt following a decade of ostracism following the 1978 Camp David accords, Alan Cowell, "At Long Last, Egypt is Back in Arab Fold", *The New York Times*, 22 May 1989.
[503] Joffé, "Libya", p B 476.
[504] Christopher Walker, "Gadaffi seeks way to West through Egypt", *The Times*, 17 October 1989.
[505] Joffé, "Libya", p B475.

a significant impact on Libyan foreign policy, and this was particularly the case with Libya's relationship with Egypt.[506]

The newly formed diplomatic engagement between Libya and Egypt had some moderating effects on Libya's foreign policy in the early 1990s, which helped prevent additional problems arising for Libya with the US and Western European states. There are two important examples of this. The first, prior to the implementation of UN sanctions when the Lockerbie accusations were emerging and the US was formulating its response, was a collection of changes in Libyan policy regarding the Gulf War, and the second was in relation to Libya's chemical weapons programme in the mid-1990s. When the UK and US's evidence of Libyan involvement in the Lockerbie bombing was beginning to emerge, Iraq invaded Kuwait. Iraq's behaviour was responded to with military action by a UN-authorised coalition of states led by the US. One of the few initial supporters of Iraq in this situation was Libya, but Libya's position changed over the course of the conflict to the point that Qadhafi was considering the option of supplying troops to the Coalition forces. The involvement of Egypt in moderating Libya's position was significant and the topic reportedly formed a significant part of the series of diplomatic meetings between Mubarak and Qadhafi – Egypt itself was a leading contributor of coalition troops. Following the earlier aggravations by Libya, its later attempts to be more constructive regarding Iraq were generally ignored, reflecting a continuation of the informal aspect of the isolation of Libya from political participation. However, in the context of what followed, with Libya being accused of the Lockerbie bombing, the reduction in tension between Libya and the West on this issue contributed to a more measured (and non-military) response by the US and the Western European states.[507]

The 1992 implementation of UN sanctions slowed aspects of the Libyan/Egyptian relationship as Egypt decided to abide by the sanctions. However, Mubarak also took a leading role in trying to resolve the confrontation between Libya and the US/UK/France and therefore have sanctions lifted. Mubarak's motivation for resolving the Lockerbie dispute stemmed in part from a desire

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[506] For a discussion of the role of the personal relationship between Qadhafi and Egypt's leaders Nasser, Sadat and Mubarak see Ronen, "Personalities and Politics".
[507] Joffé, "Libya", p B471-B472, B476.

to prevent an escalation to military action against Libya that could severely harm the more general relationship between Arab states and Western states, particularly the US and the UK.[508] Mubarak continued his meetings with Qadhafi, which often devoted primary importance to the resolution of the sanctions issue. Mubarak also visited a number of relevant leaders, including French President Mitterrand, in the lead up to the imposition of sanctions to try to resolve the issue.[509] He also directed former Egyptian foreign minister and then UN Secretary General Boutros-Ghali to work on resolving the Lockerbie dispute.[510] Mubarak's progress was slow. However, even with Lockerbie proving difficult to resolve, the Egyptian engagement with Libya continued to aid its de-roguing process in other areas. Possibly the most important of these in the sanctions era was Libya's chemical weapons programme. In 1996, the US accused Libya of developing a chemical weapons plant in Tarhuna – outside Tripoli. As Libya was already subject to sanctions, the US was threatening to escalate its confrontation with Libya including public threats of potential military action.[511] While chemical weapons had always been a convenient aspect of roguing, real foreign policy conflict in the area of WMD tended to be driven by concerns about the nuclear threat.[512] In 1996 though, the chemical weapons programme was a real point of concern for Libya. In May 1996, Mubarak publicly announced that a group of Egyptian officials had visited and inspected the Tarhuna site and that there was no chemical weapons programme there.[513] Mubarak was successful in removing the chemical weapons issue from the US-Libyan agenda at this point, and therefore de-escalating further tensions.[514] At the time, a US State Department spokesperson speculated that Egypt's actions would potentially

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[508] *Africa Research Bulletin,* Volume 29, number 2, February 1st-29th, 1992, p 10477A.

[509] Mubarak visited France on February 26 for discussions with President Mitterand regarding the finding of a neutral venue for trial of the Lockerbie suspects. Mitterand told Mubarak that France would operate within the UN framework. Mubarak was apparently worried that a stalemate on Lockerbie would lead to US strikes against Libya and that this would then cause a rift between the Arab world and the West, *Africa Research Bulletin*, Volume 29, number 2, p 10477A.

[510] This is discussed later in the chapter as an important aspect of developing relations between Libya and the UK over non-Lockerbie issues.

[511] Philip Shenon, "Perry, in Egypt, Warns Libya to Halt Chemical Weapons Plant", *The New York Times*, 4 April 1996.

[512] In the Libyan case this is evident in the difficulty Libya had in giving up chemical weapons for lenience elsewhere, at the end of the 1990s and with the dominance of the nuclear issue in its WMD announcement in 2003 (discussed in chapters 2 and 5).

[513] John Lancaster, "Egypt Denies Libyan Chemical Arms Site; Mubarak Says His Experts Found Nothing in Gadhafi's Tunnels", *The Washington Post*, 30 May 1996.

[514] Ronen, *Qaddafi's Libya*, p 130.

prevent Qadhafi's future development of the Tarhuna plant by "shining a very large international spotlight" on Libya's weapons programme and intentions.[515]

4.2.2 Libya and Chad

More than terrorism, African subversion had been Libya's most problematic characterisation in the African region, which was most acutely represented by its intervention in Chad. Libya's resolution with Chad, therefore, was a strong basis for Libya's de-roguing in the African region and international society more generally. Libya's de-roguing benefited in this case from a series of foreign policy failures and chance occurrences. Libya suffered strong military setbacks in 1987 which seriously undermined its future military options in Chad. However, in 1989, the internal instability of Chad resulted in a coup which placed Idriss Déby in power. Libya had previously supported Déby, and Déby was much more open to engagement with Libya than his predecessor Habré.[516] The US was rather suspicious of Libyan involvement in the coup and orchestrated the evacuation of a large number of Libyan dissidents in Chad.[517] Despite the US's accusations, the majority of African states almost immediately recognised the Déby government, in line with the normative acceptance in the region of the legitimacy of the government being determined by effective political control.[518] Unlike past cases where Libya was ostracised because of its opposition to this norm, in the Chad case, it was now benefiting significantly.

In 1990 Libya accepted an agreement to refer the adjudication of the ownership of the Aouzou strip to the International Court of Justice (ICJ). This move was somewhat surprising given Libya's chances of a positive verdict were highly unlikely but it was potentially used as a delaying tactic on Libya's behalf.[519] However, given the context of the Lockerbie dispute that emerged in the 1990s and Libya's own attempts to have the Lockerbie issue dealt with through

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[515] Nicholas Burns, "State Department Regular Briefing" *Federal News Service*, 30 May 1996.
[516] For example Déby visited Libya for his first official visit on 18 February (he came to power in November 1990) and described relations between Libya and Chad as "special." *Africa Research Bulletin,* Volume 28 Number 2, February 1st-28th 1991, p 10002C.
[517] *Africa Research Bulletin,* Volume 27 Number 12, December 1st-31st, 1990, p 9947C-9948A.
[518] The OAU had placed strong emphasis on this as a practice for recognising the governments of member states, see Christopher Clapham, *Africa and the International System: The Politics of State Survival*, Cambridge University Press, Cambridge, 1996, p 112.
[519] Huliaras, "Qadhafi's Comeback", p 10.

the ICJ, Libya's interactions with the ICJ became increasingly important.[520] In 1994, the ICJ ruled in favour of Chad, directing that the Aouzou strip was part of Chadian territory. Only a few months after the ruling, Libya had vacated from the Aouzou strip without any major incident. The withdrawal of Libyan troops and administration personnel and facilities was supervised by a joint team of 25 Libyan and 25 Chadian officers. The month long verification of the dismantling of Libya's occupation of the strip during May-June 1994 was overseen by the UN Aouzou Strip Observer Group, comprising nine military observers from Ghana, Kenya and Nigeria.[521] The situation in the Aouzou strip was so neatly resolved following the ICJ's decision that it helped Libya undertake a major engagement with African states and regional organisations which became a great success of Libya's de-roguing in international society. Although by 1994 the resolution of the Chad issue can be seen as the beginning of a fundamental shift in Libyan foreign policy, the route to get there was a messy combination of military and political failures by Libya followed by the fortunate (for Libya) coup in Chad resulting in the installation of a Libyan-friendly government. This represents the somewhat accidental aspect of Libya's de-roguing in international society but also shows the difficulty of maintaining the construction of Libyan outlawry in the context of changes and chance occurrences in the international system.

4.3 Libya and Other Bilateral Relationships in Africa and the Arab World

Libya's development of a web of bilateral relationships in sub-Saharan Africa is one of the key features of Libya's de-roguing in the African region, and international society more generally. Libya's foreign policy shift to engage with sub-Saharan Africa developed later in the 1990s following the Qadhafi regime's disappointments in efforts of Arab unity and material support from Arab states against UN sanctions.[522] As such the de-roguing of Libya in the African region was the result of a practice of Libyan foreign policy that challenged the construction of Libyan outlawry and employed a number of political resources that took advantage of the consequences of systemic change in international society following the end of the Cold War. The result of

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[520] Qadhafi himself pointed to Libya's history with and respect of the ICJ in a speech which stressed the need to deal with the Lockerbie issue there, "Qadhafi's Address to Libyan General People's Congress" *BBC Summary of World Broadcasts*, Part The Middle East, Africa and Latin America; The Middle East, ME/1320/A/1 (Excerpts from relay of Col Qadhafi's address to General People's Congress, Libyan TV, Tripoli, GMT 2 Mar 92) 4 March 1992.
[521] Douglas G. Anglin, "Peace Operations In Africa: The Learning Years" in Colin Legum (ed), *Africa Contemporary Record, Volume 24*, 1992-94, Africana Publishing Company, New York, 2000, p A41.
[522] For discussions of Libya's disappointments with Arab states see Ronen, *Qaddafi's Libya*, pp 123-142.

Libyan engagements was the significant use of its financial resources to secure the restoration of diplomatic relations, complete various forms of agreements on trade and security issues, and garner declarations of support for Libya against UN sanctions, and in multilateral organisations such as the OAU and the UN. Libya's bilateral relations had the effect of providing Libya with strong levels of symbolic support through signed treaties and communiqués which were framed to show the closeness and strength of Libya's diplomatic relationships. It was often the case that such treaties remained unimplemented or faced significant obstacles that made them ineffectual.[523] Despite the failures, they were still of political value and were a public expression of an increasing disconnect between the construction of Libyan outlawry as articulated by the US and others, and the increasing participation of Libya in international society. Over time in the African region this symbolic support for Libya combined with the economic opportunities that were available to states developed into more concrete political integration for Libya in the African regime.

An additional factor was that there were a number of domestic power shifts in African states which meant that Libya could reap the benefits of support for groups which in the past had been framed as subversive. This included the rise of Charles Taylor to power in Liberia which had benefits for Libya among other West African states, and domestic shifts in Sierra Leone – where Libya had aided rebel groups – which also had positive effects for Libyan relations with other involved states, such as Nigeria.[524] In particular, South Africa rewarded Libya's long time support, and Mandela's international legitimacy that extended beyond the ANC's newfound statehood was a boon for Libya. Mandela held significant sway in the UK and exerted some influence on the US Administration over the Lockerbie issue.[525] Initially many of the overtures by Mandela to Qadhafi were highly criticised by the US.[526] However, more broadly this support was an important part of the process that provided a general improvement in Libya's international image. Mandela visited Libya in October 1997 and presented Qadhafi with the

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[523] For example – the various unity projects with Sudan, Egypt, and Chad and Libya's mediation in peace processes.
[524] Huliaras, "Qadhafi's Comeback", p 15.
[525] Mandela was useful for political coverage from the left in the UK, Boyd-Judson, "Strategic Moral Diplomacy", p 84.
[526] "U.S. Upset at Mandela's Plan to Visit Libya", *The New York Times*, 17 October 1997.

Medal of Good Hope.[527] Mandela pursued the Lockerbie issue on a number of other occasions, including raising the issue at the Commonwealth Summit meetings in Scotland in 1997 after he had visited Tripoli.[528] He was also heavily involved in a series of negotiations conducted by his Chief of Staff Jakes Gerwell and Saudi Prince Bandar which opened up avenues for developing the US/UK proposition for the trial of the Lockerbie suspects in the Hague and Libya's release of the suspects to the UN for the trial.[529]

Libya also moved in on opportunities created by the decision by Western states to provide financial aid selectively on the basis of regime types. The Gambia, for example, had not had diplomatic relations with Libya since 1980, following accusations of Libyan subversion in the Gambia.[530] However, in 1994, the Gambia – which was relatively democratic – was subject to a coup and the regime suffered from massive reductions in financial aid from the US and Europe who had funded the previous Gambian government. Libya took advantage of this funding problem, provided GBP 10 million to the Gambia, and secured the restoration of diplomatic relations in November. [531] The Gambia would later support Libya at the OAU and in the UN regarding UN sanctions. Another example is that Libya was one of the first states (along with South Africa, Iran and Rwanda) to recognise the new regime in the newly formed Democratic Republic of the Congo (DRC), in May 1997.[532] Although Libya had earlier in the year expressed support for the then President of Zaire, Mobutu Sese Seko, and offered aid to his government,[533] within only a few days of the coup which installed Laurent Kabila as the head of the DRC, Libya

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[527] This presentation was an important part of the strategy used by Mandela to boost Qadhafi's legitimacy as an international actor. See Boyd-Judson, "Strategic Moral Diplomacy", pp 73-97.
[528] Alison Pargeter and William Boyd, "Libya: Coping with Sanctions: Qadhafi Switches from Pan-Arabism to Pan-Africanism", Colin Legum (ed) (2002), *Africa Contemporary Record, Volume 26*, 1996-98, Africana Publishing Company, New York, p B549.
[529] For a discussion of this see Boyd-Judson, "Strategic Moral Diplomacy", pp 73-97.
[530] Omar A. Touray, *The Gambia and the World: A History of the Foreign Policy of Africa's Smallest State, 1965-1995,* Institut für Afrika-Kunde, Hamburg, 2000, pp 67-68.
[531] John A. Wiseman, "Military rule in the Gambia: an interim assessment", *Third World Quarterly*, vol 17, no 5, 1996, p 932.
[532] "Hungary to await EU stand before deciding on recognition of new Zairean leader", *BBC Summary of World Broadcasts,* Part 2 Central Europe, the Balkins, Central Europe, Hungary, Foreign Affairs, EE.D2924/C (Source, Hungarina Radio, Budapest, in Hungarian 1000 GMT 19 May 97), 21 May 1997.
[533] Chris McGreal, "Libya Promises to Help Zaire's New Offensive" *The Guardian*, 22 January 1997; "Mobutu calls for struggle against western domination in letter to Qadhafi", *BBC Summary of World Broadcasts*, Part 4, The Middle East, Mauritania, ME/D2848/MED, Source Great SPLAJ Radio, Tripoli (in Arabic 1330 GMT 18 Feb 97), 20 February 1997.

declared that it would continue diplomatic relations, on the basis that "permanent relations exist between the peoples and not between governments" of the DRC and Libya.[534] Libya's support for Kabila was returned in October 1997 when at a speech at the Libyan embassy in Kinshasa, Kabila described Qadhafi, according to Libyan radio, as an "African leader and hero."[535]

The case of Libya and Tunisia over the sanctions period shows an unusual side-effect whereby the UN sanctions actually increased inter-state relations. This was due to Tunisia's geographical proximity to Libya and the opportunity it took to act as the land bridge for Libya during the sanctions against Libyan aviation. Tunisia readily offered an airport near the southern border with Libya to be the primary transit point for Libya's aviation needs.[536] Economic opportunities also pushed the two states towards diplomatic engagement. For example, as early as July 1993, representatives of 250 Libyan and Tunisian companies met in Tripoli to discuss improving economic cooperation.[537] In 1994, Tunisian workers living in Libya were exempt from Libya's extensive expulsion of similar workers from other African and Arab states.[538] In 1996, Libyan/Tunisian relations improved further with new projects in oil and manufacturing.[539] Qadhafi also visited Tunisia in October 1996. However, Tunisia insisted on maintaining the UN sanctions at least in part because it got substantial aid from the US and France.[540] Libya was frustrated with this and it was certainly a cause of political tension between the two states although, throughout the sanctions period, Tunisia also called on the UN sanctions to be lifted.[541] In this case integration with a neighbour was driven by the sanctions supposed to rogue and isolate Libya.

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[534] "Libya recognizes Kabila takeover", *BBC Summary of Word Broadcasts*, Part 5 Africa, Latin America and the Caribbean, Africa, Central, Diplomatic Recognition and Other Foreign Reaction, AL/D2923/A, (Source: Jana news agency, Tripoli, in Arabic 1850 GMT, 18 May 97), 20 May 1997.

[535] "Kabila considers Qadhafi a 'hero', Libyan radio reports", Part 5 Africa, Latin America and the Caribbean, East and Horn of Africa, Burundi, AL/D3054/A (Source: Great SPLAJ Radio, Tripoli, An Arabic 1600 GMT 18 Oct 97), 20 October 1997.

[536] George Joffé, interview on CNN, "The Price of Terror", *CNN*, 18 April 1992.

[537] George Joffé and Sylvie Tissot "Libya: International Isolation", in Legum (ed), *Africa Contemporary Record Volume 24*, p B484.

[538] Both legal and illegal Tunisian workers were unaffected, and this also stood in contrast to an expulsion of Tunisian workers in the 1980s when Libya was less concerned with Tunisian relations, Ronen, *Qaddafi's Libya*, p 128.

[539] Pargeter and Boyd, "Libya: Coping with Sanctions", p B548.

[540] Joffé and Tissot, "Libya: International Isolation", p B484.

[541] *Africa Research Bulletin*, Volume 29, number 10, October 1st-31st, 1992, p 10768B**.**

In terms of the UN sanctions, perhaps the most significant aid in Libya's de-roguing by Arab states (other than those in North Africa, particularly Egypt) came from Saudi Arabia, although this was not in the form of direct support for Libya. Instead, Saudi Arabia, particularly through the mediation efforts of Prince Bandar, the Saudi ambassador to the US, provided the US with some assurance and political coverage for their side of mediation with Libya at the initiative of South Africa.[542] It was also convenient for Libya that the Hadj pilgrimage was held each year in Saudi Arabia and provided opportunities for Libya to increasingly use this event to highlight the problems with the sanctions process. Libya used the need for flights each year as part of the overall strategy that ultimately led to the unravelling of sanctions. In late March or early April in 1995, 1996, 1997 and 1998 Libyan aircraft made unauthorised flights to Jeddah as part of the Hadj pilgrimage. Each year the UNSC condemned the flights as violations of UN sanctions and outside the processes in place for the Hadj.[543] Although Saudi Arabia generally escaped specific condemnation from the UNSC, the UNSC did remind member states of their obligations in cases of such violations.[544] Saudi Arabia's acquiescence to the flights was an important factor in this proactive violation of UN sanctions by Libya.

While the lifting of sanctions was a major part of Libya's engagement with Africa it was not the end of it. In the month following the suspension of UN sanctions in early April 1999, Qadhafi received visits from at least nine presidents and numerous additional government contacts from African states.[545] Indeed, this flurry of high level diplomatic engagements for Libya at this time reflects a marked difference between the roguing of Libya in the African region and that of other regions. The UN sanctions, while suspended in 1999, were not lifted formally until 2003. In

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[542] This is discussed further in Chapter 5.

[543] UN Document S/1996/2, 2 January 1996; UN document S/1996/1079, "Letter dated 31 December 1996 from the Chairman of the Security Council Committee Established Pursuant to Resolution 748 (1992) concerning the Libyan Arab Jamahiriya addressed to the President of the Security Council", 31 December 1996; UN document S/1997/1030, "Letter dated 31 December 1997 from the Chairman of the Security Council Committee Established Pursuant to Resolution 748 (1992) concerning the Libyan Arab Jamahiriya addressed to the President of the Security Council", 31 December 1997; UN Document S/1998/1237, "Letter dated 31 December 1998 from the Chairman of the Security Council Committee Established Pursuant to Resolution 748 (1992) concerning the Libyan Arab Jamahiriya addressed to the President of the Security Council", 31 December 1998.

[544] For example: UN Document S/PRST/1996/18, "Statement by the President of the Security Council", 18 April 1996; UN Document S/PRST/1997/18, "Statement by the President of the Security Council", 4 April 1997.

[545] "Qaddafi says farewell, Arabia, and sets his sights on Africa", *The Economist*, 24 April 1999.

practice, the suspension of sanctions removed the restrictions that had been in place on Libya under the UN resolutions 748 and 883, and reinstating the sanctions would require a new UNSC resolution to be re-imposed. However, the US maintained there was important symbolic value in not having them formally lifted until other aspects of Libyan behaviour were satisfied.[546] The implications of this symbolic action varied across regions. Not surprisingly, many states that had been opposed to the sanctions, but nevertheless complied with them, acted upon the suspension as if it were the end point for Libya's isolation in international society. On the other hand, as I will show later in the chapter, many other states, particularly in Europe (and the US), used the nominal application of the UN sanctions to Libya to justify continuing practices that marginalised and isolated Libya from bilateral and multilateral relationships.

The engagement of Libya with sub-Saharan Africa was, in part, a result of opportunities created after the end of the Cold War. In the 1990s, many African states were denied the financial and military assistance they had previously benefited from in return for supporting either of the two superpowers. Because of this neglect, Libya was able to use its relative wealth to gain political support from a number of governments.[547] The implications of this were that at the same time as Libya's outlawry in relation to international society in general was increasing and at its peak, the changing regional status of Libyan power due to the departure of an external superpower rivalry – a process which was separate to the roguing process – actually meant that Libya's regional outlawry declined. Therefore, while the end of the Cold War meant that the US could unilaterally impose outlawry without superpower opposition, it also created important opportunities for Libya to de-rogue.

4.4 Libya's multilateral reintegration in the African and Arab regions

In addition to building up a significant network of bilateral relations, Libya's de-roguing was aided by renewed engagement in – and in one case the construction of – multilateral organisations. At the regional level, Libya increased its participation with the OAU, first as an avenue for undermining UN sanctions and then for the broader aim of further integration with

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[546] Albright, *Madam Secretary*, p 330.
[547] Huliaras, "Qadhafi's Comeback", pp 14-16.

the African region. At the sub-regional level, Libya used the pre-existing institutional resources of the AMU to aid its efforts to have UN (and other) sanctions lifted, although the AMU had limited effect. In addition, Libya was pivotal in creating a new sub-regional body, COMESSA, in the late 1990s to aid its de-roguing process and improve its position as a regional actor. Attempting to form and lead regional organisations was not a new feature of Libyan foreign policy. However, the success with which Qadhafi developed and maintained COMESSA as an organisation was a significant turning point in Libya's relationship with international society. The Arab League, on the other hand, provided symbolic support for Libya throughout the UN sanctions period but its reluctance to pursue a harder line resulted in a fundamental shift in Libyan foreign policy away from the Arab region. The following sections deal with the OAU/AU, COMESSA, the AMU and the Arab League in turn to trace the multilateral development of Libya's de-roguing in Africa and the implications this had for Libya's de-roguing more generally.

4.4.1 Libya, the Organization of African Unity and the African Union

The relationship between the OAU and Libya had been particularly problematic as Libya consistently confronted the OAU's norms and practices, and in the 1980s, Libya was ostracised within the organisation.[548] However, through the 1990s the OAU became the most important institutional actor in Libya's de-roguing as Libya moved beyond reintegration, through to leadership of the region's most significant international organisation, culminating in Libya's ability to marshal the OAU to confront the UN and undermine the sanctions regime placed on Libya. In part, Libya's re-engagement with the OAU stemmed from the improving network of bilateral ties it developed among a number of African states, as discussed above. It also resulted from a practice of directly engaging with the OAU as an organisation and gaining the support of member states in this context. It is this latter practice that I focus on here.

The OAU played an important role in the relationship between Libya and the UNSC from the beginning of the sanctions regime. The OAU was initially lukewarm in its support for Libya regarding the UN sanctions and in April 1992 Nigeria used its position as chair to block a

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[548] See Chapter 3.

Libyan-proposed resolution from the agenda at the OAU for information ministers.[549] Libya had more success the following year and for the first time successfully lobbied to have the sanctions issue as an agenda item at the OAU Summit in June. One report claimed that Qadhafi was threatening to make his attendance conditional on this basis.[550] In addition, the foreign ministers of Ghana, Namibia, and Zimbabwe took up lobbying on Libya's behalf and claimed that the UN sanctions were denying Libya access to natural justice. A number of Western states took an opposing view, and showing concern that the OAU would make the resolution, prior to the heads of states summit France sent Mitterand's African Affairs Advisor Bruno-Lionel Delaye to convince member states not to pass it.[551] The result was favourable for Libya, however, and, at the end of the summit, the OAU called upon the UN to lift the sanctions, in light of positive steps taken by Libya to resolve the dispute.[552]

Still, the level of confrontation between the OAU and the UN over the issue remained limited. This changed over the course of the 1990s as the OAU gradually moved away from working with the UNSC and within the sanctions process to take a more confrontational approach to the UNSC and the implementation of sanctions. At first, this approach was symbolic. In 1994 Libya made a proposal that the Lockerbie suspects be tried by a Scottish court held at the ICJ. This gained some support and the OAU passed a resolution asking the UNSC to reconsider the sanctions because of Libya's proposal.[553] Libya gained further support from the OAU in 1995, and successfully had the Lockerbie issue debated at the Council of Ministers meeting in Addis Ababa. The result was the OAU asserting through a resolution on the Lockerbie affair that it "deplores the maintenance of sanctions against Libya despite the efforts and initiatives of the various regional and international organizations aimed at finding a peaceful and just solution to the crisis in accordance with the international law."[554] The overall framing of the resolution was

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[549] "Nigeria rejects pro-Libyan resolution at OAU forum", *Agence France Presse – English*, 26 April 1992.
[550] Bahaa Elkoussy, "African ministers change stand on Libya's row with West", *United Press International*, 25 June 1993.
[551] *Africa Research Bulletin*, Volume 30, number 7, July 1st-31st, 1993, p 11066C.
[552] Elkoussy, "African ministers"; Bahaa Elkoussy "African summit urges lifting U.N. sanctions on Libya", *United Press International*, 30 June 1993.
[553] Alison Pargeter "Libya: Security Tightens as Isolation Increases" in Colin Legum (ed) (2001), *Africa Contemporary Record, Volume 25*, 1994-96, Africana Publishing Company, New York, 2001, p B495.
[554] The Council of Ministers of the Organization of African Unity, "Resolution On The Crisis Between The Great Libyan Arab Jamahiriya And The United States Of America, The United Kingdom And France" Resolution 1587,

damning of the US/UK position and highlighted the efforts made by Libya to demonstrate its distance from terrorism and the legitimacy of the Libyan position in the dispute. It portrayed any further threats of sanctions or any escalation of the dispute in terms of a potential threat to peace and security of the region.[555] This implied that the sanctions, and its sponsors, were out of step with the norms that were used to justify the UN sanctions against Libya in the first place.

Libya's financial support of various African states had further benefits for Libya's use of the OAU to undermine UN sanctions in 1997. At this point Zimbabwean President, Robert Mugabe, had taken on the role as chair of the OAU. Mugabe used his position as the prime spokesperson of the OAU to condemn the sanction's humanitarian impact and called for them to be lifted.[556] Zimbabwe's reinvigorated support for Libya regarding the sanctions was soon rewarded and the following year (1998) Libya made provisions for unlimited credit to Zimbabwe's national oil company – at which point Zimbabwe condemned the US/UK proposal for the Lockerbie trial in the Netherlands.[557] The 1997 summit in Zimbabwe passed a resolution claiming that Libya had fulfilled its obligations under UN resolutions.[558] Earlier that year the Council of Ministers of the OAU had met in Tripoli. As a result, the OAU set up a Committee of Ministers to lobby on Libya's behalf re Lockerbie and UTA, this committee included Libya itself, as well as Chad, Burkina Faso, Mali and Niger and the presidents of these states meet in Tripoli from 15 to 17 August 1997 to discuss the dispute.[559] This meeting also included provisional discussions for the creation of the regional organisation COMESSA,[560] representing an additional aspect of Libya's use of political and financial resources to gain support in the OAU.

meeting in its Sixty-Second Ordinary Session in Addis Ababa, Ethiopia, from 21 to 23 June, 1995. http://www.africa-union.org/official_documents/council%20of%20minsters%20meetings/com/44CoM_1995b.pdf

[555] The Council of Ministers of the Organization of African Unity, "Resolution On The Crisis Between The Great Libyan Arab Jamahiriya And The United States Of America, The United Kingdom And France" Resolution 1587, meeting in its Sixty-Second Ordinary Session in Addis Ababa, Ethiopia, from 21 to 23 June, 1995. http://www.africa-union.org/official_documents/council%20of%20minsters%20meetings/com/44CoM_1995b.pdf

[556] "OAU leader asks US, Britain to resolve dispute with Libya", *Agence France Presse – English*, 25 September 1997; and Barbara Crossette "Libya is Reported to Lobby to Settle Pan Am Explosion Case", *The New York Times,* 19 October 1997.

[557] Pargeter and Boyd, "Libya: Coping with Sanctions", p B549. The deal was initially proposed as early as May 1998 and announced that December, see *Africa Research Bulletin*, Volume 35, Number 12, December 16th 1998 – January 15th 1999, published February 8th 1999, p 13722B.

[558] Matar and Thabit, *Lockerbie and Libya*, pp 95-96.

[559] Ronen, *Qaddafi's Libya*, p 184; Pargeter and Boyd, "Libya: Coping with Sanctions", p B549.

[560] Huliaras, "Qadhafi's Comeback", p 16.

Most significantly, in June 1998, the OAU passed a resolution directing member states not to abide by sanctions as of September that year. The only qualification given was that the direction was made in the case that the UN sanction sponsors did not accept a trial of the Lockerbie suspects in a neutral state, in line with the position Libya was advocating at the time.[561] The practice of African states following this resolution became more forceful according to some commentators because of a response to the resolution by the US referring to the resolution as "irresponsible."[562] The OAU was the only major international organisation to make such a direction to its members. It was an open challenge to the decision-making legitimacy of the UNSC and went beyond the general practice of states and organisations who, while criticizing the sanctions, nevertheless committed to abiding by them. The practice of opposition by such a large regional body, instead of simply an expression of opposition, had a major impact on the UNSC and the position of the UK and US as the major advocates of the UN sanctions.[563] As discussed in Chapter 5, the increasing level of isolation that the US was suffering from in the UNSC contributed to the US's change of position on Libya.

A large part of Libya's success was in its framing of the humanitarian effects of the UN sanctions. This developed in the context of the dire humanitarian consequences that resulted from comprehensive sanctions placed on Iraq by the UN following its invasion of Kuwait.[564] The sanctions placed on Libya were not as comprehensive as those on Iraq, and were actually part of the UNSC shift towards more targeted sanctions, which were aimed at disrupting the regime through sanctions on diplomacy, air travel and arms, while providing humanitarian exemptions in certain cases.[565] Other framing strategies were used and Ian Hurd, for example, makes a compelling case for the strategic use of the argument of international liberalism employed by

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[561] UN Document S/1998/549, "Letter dated 10 June 1998 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council", 22 June 1998.
[562] Matar and Thabit, *Lockerbie and Libya*, pp 102-104.
[563] The importance of the OAU confrontation with the UN in the form of this resolution is argued by Ronen, "Libya's Diplomatic Success in Africa", pp 60-74; Matar and Thabit, *Lockerbie and Libya*, pp 93-104, and to a lesser extent Hurd, "The Strategic Use of Liberal Internationalism", pp 516.
[564] David Cortright and George A. Lopez "Reforming Sanctions" in David M. Malone (ed) *The UN Security Council: From the Cold War to the 21st Century*, Lynne Rienner Publishers Inc, Boulder, 2004, pp 167-172. Avoiding humanitarian problems with sanctions became an important aspect of UNSC sanctions post Iraq (Cortright, Lopez and Gerber-Stellingwerf, "The Sanctions Era", pp 211 – 213.
[565] Cortright and Lopez, "Reforming Sanctions", pp 167-172.

Libya in this case.[566] However, the choice of Libya and other key states to implement the humanitarian frame and furthermore develop it in conjunction with a practice of sanction breaches improved the legitimacy of the Libyan position and made the sanctions regime harder to maintain. Although the motivations for the support by a number of African states and the OAU stemmed from material political concerns such as aid and military assistance, the public framing of the humanitarian impact of sanctions on the Libyan people – as opposed to the restrictions on the Qadhafi regime – provided important political opportunities to undermine the sanctions process. In particular, the humanitarian clause in the sanctions – which paid particular attention to the religious pilgrimage of the Hadj and for flights providing medical assistance – was used extensively as the cover for a number of flights that were part of an overall strategy of ignoring the sanctions. For example, Libya used this clause within UN sanctions increasingly to develop the practice as MEDIVAC flights increased steadily from 21 in 1994 to 91 in 1998.[567] In 1998, African leaders flew to meet with Qadhafi when he was recovering from an injury (apparently inflicted as part of an assassination attempt against him).[568]

The success of the humanitarian framing and practice by Libya was evident by 1997 when Qadhafi requested that a UN envoy go to Libya to assess the impact of UN sanctions on its economy and population and to confirm that Libya no longer supported terrorism. The US blocked these requests but in December 1997 a group of officials from the UN visited Libya for six days to evaluate the humanitarian impact of the sanctions.[569] Their report to the UN highlights Libya's claim that the impact of the sanctions on aviation was felt most in the health sector.[570] The success of the humanitarian framing can also be seen in how it was adopted by states that had previously taken a harder line against Libya. Japan, for example, stated that it would "consider favourably" requests made by Libya for humanitarian exemptions under UN

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[566] Hurd, "The Strategic Use of Liberal Internationalism". Hurd makes reference to the humanitarian aspect of the Libyan response but his focus is Libya's contention of the norms of due process, presumption of innocence and respect for international organizations.
[567] UN document S/1996/2, 2 January 1996; UN document S/1996/1079, 31 December 1996; UN document S/1997/1030, 31 December 1997; UN Document S/1998/1237, 31 December 1998.
[568] "Kadhafi wins right to fly to Mecca after challenge to UN ban", *Agence France Presse – English*, 19 April 1995; "Qaddafi entertains at home, in bed", *The Economist*, 11 July 1998.
[569] Pargeter and Boyd, "Libya: Coping with Sanctions", p B542.
[570] UN document, S/1998/201, "Letter dated 15 January 1998 from the Secretary-General addressed to the President of the Security Council", 6 March 1998, p 3.

resolution 748.[571] Even France was claiming its generosity in the granting of humanitarian exemptions for the UN sanctions, despite its general rejection of the significance of the ICJ 1998 ruling that it had some level of jurisdiction in the Libyan case.[572] The US and UK were drawn into defending the humanitarian nature of the sanctions, even while they were rejecting Libyan claims of their humanitarian impact.[573]

While perhaps the most important single issue for Libya at the OAU in the 1990s, the removal of UN sanctions was only part of a general approach by Libya to integration with the African region and the OAU. In undertaking this strategy, Libya's diplomatic practice shows the demonstration of a level of reform from its past behaviour. A significant feature of Libya's engagement with the OAU was the framing of Libya's deployment of economic, military and political resources for the purposes of regional integration. Libya also took on a leading role in the transformation of the OAU into the AU. This was complemented by Libyan advocacy of itself as a mediator in a number of African conflicts through other multilateral forums such as COMESSA (discussed below).

Following the suspension of the UN sanctions Libya maintained its engagement in the African region. Similar to the failure of the suspended sanctions to have a continuing impact on Libya's bilateral relations with African states, they also had no remaining effect on Libya's position in the OAU and indeed Libya took on a leading role in the transformation of the OAU to the AU. Given Libya's problems with the OAU in the past this continued role in the OAU/AU is a significant aspect of Libya's de-roguing. In terms of this push towards the goal of African integration, the first major success for Qadhafi in the OAU came with his ability to secure an extraordinary summit of the OAU in Sirte in Libya from 6 to 9 September 1999. Libya's use of its financial resources continued at the OAU and Qadhafi framed Libya as a responsible supporter and builder of the organisation including measures such as his presentation of a $4.5 million cheque to the September 1999 OAU summit in Sirte for the arrears payments of Comoros, Guinea-Bissau, Equatorial Guinea, Liberia, Niger, Sao Tome and Principe and

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[571] UN Document S/PV.3864, 20 March 1998, p 23.
[572] UN Document S/PV.3864, 20 March 1998, pp 28-30.
[573] UN Document S/PV.3864, 20 March 1998, p 13 (the US), p 31 (the UK).

Seychelles.[574] The Libyan news network was renamed from the Voice of the Arabs to the Voice of Africa. Qadhafi's plan was for a radical integration of the African region into a federation not dissimilar to the US, and the framing of the project was in terms of a United States of Africa. The move from the OAU to the AU was the first part of this and it was adopted in 2000. However, the remainder of the project – including Libya's proposal for the AU to be headquartered in Libya – was rejected and Qadhafi was somewhat sidelined from leadership in the first few years of the AU as South Africa took a more prominent role.[575] At the 2007 meeting about the issue at the AU Qadhafi stormed out following the debate.[576] Despite these setbacks, instead of shifting away from African engagement, Libya took on the role of Chairman of the AU for the 2009 term representing both the socialisation of Libya to deal with its African policy within the institutional practice of the AU and a continued acceptance by AU member states of Libya's legitimate position in the organisation and as a member of the region.

4.4.2 Libya and the Community of Sahel-Saharan States (COMESSA)[577]

Qadhafi's creation of COMESSA was another significant feature of both Libya's reintegration with the African region and Libyan relations beyond the region. COMESSA first met in Tripoli in February in 1998 at the request of Qadhafi. It included Burkina Faso, Chad, Libya, Mali, Niger and Sudan.[578] Its headquarters are in Tripoli and it now has 28 member states.[579] The stated objective of the organisation is the creation of a common economic community, but it has taken on other cultural and political roles. Qadhafi claimed that COMESSA was an integral feature of African unity.[580] He also claimed that he worked to form COMESSA because "Europe prefers to deal with regional groupings."[581] This represents a significant aspect of the

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[574] Huliaras, "Qadhafi's Comeback", pp 16-18.
[575] George Joffé, "Libya's Saharan Destiny" *The Journal of North African Studies,* vol. 10, no. 3-4, September-December 2005, pp 614-615; For a discussion of the varying roles of Libya, Nigeria and South Africa in the transformation of the OAU to the AU see Olayiwola Abegunrin, *Africa in Global Politics in the Twenty-First Century: A Pan-African Perspective,* Palgrave MacMillan, New York, 2009, pp 161-170.
[576] John P. Entelis "Libya and Its North African Policy" in Vandewalle (ed), *Libya Since 1969*, p 185.
[577] The abbreviation CEN-SAD is also used.
[578] Ronen, *Qaddafi's Libya*, p 185.
[579] http://www.cen-sad.org/new/index.php?option=com_content&task=view&id=173&Itemid=181 (last accessed 13 January 2011).
[580] "Libyan leader Qadhafi says Comessa is cornerstone for African unity", *BBC Summary of World Broadcasts*, Part 5 Africa, Latina America, and the Caribbean; AFRICA; CHAD; AL/D3756/A (Source Jana news agency, Tripoli, 3 Feb 00) 5 February 2000.
[581] Qadhafi quoted in Huliaras, "Qadhafi's Comeback", p 25.

de-roguing process whereby Libya used its position in its region to create an additional multilateral forum for engagement beyond the region. However, the construction and use of COMESSA is a prime example of Libya using multilateral forums to pursue the political purpose of contesting practices that the US and other states used to maintain Libyan outlawry. In this respect Libya drew on COMESSA to advocate Libya's role as a mediator of African conflicts, with the corresponding effect of undermining any remaining legitimacy of the UN sanctions.

In February 1998 Eritrea and Libya announced an agreement to establish diplomatic relations at an ambassadorial level, following a visit by the Eritrean President, Isayas Afewerki, to Libya. At the same time Eritrea declared its support for Libya in the Lockerbie dispute.[582] In the months following the visit, primarily June and July 1998, Libya took on an active role in mediating the conflict between Eritrea and Ethiopia – but did so by framing the mediation in terms of its role as Chair of COMESSA.[583] Libya sent envoys headed by COMESSA Secretary General, Adoum Togoi, and received further visits from Eritrean and Ethiopian officials. Also at this time COMESSA officials were a part of the increasing violations of the UN air embargo by using Libyan airspace on 24 June 1998.[584] The proposal that Qadhafi directed on behalf of COMESSA included the assertion that troops from COMESSA states be used as a peace-keeping force and that a joint COMESSA/OAU commission be set up to find a permanent solution to the conflict.[585] Libyan press reported that the Eritrean President accepted the Libyan/COMESSA initiative regarding the conflict,[586] but the ceasefire ending the conflict – negotiated in 2000 between Ethiopia and Eritrea – was mediated by the OAU and UN. Despite this, COMESSA maintained its usefulness for the Qadhafi regime and Eritrea (along with the Central African

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[582]"Agreement on diplomatic relations reached during Eritrean president's visit", *BBC Summary of World Broadcasts*, Part 4, The Middle East, Morocco, ME/D3143/MED, (Source: Voice of the Broad Masses of Eritrea, Asmara, in Tigrigna 1700 GMT 3 Feb 98) 5 February 1998; Pargeter and Boyd, "Libya: Coping with Sanctions", p B549.

[583] Pargeter and Boyd, "Libya: Coping with Sanctions", pp B549-B550.

[584] *Africa Research Bulletin*, Volume 35, number 7, July 1st-31st 1998 (published August 24th 1998), pp 13173A-13173B, this was at a similar time to an authorized flight by Mubarak to Libya on July 8 1998 and unauthorized flights by President Idriss Déby of Chad and President Ibrahim Bare Mainassara of Niger to Tripoli on 7 July 1998. Eritrean President Issaias Afewerki visited Qadhafi on 26 July.

[585] "Qadhafi envoy details peace proposals to Eritrea, Ethiopia", *BBC Summary of World Broadcasts*, Part 5 Africa, Latin America, and the Caribbean, Horn of Africa, Peace Efforts, AL/D3248/A (Source: Libyan TV, Tripoli, in Arabic 2001, GMT 7 Jun 98), 9 June 1998.

[586] "Eritrean president arrives in Libya, accepts Qadhafi's initiative", *BBC Summary of World Broadcasts*, Part 5 Africa, Latin America, and the Caribbean, Horn of Africa, Eritrea-Ethiopia, AL/D3289/A (Source: Libyan TV, Tripoli, in Arabic 1620 GMT, 25 Jul 98), 27 July 1998.

Republic) asked to join the organisation at a meeting held in Tripoli in September 1998. Eritrea was one of the states that defied UN sanctions to attend the meeting.[587]

The meeting was nominally held to discuss the conflict between Uganda and the DRC and show Libya's role as a prominent mediator of African conflicts.[588] The timing of the meeting, held in September 1998 prior to the lifting of UN sanctions (suspended in April 1999), was a major success of the organisation for Libya's de-roguing. By that stage, the OAU had passed a resolution instructing its member states not to abide by the UN sanctions, and the US and the UK had publicly announced their proposal for a trial in the Netherlands. However, showing that the sanctions regime had essentially collapsed through a sustained practice of violations was still important for Libya to nullify any prospect of the US continuing or expanding the sanctions process. Qadhafi combined the time of the COMESSA meeting with the 29th anniversary celebrations of the Qadhafi regime to great effect, and the meeting reinforced the direction of the OAU to ignore the UN sanctions.[589] Not only were sanctions systematically undermined by the states of Sudan, Chad, Mali and Niger, but Qadhafi was seen hosting an expanding organisation of African states.[590] COMESSA's support for Libya continued beyond this, and in 2001 COMESSA demanded that the UNSC have the suspended sanctions formally lifted and requested the release of al-Megrahi claiming he was imprisoned on political grounds.[591]

4.4.3 Libya, the Arab Maghreb Union and the Arab League

From a multilateral perspective Libya's de-roguing among Arab states was largely based on varying degrees of symbolic support. In a manner similar to their opposition to the bombing of Libya by the US in 1986, Arab states declared their support for Libya in opposing UN sanctions. Unlike African states, however, the Arab states generally respected the sanctions process and as

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[587] "Community of Sahel and Saharan States leaders meet in Libya, issue statement", *BBC Summary of World Broadcasts*, Part 5 Africa, Latin America, and the Caribbean, West and Central Africa; Burkina Faso; AL/D3327/A (Source: Jana news agency, Tripoli, in Arabic 0729 GMT 7 Sep 98), 9 September 1998.
[588] Ronen, *Qaddafi's Libya*, p 187.
[589] "Sudan: President Bashir Returns From Libya", *BBC Monitoring Middle East – Political, Supplied by BBC Worldwide Monitoring*, (Source: Sudan TV, Omdurman, in Arabic 1300 GMT, 7 Sep 98), 8 September 1998.
[590] "Community of Sahel and Saharan States leaders meet in Libya, issue statement" *BBC Summary of World Broadcasts*, 9 September 1998.
[591] UN document S/2001/182, "Letter dated 27 February 2001 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of Security Council", 28 February 2001.

such the impact on Libya's de-roguing was limited in comparison. Nevertheless, the public framing of the Arab states aided the removal of sanctions in light of Libya's support in the African region. This is demonstrated here through the role of the AMU and the Arab League.

Libya and the AMU

The creation of the AMU in 1989 was, at the time, a significant development for Libya's de-roguing. The AMU consisted of Libya, Tunisia, Morocco, Algeria and Mauritania. Libya's involvement in the organisation ebbed and flowed with the perceived support it was getting from the other member states regarding Libya's isolation from international society. The organisation also suffered significantly from a number of other issues among member states. Libya took on the AMU presidency in 1991 but Libya withdrew its interest in the workings of the AMU, particularly following the adherence of member states to the UN sanctions in the early 1990s, despite the AMU publicly expressing opposition to the sanctions.[592] This included Libya refusing to take its turn as President of the organisation in 1995 which was due to Libya under the practice of rotating the presidency.[593] The AMU often failed to provide Libya with consistent and effective support against UN sanctions and its success as a regional organisation was limited. However, there was one episode where Libya drew on the AMU to aid its de-roguing more generally.

This episode came in 1996 when Qadhafi decided to draw on the AMU's practice of rotating the presidency among members to take up the position of president which he had previously declined. Prior to 1996, the AMU had trouble getting full representation of members at the summits and it was not uncommon for delegations to be represented well below the level of head of state. The ability of Libya to use the AMU in 1996 and take on the Presidency had some implications for the UN sanctions against Libya. The AMU restated its position that sanctions should be removed – strengthening the symbolic response of states against the sanctions. In

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[592] Joffé, "Libya", p B477; At three separate meetings in 1992, for example, AMU declared its support for Libya against either "false" accusations over Lockerbie or for the UNSC to revoke sanctions, see Africa Research Bulletin, Volume 29, 1992 number 1, January 1st-31st 10403A-B; Africa Research Bulletin, Volume 29, 1992 number 11, November 1st-30th 10771A-B; Africa Research Bulletin, Volume 29, 1992 number 12, December 1st-31st, 10807A.
[593] Pargeter, "Libya: Security Tightens", p B501.

terms of its direct impact on the UN sanctions, however, the AMU was marginal in many respects. In light of this, in 1998, Qadhafi heavily criticised the AMU, and other Arab states, for being ineffectual in lifting UN sanctions, going as far as claiming that they had betrayed Libya and the Arab cause.[594] Regardless, the AMU offered Libya an institutional resource it could use to contest UN sanctions. Libya's ability to take on a leadership role in the AMU shows how difficult the construction of Libyan rogue statehood was to maintain in international society.

Libya and the Arab League

At a multilateral level, the Arab states (through the Arab League) were an important initial avenue for Libya to oppose the UN sanctions and pursue its de-roguing more generally. The Arab League and some of its member states – such as Egypt and Saudi Arabia – played a significant role in Libya's de-roguing process. The Arab League as an organisation was involved in mediation attempts between Libya and the US, UK and France over the Lockerbie sanctions from the beginning. Morocco, providing some representation for the Arab League as the only Arab state member of the UNSC at the time of the vote for resolutions 748 and 883 that enacted sanctions against Libya, abstained from voting on the resolutions.[595] On several occasions, the Arab League lobbied the UNSC in support of Libya and calling for the resolution of the Lockerbie dispute.[596] In 1998, following the ICJ decision that it could hear the Lockerbie dispute, the Arab League went further and called for the suspension of sanctions until the issue was resolved in the court.[597] After the suspension of UNSC sanctions in 1999, the symbolic support from the Arab League strengthened as it partitioned the UNSC on a number of occasions for the complete removal of sanctions. This included, in 2001, the assertion that al-Megrahi

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[594] Ronen, *Qaddafi's Libya*, p 130; "Qadhafi comments on Islamic Fundamentalism, Arab unity, sanctions, *BBC Summary of World Broadcasts*, Part 4 Middle East; Libya; ME/D3013/MED (Source Libyan TV, Tripoli, in Arabic 2028 GMT 29 Aug 97) 2 September 1997; "Qaddafi says farewell, Arabia".

[595] UN Document S/PV. 3063, 31 March 1992 and UN Document S/PV. 3312, 11 November 1993. Morocco did not explain its vote at the UNSC for resolution 883 and also drew significantly on its identity as a Maghreb nation and member of the AMU in earlier debates.

[596] UN Document S/1996/369, "Letter dated 21 May 1996 from the Permanent Observer of the League of Arab States to the United Nations addressed to the Secretary-General", 23 May 1996; UN Document S/1997/497, "Letter dated 26 June 1997 from the Permanent Observers of the League of Arab States and the Organization of African Unity to the United Nations addressed to the President of the Security Council", 27 June 1997; UN Document S/1998/895, "Letter dated 25 September 1998 from the Permanent Observer of the League of Arab States to the United Nations addressed to the President of the Security Council", 29 September 1998.

[597] UN Document S/PV.3864, 20 March 1998, p 36.

should be released and urging its member states to declare the suspended sanctions "null and void."[598]

Despite the Arab League publicly appearing to be one of Libya's strongest supporters and a major contributor to Libya's de-roguing, the Qadhafi regime became increasingly frustrated with and self-isolating from the Arab League. The Arab League did not go as far in its support for Libya as the OAU and its member states in general abided by the directions of UN sanctions – especially prior to their suspension in 1999. While opposition to the sanctions was expressed, until 2001 the Arab League nevertheless worked to resolve the issue within the existing framework of the UNSC and not in confrontation with it – as was the case with the OAU. This practice therefore did little to significantly upset the UN sanctions sponsors. Informally, the support for Libya did not match the pronouncements made in various resolutions at the Arab League and in debates at the UN. About a year after the suspension of sanctions, there was a significant round of visits by Qadhafi to Arab states but in comparison to its African relations Arab support for Libya remained less immediate and intense, and Libya became more disengaged in the region.[599] As a number of scholars have identified, this period marked a major shift by Libya away from Arab states and Qadhafi's long held project of Arab unity.[600] This was coupled with a significant level of hostility at times by Libya towards other Arab states and the Arab League. Libya's turn away from the Arab region was further evident in 2002 when Libya threatened to withdraw from the Arab League. Although Libya did not act upon the threat, it was taken seriously and the Arab League Secretary General Amr Moussa visited Libya to discourage the move.[601]

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[598] UN Document S/2001/257, "Letter dated 21 March 2001 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the League of Arab States to the United Nations addressed to the President of the Security Council", 21 March 2001. See also: UN Document S/2001/349, "Letter dated 9 April 2001 from the Permanent Observer of the League of Arab States to the United Nations addressed to the President of the Security Council", 11 April 2001; UN Document S/2002/1080, "Letter dated 23 September 2002 from the Permanent Observer of the League of Arab States to the United Nations addressed to the President of the Security Council", 26 September 2002.

[599] "Qaddafi says farewell, Arabia"; Ronen, *Qaddafi's Libya*, pp 132-136.

[600] See for example, Joffé, "Libya's Saharan Destiny", pp 605-617; Ronen, *Qaddafi's Libya*, pp 123-145; Huliaras, "Qadhafi's Comeback".

[601] Khalid Al-deeb, "Libya Withdraws from Arab League", *The Independent*, 25 October 2002; "Libyan dilemma" *The Times*, 16 November 2002.

The issue of Arab states' symbolic support for Libya should not be discarded completely. This is because, whether or not they had genuine motivation to support Libya, the public framing of Arab states in support of Libya reflects a limiting capacity for Arab states to adopt the US construction of Libyan outlawry in its entirety. Although complicit in the practice of isolating Libya themselves, the Arab states' continued public support for Libya still facilitated Libya's de-roguing when it gained support among other states. The problems surrounding the Hadj also show a limit on how far Arab states could go in opposing Libya and how stringently they could implement sanctions. In addition, as the role played by Egypt and Saudi Arabia at various points shows, the Arab region had a significant strategic interest in having Libya's relationship with international society normalised and its tensions with the US removed. In addition, Libya's ability to continue participating in the Arab League and secure symbolic support through the resolutions is evidence of its formal de-roguing in the Arab region, even if informally significant tensions remained. As in the AMU and the African region, Libya could readily draw on practices of rotating leadership positions in the organisation to gain some support on the issue of UN sanctions. Long standing narratives in the region of US imperialism also helped Qadhafi garner symbolic support from reluctant Arab states.

4.5 Libya's De-roguing in Europe

4.5.1 Libya and the European Union

Libya's relationship with the European Union was strongly shaped by the common position developed by the then EEC in response to Libya's support for terrorist attacks in Rome and Austria in January 1986, the La Belle Disco bombing in April and the subsequent response by the US to these attacks.[602] As discussed in Chapter 3, the EEC position - which directed member states to restrict diplomatic engagement with Libya and apply an arms embargo on it - was entwined with the US process of roguing Libya that was developing at the time. This was a fragile arrangement prior to the UN sanctions process and significant opposition was voiced by major EEC states at various times. This included initial challenges by states such as Greece and

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[602] Common position from Chapter 3.

Spain and calls against the sanctions by key states such as France, Spain, Portugal and Italy in the early 1990s.[603]

Although the position taken by the EEC (and adopted by the EU) developed prior to the UTA and Lockerbie bombings, the EU came to rely heavily on the position of the UNSC and the UN Secretary General to justify movements from the position and re-engagement with Libya.[604] There was little change in the EEC/EU's policy towards Libya over the sanctions period, although, as discussed below, some member states moved to improve bilateral relations with Libya in the mid to late 1990s. The main movements in EU policy towards Libya came in April 1999, September 1999 and October 2004. In April 1999, the EU changed the policy that it had introduced in 1993 in line with UN sanctions. This change was in response to the suspension of UN sanctions as Libya released the Lockerbie suspects for trial. At this stage the EU voted to maintain the sanctions developed in 1986, and restrictions on Libya's arms, diplomatic staff, and visas remained in place.[605] However, only months later, in September 1999, the EU altered its position again, to remove all the remaining restrictions on relations with Libya, with the exception of the arms embargo. This change was justified on the basis of delivery of a report by the UN Secretary General regarding Libya's practices in renouncing terrorism and moving to implement the remaining aspects of the UNSC resolutions against Libya.[606] Key diplomatic sanctions placed on Libya in the mid 1980s in response to the US and without reference to the UN, were lifted instead on the basis of the justification of Libya's behavioural change as judged through the frame of the UN office of the Secretary General and the UNSC.

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[603] This followed a meeting with the AMU; *Africa Research Bulletin,* Volume 28, Number 10, October 1st-31st, 1991, p 10321A. For Greece's initial dissent; Paul Lewis, "Europe Agrees To Ban Arms".

[604] The EU did enact some further sanctions in line with UN sanctions in 1993, see Regulation (EC) No 3274/93 "preventing the supply of certain goods and services to Libya".

[605] Common Position 1999/261/CFSP: Common Position of 16 April 1999 defined by the Council on the basis of Article J.2 of the Treaty on European Union concerning Libya, *Official Journal L 103* , 20 April 1999, p 1-2, http://www.sipri.org/databases/embargoes/eu_arms_embargoes/libya/261 (last accessed 1 February 2011).

[606] Council Common Position 1999/611/CFSP, Council Common Position of 13 September 1999 amending Common Position 1999/261/CFSP concerning Libya Decision 1999/611/CFSP, *Official Journal L 242*, 14 September 1999, p 31, http://www.sipri.org/databases/embargoes/eu_arms_embargoes/libya/611 (last accessed 1 February 2011).

Libyan relations with the EU improved following the suspension of sanctions but significant sensitivities to engaging with Libya remained. In such cases, multilateral forums provided political cover for engagement with Libya. For example, shortly after the suspension of sanctions, EU Commission president, Romano Prodi, invited Qadhafi to visit Brussels in December 1999. The trip did not come to fruition because public opposition to Libya remained among EU states. However, Prodi took advantage of the Africa/EU summit the following year to meet with Qadhafi in Cairo – as Qadhafi was attending the meeting himself.[607] This was a significant high level meeting between Libya and the EU and took advantage of Libya's de-roguing in the African region.

In a large part, the formal roguing of Libya by the EU ended in response to and with the suspension of UN sanctions against Libya. A notable exception to this is the lifting of the EU arms embargo on Libya in October 2004, which was at the behest of Italy in its push to develop cooperation with Libya in the area of immigration control.[608] Libya promoted itself as a gatekeeper to aspects of Italian and European immigration. The freedom of movement of people within the EU was fortuitous for Libya because it meant that what could have potentially been limited primarily to an Italian issue was multilateralised in a way that aided Libya's de-roguing in the region (especially in the form of lifting the arms embargo). This was an opportunistic use of foreign policy for Libya as it tapped into a practice that had developed independently. However, on the African side, the multilateralisation of immigration was in no small part a result of Libyan action, in line with the broader Libyan proposals for African unity. In 1997, for example, Libya called for the removal of border controls on Libyan borders with some African states and the following year changes in border controls resulted in significant increases in African migration to Libya.[609] When issues of security and terrorism became increasingly linked

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[607] Ewen MacAskill and Mona Eltahawy, "Prodi opens way to west for Gadafy", *The Guardian,* 4 April 2000.
[608] Council of the European Union, "Press Release, 2604th Council meeting General Affairs and External Relations" 12068/04 (Presse 251), Brussels, 13 September 2004, p 16.
[609] Pargeter and Boyd, "Libya: Coping with Sanctions", p B549; George Joffé and Emanuela Paoletti, *Libya's Foreign Policy: Drivers and Objectives*, Mediterranean Paper Series, German Marshall Fund of the United States, Washington DC, 2010, pp 29-30.

to immigration in European states, Libya used this narrative to great effect for its foreign policy, particularly following the 9/11 attacks.[610]

The linkage of Libya's de-roguing at the EU to UN sanctions reflects the legitimacy the EU placed on the UN and its constitutive bodies (such as the UNSC and the Secretary General) to guide formal aspects of Libyan outlawry. It also suggests that the EU was passive in its response to Libyan outlawry – although the concerns of certain member states were also important. Even when driven by the internal politics of the organisation, its position towards Libya was justified in terms of the UN. Informally, the actions of member states and the EU also reflect this linkage to the UN and what was formally considered permissible. However, even as the European region removed formal aspects of Libya's roguing, some informal practices maintained Libyan outlawry. This is an important contrast to Libyan relations with African states, and to a lesser extent China, whose foreign policy practice was often in conflict with the UN and indeed whom the UN ended up responding to in a significant way. Unlike the US which maintained the link between roguing and the practice of isolating Libya from international society, Europe as a region moved to dissociate the practice of isolation from the casting of Libya as a rogue state.

The issue of human rights played a part in Libya's de-roguing in the European region more than anywhere else, although its overall effect remained limited. This arose from Libya's human rights record and its lack of willingness to submit to the requirements of the Barcelona Process.[611] The consequences of this have been that Libya has remained outside at least one major regional organisation – the Euro-Mediterranean partnership – to which almost all relevant states subscribe to. However this case is a mix of the EU using human rights to exclude Libya and Libya's choice to remain outside a framework it appears to have little interest in joining. The offers by the EU for Libya to join the partnership are instructive in this regard. Libya was granted observer status to the organisation following the suspension of UN sanctions in 1999.

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[610] Joffé and Paoletti, *Libya's Foreign Policy*, pp 29-30; Paoletti, "Power Relations and International Migration", p 13.

[611] This was initially used to justify blocking a Qadhafi visit to Brussels in 2000, "Prodi tells Gaddafi: conditions for visit to Brussels not yet met", IP/0072, Brussels, 22 January 2000. However, this aspect of EU engagement with Libya and other Mediterranean states has decreased in importance in recent years to be replaced by security concerns, George Joffé, "The European Union, Democracy and Counter-Terrorism", pp 147-171.

When observer status was given to Libya, the EU expressed interest in Libya joining the institution fully and in 2004 it stated that submitting to the Barcelona Process was the objective of Libyan engagement.[612] Libya refused to sign on to the Barcelona Process because of the incompatibility between its rules of governance and the Libyan system of government. In addition, Libya claimed that Israel's participation in the organisation precluded it from joining.[613]

Similarly the Bulgarian nurses issue points to human rights as an inflated public issue for the EU that was nevertheless peripheral to its diplomatic engagement with Libya. In 2004 as the EU lifted its arms embargo on Libya, it also publicly articulated its concerns with the trial, imprisonment and sentenced execution of the Bulgarian nurses in Libya.[614] The issue was not resolved until July 2007 when the nurses returned to Bulgaria, well after Libya had developed extensive diplomatic engagement with Europe.[615] Although on the surface this may appear to be the European imposition of human rights as a condition for Libyan de-roguing, the case actually highlights the marginal nature of human rights to practices of roguing Libya by the EU, in contrast with the importance of human rights in public discourse. In contrast to the UN sanctions and the EU's use of them to justify Libya's exclusion from this regional organisation on the grounds of terrorism, human rights, while prominent in framing the character of Libya as an rogue state, had limited effect on the diplomatic engagement with Libya as the major movements in sanctions did not correlate to any concrete improvements of Libya's human rights record. Furthermore, as shown below, Libya's relationship with key European states improved on the basis of other issues.

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[612] "Declaration by the Presidency on behalf of the European Union on Libya", 7211/99 (Presse 97) Pesc/99/35, Brussels, 5 April 1999; Council of the European Union, "Press Release: 2609th Council Meeting, General Affairs and External Relations" 12770/04 (Presse 276), Luxembourg, 11 October 2004. Libya stayed outside this process initially due to UN sanctions, Stefano Silvestri "Libya and Transatlantic Relations: An Italian View" in Richard N. Haass *Transatlantic Tensions: The United States, Europe, and Problem Countries*, Brookings Institution Press, Washington D.C., 1999, p 168.

[613] Joffé, "Libya and Europe", pp 88-89.

[614] Council of the European Union, "Press Release: 2609th Council Meeting, General Affairs and External Relations".

[615] "EU to boost Libya ties after HIV medics released", *Guardian Unlimited,* 24 July 2007. As Ronen argues, the issue was increasingly dealt with by Europe in terms of lip service, Yehudit Ronen, "The HIV/AIDS Tragedy and the Bulgarian Medics Affair: A Window on State and Society in Libya", *Middle Eastern Studies,* vol 43, no 3, p 350.

4.5.2 Libya and France

The French relationship with Libya had been shaped considerably by its support of anti-Libya forces in Chad and the US response to Libyan terrorists in the 1980s. However, with Libya's decreasing influence in Chad following the military setbacks of 1987, relations began to thaw. Even as the French-backed Chadian leader Habré was overthrown by the Libyan-supported Déby, France, who had the most significant involvement in Chad outside the region, did little to support Habré.[616] The French position towards Libya moved beyond bilateral issues and showed the fragility of the multilateral attempts to rogue Libya even considering its support for terrorism in the 1980s. In 1991 France was one of the four European states to call for the removal of EU sanctions against Libya. This is all the more significant because it occurred shortly after France had announced that Libya was central to the investigation regarding the UTA bombing.[617] Earlier press reports had concluded that the French Government was reluctant to publicly pursue the UTA issue because of fears of upsetting the improved relationship with Libya following the redress of problems in Chad.[618] The public declaration of opposition to the sanctions was also reflected in the state practice of France as it had just provided for the return of three mirage aircraft to Libya that had been held since 1986 under the pretext of EEC sanctions.[619] The French Government also praised Libya for its role in securing the release of two French tourists (and a Belgian) held hostage in April 1990.[620] The hostages were held in Lebanon by the Abu Nidal Group (with which Libya had strong connections) and their release was shortly followed by the transfer of the mirage aircraft to Libya, although the French Government denied any deal in this regard.[621]

However, as the details of the UTA 772 bombing publicly emerged at the same time as the investigation of the Lockerbie bombing focused on Libya's involvement, French/Libyan

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[616] Kenneth Noble, "How a Rebel Victory Was So Easily Won in Chad" *The New York Times,* 16 December 1990; Mark Huband, "Libya forges links with new style Chad: Gadafy's move alters West African politics", *The Guardian*, 8 December 1990; Mark Huband, "French army at ease as Chad falls to rebels", *The Guardian,* 5 December 1990.

[617] *Africa Research Bulletin*, Volume 28, Number 10, October 1st-31st, 1991, p 10321A.

[618] *Africa Research Bulletin*, Volume 27, Number 9, September 1-30 1990, pp 9844A-9844B.

[619] *Africa Research Bulletin*, Volume 27, Number 3, April 15, 1990, p 9637C.

[620] *Africa Research Bulletin*, Volume 27, Number 4, May 15, 1990, pp 9671A-9671C.

[621] Joffé, "Libya", p B470; *Africa Research Bulletin – Political Series,* Volume 27, Number 4, May 15, 1990, pp 9671A-9671C.

relations deteriorated. The UTA bombing became the second major justification for UN sanctions that were applied to Libya and the inroads that Libya had made in its relations with the world were overshadowed by these two events. As such, Libya's de-roguing came to depend on the resolution of both the UTA bombing and the Lockerbie bombing which although linked through the UN sanctions process, nevertheless followed different paths towards resolution. The French legal system permitted the trial of those suspected of a crime *in absentia*, and because the case was pursued in this manner, Libya's cooperation with the French investigation, rather than the extradition of suspects (as in the Lockerbie case), was the main issue.[622] In 1996, after several years of delay, French Judge Jean-Louis Bruguière began an inquiry, which included a trip to Libya and cooperation from Libyan authorities that paved the way for the trial of six Libyan officials for the bombing of UTA 772 in 1999. This implied extensive involvement of the Libyan government with the most senior official tried being Qadhafi's brother-in-law, Abdallah Senoussi.[623]

On 15 July 1998, Libyan Planning Minister Jadallah Azzuz al-Talhi visited France at the invitation of Secretary of State for Foreign Trade, Jacques Dondoux, as part of a process of "gradual normalization" of relations between the two states.[624] Although this was after France expressed its acceptance of Libyan cooperation in the UTA case, France insisted on the inclusion of a provision in resolution 1192 of August 1998 asserting that Libya still needed to cooperate with France on outstanding issues.[625] This visit by al-Talhi was part of a process of France starting economic normalization in anticipation of political normalization that could develop from the resolution of the UTA court case. This practice stands in contrast to the US approach which used economic relations as a tool of isolation and predicated economic relations, in the Libyan case, on political normalization.

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[622] See for French demands of cooperation, UN document A/46/825, S/23306, "Letter dated 20 December 1991 from the Permanent Representative of France to the United Nations addressed to the Secretary-General", 31 December 1991.
[623] Matar and Thabit, *Lockerbie and Libya*, pp 81-83.
[624] *Africa Research Bulletin,* Volume 35, Number 7, July 1st-31st 1998 (published August 24th 1998) pp 13197A-13197B (this was part of a process of France starting economic normalization in anticipation to political normalization that could develop from the resolution of the UTA court case).
[625] UNSC resolution 1192 (1998).

In March 1999 the French court convicted the six Libyans and sentenced them to life imprisonment and the court ordered compensation.[626] Libya moved to settle the issue through a compensation payment for the victims of the bombing and paid the total sum of USD 30 million ordered by the court. This payment paled into comparison with the USD 2.7 billion later agreed to by Libya for paying the Lockerbie bombing victims' estates. When France threatened to veto the lifting of the UN sanctions because of this, the US and the UK opposed the move as they were concerned it could delay the final resolution of the Lockerbie dispute.[627] However, Libya's acceptance of such a high level of compensation for the Lockerbie victims re-opened the UTA case as the French re-negotiated the compensation payment in 2003 in light of the threat of maintaining sanctions. It then abstained from the final vote lifting UN sanctions in September, following a tentative agreement with Libya that additional compensation would be forthcoming. It was not until January 2004, however, that the formal agreement was concluded and Libya committed to a final sum of USD 170 million for non-US victims.[628] As such, Libya stymied its de-roguing in France by being willing to pay large amounts to the Lockerbie victims' families.

Matar and Thabit argue that the UTA dispute was essentially an issue of problem solving, whereby given the trial, conviction, and initial compensation payment the French Government allowed the two states to move on to other aspects of their relationship.[629] In this respect, Libya's de-roguing in France is somewhat similar to that in the US where the Lockerbie issue was the barrier to other aspects of the relationship. Libya's de-roguing in France was not as rigid as the corresponding situation in the US, as France's foreign policy towards Libya fluctuated between isolation and engagement, and the controversies opened themselves more readily to resolution. France had never fully severed diplomatic ties with Libya but it did reduce Libya's diplomatic staff in France as part of UN sanctions.[630] Paris became a location for the compensation payment

[626] Paul Reynolds, "UTA 772: The forgotten flight", *BBC News Online*, 19 August 2003, http://news.bbc.co.uk/2/hi/uk_news/3163621.stm, those convicted would require retrial if they went to France.
[627] Bernard Estrade, "British resolution would end Libya sanctions; France threatens veto" *Agence France Presse – English,* 19 August 2003; Kim Gamel, "U.N. diplomats give France more time to reach compensation agreement with Libya on 1989 plane crash – but not much", *Associated Press Worldstream*, 21 August 2003.
[628] Craig S. Smith, "Libya sets payout for bombing of French jet; Families of victims to get $170 million in compensation accord", The International Herald Tribune, 10 January 2004.
[629] Matar and Thabit, *Lockerbie and Libya*, pp 81-83.
[630] UN document S/23897, "Note Verbale Dated 7 May 1992 from the Permanent Mission of France to the United Nations addressed to the Secretary-General", 11 May 1992.

negotiations for the Lockerbie victims' families following the conviction of al-Megrahi.[631] In 2007, albeit with the acquiescence of the US Administration, France was the first major exporter in the European region of civilian nuclear equipment to Libya following Qadhafi's renouncement of WMD, and extensive civil and military deals were negotiated during Qadhafi's visit to France that December.[632] This is in contrast to the pattern of behaviour with the US and to a lesser extent the UK, which had relatively settled policies of isolating Libya from the early to mid 1980s and faced more domestic barriers to engagement with Libya.

4.5.3 Libya and Italy

The Libyan/Italian relationship was shaped by Italy's past as a colonial occupier of Libya and the extensive economic relationship between the two states.[633] Italy's roguing of Libya was weaker than others in the region but it nevertheless abided by EEC/EU and UN sanctions and Libya's behaviour in response to this reinforced the roguing process. Prior to the suspension of UN sanctions, Italy provided some evidence for Libya in its symbolic campaign against UN sanctions. As early as 1997 the US criticised Italy for its trading relations with Libya.[634] In 1998 shortly before the UN proposal to try the Lockerbie suspects in the Netherlands under UN resolution 1192, Libya and Italy signed an agreement for resolving issues regarding Italy's past colonisation of Libya and for improved trading relations. In addition, Libya attempted to frame the landing of two private Italian planes in Libya as an example of European frustration with and violation of the UN sanctions regime. However, while Italy was moving towards closer ties with Libya it maintained that its behaviour worked within the framework of UN sanctions and the trade agreement included a clause specifically citing the agreements needed to abide by EU sanctions.[635] Furthermore despite Libya's claim of Italy violating UN sanctions when two planes

[631] Edward Alden and Roula Khalaf, "Dealing with Gadaffi: How the U.S. Negotiated Libya's Rehabilitation", *Financial Times*, 28 October 2003.

[632] Henry Samuel, "Sarkozy hits back over Gaddafi's Paris Visit", *The Daily Telegragph*, 12 December 2007; John Ward Anderson, "Gaddafi Visit Causes Stir in France; Sarkozy Criticized for Meeting on Human Rights Day", *The Washington Post*, 11 December 2007; Some have also linked this (and an arms) deal to the resolution of the Bulgarian nurse case, Henry Samuel, "Inquiry in France's Libyan arms deal", *The Daily Telegraph,* 11 October 2007, John Lichfield, "Cécilia Sarkozy faces inquiry over Libyan 'trade-off'", *The Independent*, 15 August 2007.

[633] For discussions of Italian-Libyan relations see for example: Zoubir, "Libya and Europe", pp 401-415 (particularly pp 410-412).

[634] Michael Dobbs, "Albright Received as 'Iron Lady'; Italy Given Nudge On 'Rogue States'" *The Washington Post*, 17 February 1997; Barry Schweid, "Albright hits Italians over policies on Libya, Iran, Cuba", *Associated Press*, 16 February 1997.

[635] Michele Puccioni, "Rome gives pariah a foothold in Europe", *The European*, 27 July 1998. Abiding by the relevant EU sanctions at this time means that Italy would also be adhering to UN sanctions.

landed in Tripoli in April 1998, Italy reported to the UN sanctions committee that the Italian flights to Libya were unauthorised and would be responded to in a manner that was accepted by the committee.[636]

Even after the suspension of UN sanctions Italy moved to form its trading relations in a manner that was conscious of the need to uphold some aspect of Libya's rogue statehood, even if in a much weaker form than the US. In 1999, following the suspension of UN Sanctions, Libya received a visit from Italian Prime Minister Massimo D'Alema, which was the most high profile visit from a major European state since the imposition of UN sanctions. D'Alema justified the trip on the basis of the importance of "dialogue" with a state "on its way to returning fully to the international community."[637] The qualification on Libya's full membership was emphasised with D'Alema asserting that a return trip from Qadhafi to Italy was not feasible, particularly from the point of view of Italy's allies such as the US, until after the Lockerbie trial and the full lifting of UN sanctions.[638]

Prior to full lifting of UN sanctions in 2003 the multilateral implications of the Libyan/Italian relationship remained limited. However this changed in 2003 as the Italian/Libyan relationship became an important driver in the final stages of Libya's de-roguing in the European region which culminated in October 2004 with the removal of the final measure of Libyan outlawry in the European region through the lifting of the EU arms embargo against Libya, discussed earlier. Italy proposed the removal of the arms embargo and extensively embraced a programme of arms sales and cooperation in the area of immigration control with Libya in subsequent years.[639] In addition, in negotiating these cooperative agreements Libya was able to secure a number of benefits including material support for Libyan police operations, the establishment of Libyan migration problems as an EU policy issue, and help for Libya to boost its image in fighting

[636] "Libya Says Planes Breached U.N. Flight Ban", *The Washington Post*, 25 April 1998; UN Document S/1998/1237, 31 December 1998, p 3.
[637] Quoted in James Blitz, "Italy pursues goal of increased Libya trade" *Financial Times*, 3 December 1999.
[638] Quoted in Blitz, "Italy pursues goal".
[639] Council of the European Union, "Press Release, 2604th Council meeting General Affairs and External Relations", p 16; Lutterbeck, "Arming Libya", pp 520-521.

terrorism.[640] This aspect of Libya's de-roguing should be seen as a significant success for Libya in terms of finally marginalising any latent aspects of human rights as a practical condition of Libyan outlawry.[641]

4.5.4 Libya and Germany

The German aspect of Libya's de-roguing was primarily concerned with the issue of terrorism and particularly the resolution of the La Belle disco bombing in 1986. As discussed in chapter 5, the La Belle disco bombing re-emerged as part of Libya's de-roguing even though in many respects the issue had been overtaken by the Lockerbie and UTA bombings. This aspect of Libya's de-roguing was dependent on the end of the Cold War and the opening of the Stasi files that provided evidence to conduct the La Belle case in the German court system.[642] The re-emergence of the La Belle case represents an increasingly legalised approach taken by states to respond to aspects of Libyan outlawry and the most important component of de-roguing in the La Belle case following the establishment of Libyan responsibility in the courts was the payment of compensation to the victims' families. Unlike the Lockerbie case where Libya accepted some level of responsibility no such contrition was forthcoming from Libya in this case. The German case is also evidence of Libya's use of the Qadhafi Foundation to assist its de-roguing process.

The compensation payment was a total of USD 35 million, providing varying rates depending on the effect of the bombing on victims and in the case of the fatality of the Turkish woman compensation to her family for her death.[643] The payment did not cover US victims of the attack

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[640] Paoletti, "Power Relations and International Migration, p 13.

[641] The discussion of human rights here is not whether human rights *should* form a part of what states consider as outlaw behaviour but whether state practice indicates it *does* form an aspect of state outlawry. In the Libyan case, until the widespread protests against the Qadhafi regime from 17 February, human rights was marginal to the roguing and de-roguing of Libya in international society.

[642] (This is also discussed in Chapter 5 footnote 792): Edward Cody, "E. German Defectors Bring Intelligence Lode; Stasi Member Confirms Libyan Involvement in Berlin Disco Bombing", *The Washington Post*, 21 June 1990; Steven Emerson, "Where Have All His Spies Gone?", *The New York Times*, 12 August 1990; Rick Atkinson, "U.S, Delays Underlined As Disco Bombing Suspect is Freed in Lebanon", *The Washington Post*, 3 August 1994; William Drozdiak, "Murder Trial in Disco Bombing Opens in Berlin", *The Washington Post*, 19 November 1997; Lucian Kim, "Berlin Disco Terror Trial Nears End", *The Christian Science Monitor*, 2 November 2001; Imre Karacs, "Campaign Against Terrorism: Libya – Germany Sentences Four to Jail for 1986 Bombing", *The Independent,* 14 November 2001.

[643] Geir Moulson, "In diplomatic breakthrough, Libya to compensate for 1986 Berlin disco bombing", *Associated Press Worldstream*, 10 August 2004.

as they made claims against Libya separately.[644] Like the Lockerbie payment, the compensation was made by the Qadhafi Foundation, and in this case, despite the court ruling that Libya ordered the attack, compensation was framed by Libya as a "humanitarian gesture" and not an acceptance of responsibility.[645] This compensation was the most significant issue for Germany and removed one of the primary obstacles for change in the EU's common position towards Libya in October 2004.[646] However, even with the La Belle issue, the German Government showed that it wanted to limit the implications the case had for its relationship with Libya. This was particularly evident in the case of a leaked memo of a meeting in 2001 between the senior foreign policy advisor to the German Chancellery, Michael Steiner, and Qadhafi. Aspects of the memo as reported in the press claim that Qadhafi admitted responsibility for both the La Belle and Lockerbie bombings but declared that Libya had changed its position on terrorism. The report of Qadhafi's acceptance of responsibility was denied by the Chancellery. As part of the La Belle case, the German judge asked Steiner to testify, a move which was blocked by the German government. Although in the verdict of the La Belle case the judge maintained that Libya was behind the attack, the judge also criticised the lack of cooperation from the German Government in this aspect of the trial.[647]

In a manner similar to the Libyan/French relationship, Libya used its associations with past terrorist groups to gain diplomatic advantage with Germany. This included brokering a deal in 2000 to have some of the European hostages held in the Philippines released by rebels there. On gaining the release through negotiations that included a purported large ransom, Libya staged a handover ceremony in Tripoli where officials of France and Germany attended to have praise heaped on Qadhafi's humanitarian efforts. At the time, it was also reported in the press that the German foreign minister was considering a visit to Libya as a reward if remaining German

[644] "Libya Will Pay Non-U.S. Victims of Berlin Bombing", *The New York Times,* 11 August 2004.

[645] Moulson, "In diplomatic breakthrough, Libya to compensate", 2004; "Libya Will Pay Non-U.S. Victims".

[646] Judy Dempsey, "Germany close to talks with Libya over bombing", *Financial Times*, 13 February 2004; Daniel Dombey and Hugh Williamson, "Berlin keen to seal Libyan business deals", *Financial Times*, 15 October 2004; Council of the European Union "Press Release: 2609th Council Meeting, General Affairs and External Relations".

[647] John Hooper, "Gadafy 'told Berlin diplomat of Libya's Lockerbie role'", *The Guardian*, 16 May 2001; John Schmid, "Libya Reportedly Admits A Terrorist Role in 1980s; Gadhafi is Said to Have 'Sworn Off' Practice'" *The International Herald Tribune,* 16 May 2001; Steven Erlanger "4 Guilty in Fatal 1986 Berlin Disco Bombing Linked to Libya", *The New York Times*, 14 November 2001; Roger Boyes, "Libya condemned over Berlin bomb", *The Times,* 14 November 2001. The German judge also criticised the US government for not providing more cooperation.

hostages were released.[648] In 2001, Saif al-Qadhafi, on behalf of the Qadhafi Humanitarian Fund, made a similar offer to Germany regarding the release of German aid workers who were being held by the Taliban in Afghanistan. The German authorities took the offer to some level of seriousness and the issue was discussed in a meeting with Saif and the head of the German Chancellery office, Frank-Walter Steinmeier.[649] In 2003, the Qadhafi foundation was also involved in the release of German hostages held in Mali.[650]

Germany had never fully severed diplomatic ties with Libya but it reduced Libya's presence in Germany as part of UN sanctions and the movement of Libyan diplomats in Bonn had been restricted in 1986.[651] Although primarily motivated by its relationship with Iran, Germany was also particularly critical, even by European standards, of the US's *Iran Libya Sanctions Act* which imposed financial sanctions on companies investing in Iran and Libya.[652] In October 2004, immediately following the lifting of the EU arms embargo and the settlement of La Belle compensation, German Chancellor Gerhard Schröder visited Libya. This visit was symbolic of Libyan/German diplomatic engagement. Schröder invited representatives of 21 German companies to travel with him to Libya. Although other issues were covered and Germany maintained that there was some role for human rights as part of German/Libyan relations, with the issue of Libyan terrorism resolved, particularly the La Belle case, the trading aspect of the relationship dominated. In general, this coincided with a push in German foreign policy at the time which was sidelining human rights issues and part of a concerted push for trade, including arms sales.[653]

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[648] Bassem Mroue, "Libya reaps the credit as another captive freed", *The Guardian*, 29 August 2000; Michael Theodoulou, "American seized as hostages fly to Gaddafi welcome", *The Times*, 29 August 2000; Michael Theodoulou and Simon Ingram, "Gaddafi plays absent host at ceremony for hostages", *The Times*, 30 August 2000.
[649] Roger Boyes, "Gaddafi offer to press Taleban on aid workers", *The Times*, 8 November 2001.
[650] Roger Boyes, "Freed hostages face bill for their rescue", *The Times*, 21 August 2003.
[651] UN Document S/23969, "Note Verbale dated 14 May 1992 from the Permanent Representative of Germany to the United Nations Addressed to the Secretary-General", 19 May 1992.
[652] Alan Cowell, "Political Savvy Tempers European Furor Over U.S. Bill Aimed at Libya and Iran", *The New York Times*, 7 August 1996; Roger Boyes and Michael Theodoulou, "Bonn heads allied resistance to US terrorism sanctions", *The Times*, 7 August 1996.
[653] Judy Dempsey, "Schroder and industrialist set Libya business trip", *The International Herald Tribune,* 13 October 2004; Roger Boyes, "Schroder vies for title of Europe's top arms salesman", *The Times*, 13 October 2004. Arms sales were not a prominent feature of the October 2004 visit though.

4.5.5 Libya and the UK

As discussed in chapter 3, the UK had maintained the strongest form of roguing Libya among European states. It severed relations with Libya completely following the shooting of London Police Constable Yvonne Fletcher outside the Libyan embassy in 1984. The UK supported the US bombing of Libya in 1986, was a sponsor of the UN sanctions against Libya and used the UN sanctions committee in the mid 1990s to aid the roguing of Libya on the basis of WMD. In addition, Libya's relations with the UK had been marred by Libya's persecution of Libyan dissidents living in the UK and Libya's material and financial support for the IRA in the 1980s. Libya's support of the IRA was one aspect of its support for terrorism that was covered by UN sanctions against Libya over the Lockerbie and UTA bombings.[654] The IRA issue, however, also provided the early opportunities for Libya to undertake a de-roguing process with the UK which in turn had some substantial knock on effects for Libya's de-roguing over Lockerbie and WMD issues.

In part, Libya's de-roguing in the UK has links to Egypt's role in Libyan relations because former Egyptian minister Boutros Boutros-Ghali was UN Secretary General when UN sanctions were adopted. Boutros-Ghali's term lasted from 1992 to 1996 and saw the implementation of the UN sanctions against Libya. Throughout this period Boutros-Ghali undertook a number of attempts to use his good offices as Secretary General to resolve the Lockerbie crisis, in the first instance to avoid the imposition of sanctions against Libya and then to solve outstanding issues so that the sanctions could be lifted. Boutros-Ghali's role was partly directed by his position as Secretary General, and the requirements of resolution 731 for him to use his position to try to find a solution. However, Boutros-Ghali himself notes that a significant motivation came from the direction given to him by Mubarak.[655] It is evident that Boutros-Ghali's efforts were ineffective in preventing the Lockerbie sanctions or having them lifted once they were put in place. However, even though the primary issue of the Lockerbie bombing was not resolved,

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[654] The issue of the IRA was not specifically mentioned in the resolutions but fell under Libya's requirement to take actions to renounce terrorism in UNSC resolution 748.

[655] Boutros-Ghali, *Unvanquished*, pp 185-191; UNSC Resolution 731 (1992).

Boutros-Ghali's assistance did provide an avenue for resolving some of the IRA issues which were part of the broader scope of Libyan terrorism covered in the UN sanctions.[656]

The process of resolving this aspect of Libyan/UK relations was slow. The UK was primarily concerned with Libyan support for the IRA in the 1980s. However, Libya indicated willingness to work on the IRA issue early – and even before the implementation of UN sanctions. In December 1991, the junior minister for Foreign Affairs, Douglas Hogg, revealed that a message had been passed on to the UK from Mubarak that Libya was willing to stop its support of the IRA and provide information on its previous contacts.[657] The IRA issue remained important and when the Lockerbie sanctions began, dialogue regarding the IRA was the only publicly acknowledged contact that existed between the two states. At the culmination of a series of meetings in 1992, Libya made its first step to pass over information on its arms and financial support to the UK. The UK regarded the information as partly "incomplete and unsatisfactory" but a useful start. At the time, the UK Government publicly framed the contacts as distinctly separate from the Lockerbie issue.[658] It was not until late 1995 that the IRA information exchange was resolved to the satisfaction of the UK. Boutros-Ghali remained involved in the process and information was exchanged between Libya and the UK through his office at the UN. A British official described the IRA information exchange as an important "confidence" boosting measure for UK/Libyan relations. However, the resolution of the Lockerbie issue was still framed by the UK as a separate issue.[659]

Although the issue of Libya's IRA funding was treated separately from the Lockerbie issue, its resolution paved the way for more serious consideration of moving on the Lockerbie issue. In addition, the election of the Labour Government resulted in a change in UK policy towards finding avenues for resolving the Lockerbie issue and bringing the suspects to trial.[660] There was

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[656] Boutros-Ghali, *Unvanquished,* pp 200-202.
[657] "Kadhafi willing to close IRA training camps, says Hogg", *Agence France Presse – English*, 4 December 1991.
[658] "Libya Discloses More About IRA Arms Shipments", *The Guardian*, 15 August 1992.
[659] Ian Black and Richard Norton-Taylor, "Libya to Expose IRA Shipments", *The Guardian*, 5 October 1995; "Britain satisfied with Libya on IRA funding", *Agence France Presse – English*, 20 November 1995.
[660] Matar and Thabit, *Lockerbie and Libya*, pp 113-119; George Joffé, "Prodigal or Pariah? Foreign Policy in Libya" in Vandewalle (ed), *Libya Since 1969*, p 204.

a view in the UK Government that by making the proposal to Libya for the trial of the Lockerbie suspects by a Scottish court in the Netherlands, the UK had nothing to lose.[661] However, the UK was also more sensitive to accusations by third party states about its role in the UN sanctions process, and in October 1997 it opened its legal system to inspection by the UN, the OAU and the Arab League in the face of criticism that the Lockerbie suspects would not receive a fair trial in Scotland.[662] Regardless, like the US, the UK framed the Netherlands trial as a non-negotiable issue motivated by the need to have the suspects tried for the sake of the victims rather than by any legitimacy in Libya's claims about the fairness of trial in the UK – an issue it had laid to rest the year before.[663]

In July 1999, shortly after the suspension of UN sanctions, the UK Government formally restored diplomatic ties with Libya following the break in 1984. However, as much as the release of the Lockerbie suspects for trial and IRA issues paved the way, it was the settlement of the Yvonne Fletcher case – which was the reason for the severance of diplomatic ties in the first place – that finally marked the restoration of ties. In line with what would later emerge as the final resolution of Lockerbie in 2003, the essential features of the resolution of the Fletcher case were the acceptance of "general responsibility" by Libya for the incident, the payment of compensation, and a promise to cooperate with the UK police in an inquiry into the incident.[664] The use of compensation was in contrast to an earlier effort by Libya in 1991 to offer a GBP 250 000 donation and letter of regret to a police charity for the Fletcher shooting which was rejected and failed to gain any movement by the UK Government on diplomatic relations with Libya.[665] It was not until 2001 after the conviction and incarceration of al-Megrahi that a Libyan ambassador was accredited to the UK.[666] As discussed in Chapter 5, in terms of the US-Libya relationship, Lockerbie was such a dominant issue that significant resolution of it was a prerequisite for diplomatic dialogue and foreign policy movement on other issues. However, that some form of

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[661] Lord Kerr of Kinlochard GCMG (formerly Sir John (Olav) Kerr) interviewed by Malcolm McBain 6 January 2004, http://www.chu.cam.ac.uk/archives/collections/BDOHP

[662] Barbara Crossette, "Britain Opens Trial Process in Libya Case to U.N." *The New York Times,* 29 October 1997.

[663] UN Document S/PV. 3920, 27 August 1998, Debate on UNSC resolution 1192.

[664] Ronen, "Libya's Conflict with Britain", pp 279-280.

[665] Richard Ford, "Gadaffi's money fails to open diplomatic door", *The Times*, 7 June 1991; David Sharrock, "Libyan apology dismissed", *The Guardian*, 7 June 1991.

[666] "In brief: Libyan envoy at palace", *The Guardian,* 21 March 2001.

diplomatic and intelligence relationship could develop between UK and Libyan officials on the IRA and Fletcher issues, which importantly had less significant political consequences for Libya than the release of the Lockerbie bombing suspects, contributed to the de-roguing of Libya in subsequent years.

The UK remained hesitant in some diplomatic practices towards Libya until after Libya's announcement to discontinue its WMD programme in December 2003 and Libya was rewarded with a visit by Blair in March 2004. Blair was unequivocal at this stage that Libya was entitled to "rejoin the international community" with the ending of its WMD programme being the final qualifying feature.[667] The Foreign Secretary described the move by the EU to lift the arms embargo against Libya in October 2004 as the result of Libya doing all it had been asked regarding disarming its WMD. The UK had earlier proposed the removal of sanctions at the beginning of 2004 on the grounds of Libya's movement on WMD, a move blocked at the time by Germany's outstanding concerns over the La Belle disco bombing.[668] The central feature of the WMD decision as a qualification for diplomatic relations was also alluded to in Gordon Brown's first correspondence with Qadhafi upon becoming Prime Minister. [669]

However, while UK/Libyan relations certainly firmed as a result of the WMD announcement, the UK's practice towards Libya from 1999 onwards shows the claim that it was the qualifying feature of Libya's legitimacy as a member of international society to be misleading. Instead of Libya's decision to give up WMD being the driver behind its re-entry into international society, it was the UK's formal diplomatic relations with Libya, and more informal intelligence contacts, that were instrumental in striking the deal with Libya. Although intelligence officials more than diplomats carried out a number of the negotiations with Libyan officials, the diplomatic relationship facilitated the Libyan officials' access to US officials involved in the negotiations, as meetings often took place in London. Informal diplomacy for Libya in the UK was boosted in

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[667] BBC, "Full transcript: Blair's Libya statement", 19 December 2003, http://news.bbc.co.uk/1/hi/uk_politics/3336073.stm
[668] Christopher Adams and Roula Khalaf, "London wants EU to lift arms embargo on Libya", *Financial Times*, 11 February 2004; Dempsey, "Germany close to talks".
[669] Letter from Prime Minister Gordon Brown to Colonel Qadhafi, 25 July 2007, reproduced in Gus O'Donnell, *Cabinet Secretary's Review of Papers Relating to the Release of Abdelbaset Al-Megrahi,* 7 February 2011.

2001 when Qadhafi's son Saif began studying at the London School of Economics. His involvement was instrumental in the WMD negotiations.[670] Tony Blair's personal intervention in the form of an extended phone conversation with Qadhafi in the final stages of the agreement was also a major part of its success.[671] In addition, the US Administration used the involvement of the UK and Prime Minister Blair as part of its narrative regarding Libya's de-roguing to add legitimacy to the US Administration's decision to engage with Libya. [672] The US distanced itself from the extent of the US's involvement in meetings leading up to Libya's decision and this diffused some of the domestic political pressure the US Administration would have had in trying to hold such talks in the US.

Although the de-roguing of Libya in the UK was complete by the end of 2004, there were problematic implications for the UK's relationship with the US when al-Megrahi was released from a Scottish prison in August 2009. The UK Government had significant concerns about future benefits from the Libyan relationship because of al-Megrahi's continued imprisonment – particularly if he was to die in gaol. Although the UK Government maintained that the decision was for Scottish authorities, it was proactive in facilitating Libya's applications for al-Megrahi's release because of these fears over other aspects of the UK/Libyan relationship.[673] Once the decision to release al-Megrahi was taken, the issue of the US's response came more sharply into focus. The UK was concerned with how al-Megrahi's return was managed and Brown wrote to Qadhafi to try to avoid a high profile reception in Libya for al-Megrahi.[674] As discussed in Chapter 5, the issue re-emerged in the US domestic sphere because of the BP oil spill in 2010 in the Gulf of Mexico. BP had discussed al-Megrahi's release with the UK Government in 2007 because his continued imprisonment was being used by Libya as a barrier to economic opportunities for it in Libya.[675] The political costs for the UK Government included the Lockerbie issue dominating press coverage during Prime Minister David Cameron's first visit to

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[670] Scott MacLeod, "Behind Gaddafi's Diplomatic Turnaround", *Time,* 18 May 2006.
[671] Patrick E. Tyler and James Risen, "Secret Diplomacy Won Libyan Pledge on Arms", *The New York Times*, 21 December 2003.
[672] See for example, President George W. Bush, "Libya Pledges to Dismantle WMD Programs", The James S. Brady Briefing Room, Washington DC, 19 December 2003.
[673] O'Donnell, *Cabinet Secretary's Review.*
[674] O'Donnell, *Cabinet Secretary's Review.*
[675] O'Donnell, *Cabinet Secretary's Review.*

the US, US congressional requests for Scottish and UK officials to front a hearing into the release of al-Megrahi, the UK and Scottish governments releasing government documents to defend their position, and a review conducted by UK Cabinet Secretary Sir Gus O'Donnell.[676]

4.6 Russia, China and Libya's De-roguing

In the 1980s the Soviet Union's support for Libya was a primary factor behind the limiting of Libya's roguing to the US, Western Europe and the African region. Following the end of the Cold War and the Soviet Union's disintegration, Russia supported the UN sanctions imposed on Libya and paved the way for the universalisation of Libyan outlawry. Russia's position on Libya and other rogue states was, at this point, a form of representing the new position of Russia as a responsible member of international society in the post Cold War era. From the mid 1990s, rogue states continued to be used, in part, as a representation of Russia's relationship with the US. However, by this stage Russia engaged with such states to demonstrate its distance from the US and its foreign policy. Although Russia abided by UN sanctions and downgraded the level of diplomatic representation between the two states it never severed diplomatic ties completely.[677] Furthermore, in 1997 with UN sanctions still in place, the two states established the Libya-Russian cooperation committee aimed at improving future relations. This was not a violation of UN sanctions but it indicated, along with Russian statements urging the lifting of sanctions that Russia was looking forward to a stronger relationship with Libya outside the sanctions regime.[678]

Aside from this symbolic support for Libya, Russia had little impact on lifting UN sanctions. Following the suspension of UN sanctions in 1999, Russia removed sanctions it had placed on

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[676] "Lockerbie bomber dominates PM Cameron's US visit", *BBC News Online*, 20 July 2010; Anne McGinn, "Cameron's First U.S. Visit Overshadowed by Lockerbie Bomber Outrage", *FoxNews.com,* 20 July 2010; Patrick Goodenough, "Democrat Postpones Senate Hearing on Lockerbie Controversy, After Key Witnesses Rebuff His Request to 'Clear the Air'", www.cnsnews.com/news/article/70080, 28 July 2010; O'Donnell, *Cabinet Secretary's Review*.
[677] UN document S/23965, "Note Verbale dated 14 May 1992 from the Permanent Mission of the Russian Federation to the United Nations Addressed to the Secretary-General", 19 May 1992; Yelena Pankratyeva, "Russia, Libya mark 50th anniversary of diplomatic relations", *TASS*, 4 September 2005.
[678] Oleg Kuzim, "Russian-Libyan economic commission reaches accords – spokesman", *TASS,* 23 October 1997; "Russia ready to cooperate with Libya in nuclear and civil engineering projects", *BBC Summary of World Broadcasts*, (Source Interfax news agency Moscow) Part 4 The Middle East: MAURITANIA: ME/D3058/MED, 24 October 1997.

Libya and flights between the two resumed.[679] In July/August 2000, the Libyan Foreign Minister made the first visit to Russia since the imposition of sanctions. By this stage improving relations with Libya, among others, was used by Russia as a way of demonstrating its independence from the US to domestic Russian audiences.[680] It was not a reflection of a change in Russia's position towards rogue state characteristics such as terrorism,[681] but a part of Russia's re-assertion in global affairs under Putin. In a joint communiqué from Libya and Russia following the visit, Moscow asserted the need for "a fair, multi-polar world free from double standards and Cold War stereotypes."[682]This was followed up with the Russian Foreign Minister visiting in May 2001, an additional call by Russia for the complete removal of UN sanctions, and a return visit by the Libyan Foreign Minister to Russia in October.[683] Despite the growth in diplomatic contacts, Russia had difficulty in securing meaningful agreements in trade and other areas with Libya following the end of UN sanctions. At the end of 1999, the year of the suspension of UN sanctions, Russia had limited personnel in Libya, even in comparison to the US and UK who had maintained significant sanctions on Libya.[684] The opportunities in the Libyan market following the end of sanctions went heavily to key European states such as Italy, Germany, France and the UK and later the US when it removed unilateral sanctions. In a large part, the Libyan market remained closed to Russia.

It took a number of years for any significant change to occur and it was only in April 2008 that Vladimir Putin, in one of his final acts as President, visited Libya. As a result Russia wrote-off approximately USD 4.5 billion in debt that Libya had outstanding due to arms deals with the Soviet Union. In return, Libya signed on to equivalent value in contracts with Russian firms.[685]

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[679] Katz, "The Russian-Libyan Rapprochement", p 123.
[680] Black, *Vladimir Putin*, p 322.
[681] "Foreign Policy Conception of the Russian Federation (2000)", reproduced in Melville and Shakleina, *Russian Foreign Policy*, pp 89 – 103 (p 95) adopted by the President of the Russian Federation V.V. Putin, 28 June 2000. After September 11 2001, new propositions for cooperation between Russia and the US on international terrorism emerged – see for example Sergei Rogov, "A New Turn in Russian-American Relations", in Melville and Shakleina, *Russian Foreign Policy*, pp 349-373.
[682] Black, *Vladimir Putin*, p 339.
[683] "Libyan foreign minister arrives in Moscow", *Associated Press Worldstream*, 30 July 2000; "Russian foreign minister meets Libyan leader", *BBC Worldwide Monitoring*, 7 May 2001; "Russian calls for lifting sanctions against Libya" *BBC Worldwide Monitoring*, 7 May 2001; "Libyan FM in Moscow for talks including fighting terrorism", *Agence France Presse – English*, 29 October 2001.
[684] Katz, "The Russian-Libyan Rapprochement", p 123.
[685] Katz, "The Russian-Libyan Rapprochement, p 124.

Russia was already developing significant interest in Libyan gas supplies, and in 2008 Russia helped lead the establishment of the Gas Exporting Countries Forum which has been dubbed the "Gas OPEC" of which Libya was also a founding member.[686] It is evident that from the late 1990s Russia did not treat Libya as a rogue state in any significant way but re-engagement did not follow smoothly. Instead, the Libyan/Russian relationship is represented by a transfer of power to Libya as Russia's opportunities only opened up after its decision to offer extensive debt relief to Libya. Libya's meaningful engagement with Russia emerged after, and not at the expense of, its engagement with the US and Western Europe, and significant aspects of this re-engagement have developed more on Libya's terms than Russia's.

The Chinese/Libyan relationship showed the limits of the roguing process, yet China was a marginal factor in Libya's de-roguing. Chinese foreign policy during Libya's de-roguing was broadly a continuation of its policy during the roguing process which resulted in a gradual increase in economic relations and relatively quiet opposition to UN sanctions. China went along with the UN sanctions against Libya but abstained from voting on resolutions 748 and 883. Although China had at one stage indicated that it may veto the sanctions, it retracted this position in light of strong US pressure.[687] However, China's disengagement from the politics of the UNSC and its avoidance of active use of the veto power in the Libyan case was also part of an overall pattern of Chinese foreign policy behaviour at the UNSC.[688] In short, there was nothing atypical about the Chinese approach to the Libyan issue at the UNSC in terms of the general trend of Chinese foreign policy. From a multilateral perspective, China abstained from resolutions 748 and 883 and expressed a quiet opposition to the sanctions and resolution of the Lockerbie issue. China was charged by the US and UK to the UN sanctions committee as increasing rather than decreasing the presence of Libyan diplomatic staff in Beijing in contravention of the sanctions.[689] By 1997, China was publicly opposing the sanctions and calling for their removal on the grounds that they were punishing "innocent people" and having

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[686] The 11 states are Algeria, Bolivia, Egypt, Equatorial Guinea, Iran, Libya, Qatar, Nigeria, Russia, Trinidad and Tobago and Venezuela. They had previously met informally since 2001 and established a formal charter in 2008.
[687] Paul Lewis, "China Is Warned".
[688] Sutter, *Chinese Foreign Relations*, pp117-120.
[689] UN document S/1996/606.

an adverse effect on third parties.[690] China voted in favour of resolution 1192 in 1998 regarding the suspension of UN sanctions upon the release of Lockerbie suspects, and in favour of the full lifting of sanctions in 2003, although it did not take a leading role in the drafting or debate of either resolution.[691]

Although China's symbolic support helped Libya's de-roguing, in practice China was a relatively neutral and passive actor. More recent developments in China's relationship to rogue states have taken a more nuanced turn where China is willing to pressure states for both internal (such as Sudan and Burma) and external (such as Iran) practices that do not conform to legitimate international standards.[692] However, Libya has remained peripheral as a state of interest for China and because in large part, Libya's re-entry into international society was secured before China's change in policy and before most recent Chinese gains in status as a great power in the international system. Instead, Chinese support for Libya was muted in line with general foreign policy that meant that China did not take the lead on this contentious relationship and calls to oppose sanctions made express reference to other important international organisations such as the OAU and the Arab League and rarely did the state practice of China upset the practices of other permanent members of the UNSC.

4.7 Libya and UN Leadership

A remarkable feature of Libya's de-roguing is how quickly following Libya's reintegration into international society it was able to take on some substantial leadership roles in international organisations. Libya's leadership roles in regional organisations has been discussed above but Libya also took on the role of chair of the UN Council for Human Rights (UNCHR) in 2003 and became a member of the UNSC for 2008 and 2009, and Libya's Ali Abdussalam Treki took on the role of UN President for 2009. It is the latter two episodes that I focus on here. Libya's role as chair of the UNCHR faced significant international criticism. However, human rights was

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[690] "China publicly breaks ranks on Libya sanctions", *Agence France Presse*, 7 November 1997.
[691] UN Document S/PV.3920, 27 August 1998; UN Document S/PV.4820 (Part I), 9 September 2003 and S/PV.4820 (Part II), 12 September 2003.
[692] Stephanie Kleine-Ahlbrandt and Andrew Small, "China's New Dictatorship Diplomacy", *Foreign Affairs*, vol 87, issue 1, Jan/Feb 2008, pp 38-56; Andrew Small, "China's expanding Global Influence: Foreign Policy Goals, Practices and Tools", *Testimony before the U.S.-China Economic and Security Review Commission*, 18 March 2008.

marginal in Libya's roguing and de-roguing in virtually all its relationships and especially at the UN.

As discussed in chapter 2, the US's ability to use the suspended sanctions against Libya to so fundamentally undermine Libya's campaign for the UNSC was a significant achievement in the US's power to maintain the rogue state construction. This is because of the way in which Libya's position on the council was due to an informal practice that African states had agreed amongst each other regarding voting for UNSC members. The tactics employed by the US and other states such as the UK and France to undermine Libya's push to become a member of the UNSC was to campaign for an alternative candidate state within the relevant region – such as North Africa. This campaign was supported by a normative claim about the illegitimacy of UNSC membership for a state that was sanctioned either in practice or in a formal (suspended) manner. However, once that normative feature of the US's framing of Libya's campaign for the UNSC was removed in 2003, when sanctions were formally lifted, the US had less scope to maintain this aspect of Libya's roguing. This was particularly problematic for the US because as part of the postponement of Libya's position on the UNSC in 2003 for the 2004-05 session, Algeria and Libya had agreed to a swap where Algeria would take on the 2004-05 term (which had been nominally Libya's turn) and Libya would take Algeria's position in 2008-09.

The postponement was a way of Libya maintaining it had a right to the position. In late 2007 when the formal voting for the 2008-09 seats took place the US did not, as it had done previously, back a candidate state that could oppose Libya. Although the US's acquiescence partly reflects the de-roguing of Libya in the US, Libya's membership of the UNSC was controversial in domestic US politics and the US Administration would not reveal publicly whether or not it voted for Libya.[693] In the week following Libya's election the US Senate passed a bill requiring US Government reporting on Libya's progress in payments of compensation for terrorism and Senators criticised the Administration's position.[694] Libya was elected with 178 out

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[693] "Libya gets seat on U.N. Security Council", 16 October 2007, http://www.msnbc.msn.com/id/21323472/ns/world_news-united_nations/ accessed 1 February 2011.
[694] "Sens. Biden, Levin, Lautenberg Bill Requiring Reports on Status of Libyan Terrorism Cases Passes Senate", *US Fed News*, 19 October 2007.

of a possible 190 votes, in the first round of voting in 2007. Although the US's position regarding Libya's membership of the UNSC was a mixture of Libya's growing acceptance by US foreign policy makers and the difficulty it would have faced in trying to prevent Libya's candidature, the UK was more embracing of Libya taking on a leadership role in the UN. In his 2007 letter to Qadhafi, Gordon Brown as Prime Minister stated that the UK would work with Libya in the forum of UNSC for the purpose of developing their international cooperation if Libya was elected as a UNSC member by the General Assembly.[695] Libya's term at the UNSC was not without consequences for the foreign policy objectives of the US and other states that had rogued Libya in the past. Although unable to stop resolutions of the UNSC by itself, Libya could and did reject proposals for UNSC Presidential statements that required the consensus of the UNSC members to be issued. For example, Libya used this to block a proposal by the US in 2008 for a UNSC Presidential statement condemning Sudan over the Darfur issue.[696]

Similarly, how much Libya's de-roguing moved beyond Libya's participation in international society to major leadership roles was evident in the election of Libya's ambassador Ali Abdussalam Treki as UN President for 2009. The role of Treki as President also paved the way, in part, for Qadhafi to make his first trip to the US to speak to the UN General Assembly. In the past, the US had used its position as host of the UN to aid the process of roguing Libya by restricting the movements of Libyan diplomats to the UN. However, in this case, the UN's location provided Libya with an additional platform that had not been used previously by Qadhafi, as Libya's leader, to promote Libya's foreign policy priorities. The content of Qadhafi's speech and the controversy surrounding the visit that was generated among the US public perhaps reinforced aspects of Libya's rogue image. Qadhafi's speech followed that of US President Obama and lasted for 96 minutes, well over the allotted time of 15 minutes per speaker. The speech challenged the legitimacy of the UN Charter and referred to the UNSC as the terror council. The speech was widely reported in the press and caused the UK's Prime

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[695] Letter from Prime Minister Gordon Brown to Colonel Qadhafi, 26 September 2007, reproduced in O'Donnell, *Cabinet Secretary's Review*.
[696] Colum Lynch, "With Rivals in Key Posts, U.S. Faces Hurdles at U.N.", *The Washington Post,* 22 February 2009, (with correction 27 February 2009).

Minister, Gordon Brown, to change the introduction of his speech, which followed Qadhafi's, in order to reaffirm the legitimacy of the UN in the international system.[697]

Although the US had restored all diplomatic relations, including the appointment of an ambassador, Qadhafi's visit to the UN came only one month after the Lockerbie bomber al-Megrahi returned to Libya to public celebrations. At the time, US foreign policy makers lamented that the US could do little of consequence to stop this occurring.[698] This added to the controversy for the US as the host state of the UN and was evident in the protests that Qadhafi faced following his speech and more importantly, the ability of domestic lobbies to prevent Qadhafi from staying in and holding meetings in the tent he usually used when travelling abroad. These protests and Qadhafi's speech did cause some minor diplomatic disruptions for the UN and some public relations problems for the US Administration.[699] Qadhafi's visit actually reinforced Libya's de-roguing and the way in which the US Administration (as the major source of Libya's rogue state construction) acquiesced to the legitimacy that Libya now had as an actor in international society. This episode shows that despite aspects of Libya's rogue image remaining, as Libya's participation in international society increased, the image became less consequential to Libya's international relations. That is, just as Libya's roguing developed an inertia that kept it isolated, Libya's de-roguing had a political inertia that allowed Libya to minimise the impact of significant political controversies.

4.8 Conclusion

Libya's de-roguing in international society developed on a regional basis and was particularly dependent on Libya's ability to contest the roguing process in Africa. Although there were some similarities in the broad drivers for Libya's de-roguing across different regions, most notably the financial resources and economic opportunities that engagement with Libya provided for many

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[697] Andrew Porter and Alex Spillius, "Brown forced into impromptu defence of UN", *The Daily Telegraph*, 24 September 2009; Neil MacFarquhar, "Libyan Leader Delivers A Scolding in U.N. Debut", *The New York Times*, 24 September 2009.
[698] Elisabeth Bumiller, "With Libya Ties Strained, U.S. Has Limited Options", *The New York Times*, 25 August 2009.
[699] Tom Leonard, "Gaddafi's 96-miunte moment to shine", *The Daily Telegraph*, 24 September 2009; Ed Pilkington "The colonel seized his 15 minutes of fame. 100 minutes later he sat down: Gaddafi grabs his 100 minutes of fame at UN", *The Guardian*, 24 September 2009; MacFarquhar, "Libyan Leader".

states, Libya's de-roguing was dependent on different contexts and norms in different regions and states. The relationship between Libya and key European states in terms of de-roguing was characterised in somewhat legalistic paths of compensation – following relevant court cases – and expressions of regret or acceptances of responsibility. In this respect Libya's de-roguing in this region is perhaps more reflective of the need to re-frame Libyan rehabilitation in a manner consistent with that of a reformed criminal. In the African region however, this need was far less prevalent and Libya's relationship with states was more subject to accepted norms of inter-relations between states – such as the acceptance of state sovereignty. An additional feature of the de-roguing process is that Libya focussed on improving relations with those states it was most rogued by (i.e. the West and Africa) and others (such as the Arab world and Russia) which had previously been Libyan supporters, but nevertheless went some way towards roguing Libya, were marginalised by Libya in the de-roguing process. This was in part a strategic issue due to Libya's ability to employ material resources in the African region and Libya's material need for economic investment. However, it is also partly a reflection of Libya's sense of betrayal by states that abandoned their engagement with Libya in a time of need. Although they did not rogue Libya to the extent that others had, their failure to look after Libya resulted in long term tensions in their relations with Libya that were hard to overcome.

The UN sanctions actually had the effect of driving a significant amount of Libyan de-roguing on a regional level, as Libya sought to re-engage in and construct forums of multilateral participation to undermine the sanctions regime. When such forums were successful, Qadhafi stayed with them; when they were not, Libya tended to marginalise itself from them. Libya was aided by the superpower neglect of the African region and internal changes in a number of states that meant Libya could more effectively employ political resources to de-rogue. This, combined with a normative tendency among African states to deal with governments on the basis of state control, was an important contributing factor in Libya's de-roguing in the region. Libya's relative regional strength was an essential aspect of its regional de-roguing, and this regional de-roguing was, in turn, an important feature of Libya's de-roguing in international society more generally. However, Libya's use of its material resources was often framed in terms of showing some level of reform from its past foreign policy behaviour and promoting its role as a responsible leader within the region. Despite this, Libya's de-roguing in the African region was

still less dependent on the need to demonstrate its "reformed" character than elsewhere in international society – particularly the US (as discussed in chapter 5). As such Libya's de-roguing in the African region showed a general willingness by states to move past the construction of Libyan outlawry and to re-engage with Libya as an ordinary member of international society.

Although Libya's de-roguing developed differently in different regions and states, there was also a strong interconnectedness among states regarding the de-roguing process. In terms of bilateral diplomatic practice, states neutral to the roguing process and those that had recently re-engaged with Libya aided the overall de-roguing process by facilitating Libya's behavioural changes and the restoration in diplomatic ties with states that had previously isolated Libya. This included, for example, Egypt's role in minimising US/Libyan tensions over chemical weapons in the mid 1990s, and London and other European cities being places for negotiations between US officials, UK officials and Libyan officials over Lockerbie and Libya's WMD program. These bilateral relationships also helped Libya's de-roguing at a multilateral level, as action from international organisations to remove multilateral sanctions against Libya was helped by the lobbying of key states. Multilateral organisations also provided political cover for some states to further develop informal diplomatic ties with Libya. Further, the importance of the issue of host state status in Libya's de-roguing in the African region and the use by Libya of its financial wealth to host events or bankroll the hosting in states that would be favourable to Libya, show that the norms and practices of multilateral institutions were manipulated by Libya, and others, for the purpose of its de-roguing.

5. The De-roguing of Libya in the United States

5.1 Introduction

In a period of only five years, beginning with the release of the Lockerbie bombing suspects for trial in 1998 and culminating with the 2003 announcement that it was disarming itself of WMD, Libya made the behavioural changes that are commonly attributed to its reintegration with international society. The restoration of diplomatic relations between Libya and the US was not immediate and it took a further five years for the US to send a full ambassador to Libya at the end of 2008. Serious controversies between Libya and the US remain but now they are dealt with outside the roguing process of the preceding decades and within the framework of "normal" diplomatic practice and Libya's position as a legitimate member of international society. Most of the literature regarding Libya's rapprochement with the US argues over the effectiveness of various US foreign policy practices (such as ad hoc diplomatic talks, sanctions, or strategies on regime change) in convincing Libya to give up terrorism, resolve outstanding issues such as the Lockerbie bombing compensation, and give up its WMD programme. There is also an emerging literature debating the lessons that the Libyan case may offer to US policy makers dealing with other problem regimes.[700] This chapter, on the other hand, examines the path of US-Libyan relations from the late 1990s to show how the construction of Libya as a rogue state (as outlined in Chapter 2) was reinterpreted, and ultimately unravelled in the US by the end of the George W. Bush Administration.

The main argument of this chapter is that although the Libyan case presents an example where the US had some success in imposing new normative conditions on state participation in

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[700]The debate over effectiveness of US foreign policy (and or UN sanctions) includes: Miroslav Nincic, "Getting What You Want Positive Inducements in International Relations" *International Security*, vol. 35, no. 1, Summer 2010, pp 138-183; Tucker, "The Rollback of Libya's Chemical Weapons Program"; Newnham, "Carrots, Sticks, and Bombs", pp 77-94; Bahgat, "Proliferation", pp 105-126; St John, "Libya and the United States"; Litwak, *Regime Change*; Wyn Q. Bowen, *Libya and Nuclear Proliferation: Stepping back from the brink*, Adelphi Paper 380, Routledge, Milton Park, 2006; Zoubir, "The United States and Libya"; Jentleson and Whytock, "Who 'Won' Libya?", pp 47-86. Hochman, "Rehabilitating a Rogue", pp 63-78; St John, "Libya Is Not Iraq", pp 386-402; George Joffé, "Libya: Who Blinked and Why" *Current History*, vol 103, 2004, pp 221-225; Niblock, *"Pariah States"*. The literature looking more specifically at Libya as an example to other rogues includes: Jon B. Alterman, "Postscript: Libya as Harbinger? The U.S.-Libyan Rapprochement" in Vandewalle (ed), *Libya Since 1969*; Schwartz, "Dealing with a 'Rogue State'". Some exceptions that look more broadly to the role of international norms aspects of Libya's relations with the US include Hurd, "The Strategic Use of Liberal Internationalism". For the role and legitimacy granted by third party actors see, Boyd-Judson, "Strategic Moral Diplomacy", pp 73-97. A general history of the Lockerbie episode is Matar and Thabit, *Lockerbie and Libya*.

international society, the roguing process was undermined by the institutional strength of diplomacy in ordering inter-state relations. In the Libyan case, this process had four key characteristics. First, the US, faced with Libya's reintegration into international society, responded by developing a practice to publicly present Libya as a rehabilitated rogue state, and not a beneficiary of ordinary relations between states. Second, the practice of the US Administration as Libya's de-roguing developed indicates that reciprocity remains an important feature of inter-state relations but it was a feature that needed to be hidden at times from the domestic US political sphere. Third, while some scholars are correct in noting that Libya's relationship with the US stemmed from some discrete policy controversies between the two states (such as the Lockerbie bombing), Libya's de-roguing process was aided by broader narratives of international politics that developed quite separately from the Libyan case – such as those arising from the 9/11 attacks and the Iraq War. Finally, aspects of domestic US political approaches to the de-roguing process spilled over into the international sphere. This was primarily in the form of a dramatic increase in the scale of compensation paid by Libya to victims of terrorist incidents. The consequences extended beyond the US/Libyan relationship to other states involved in similar cases with Libya.

The chapter discusses the de-roguing of Libya in a broadly chronological order. I begin by outlining how the US agreed to the trial of the Lockerbie bombers in the Netherlands. In many respects this was a US response to international society pressure against the roguing of Libya. The UN sanctions against Libya were undermined by a number of states, and third party actors such as Nelson Mandela and Prince Bandar of Saudi Arabia became effective at bridging the gap between Libya and the US. The collapse of the UN sanctions regime prompted the US to reconsider its policy of roguing Libya and in 1999 the first serious attempts of diplomatic engagement were undertaken in a series of secret talks between US and Libyan officials. This section discusses the emergence under the Clinton Administration of the process of Libya's de-roguing in terms of the US portrayal of Libya as an example to other rogue states.

The chapter then moves on to discuss US-Libyan relations under the George W. Bush Administration, and it focuses on the major behavioural changes in Libya that formed the basis

of its de-roguing in the US. With respect to Lockerbie and terrorism, I show the importance of the 9/11 attacks and the war on terror narrative for accelerating the resolution of some of the controversies between Libya and the US. I also discuss the role played by the Lockerbie victims' lobby, as a non-state actor, in influencing the de-roguing process. The following sections deal with the de-roguing of Libya in terms of WMD following Libya's announcement in December 2003 that it would disarm. Again, Libya's de-roguing was determined within the context of external events, in this case the Iraq War which provided the US with an additional political interest in establishing the frame of Libya as a rehabilitated rogue. In implementing the WMD disarmament, reciprocity emerged as an important feature of Libya's de-roguing, albeit with continuing tensions with the latent effects in the US's domestic political sphere of the Administration's past roguing of Libya. In 2006, the issues of Libyan terrorism and WMD, which had previously been somewhat compartmentalised, begin to merge in the framing of Libya's de-roguing when the US withdrew its designation of Libya as a state sponsor of terrorism and established an embassy in Libya.

The final sections of the chapter discuss how in the latter half of the George W. Bush Administration to the time of writing under the Obama Administration, the US controversies with Libya came to be dealt with within the institution of diplomacy. This differs significantly from earlier diplomatic contacts as the George W. Bush Administration openly acknowledged and pursued institutionalised diplomatic practice with Libya instead of limiting contact to ad hoc and highly secretive meetings. Here, I discuss how the US Administration gradually reframed the value of diplomacy in relation to Libya as a tool for pursuing US interests and influencing Libyan behaviour on controversial issues instead of a normative practice incompatible with states with objectionable policies. This is particularly the case with the issue of Libya's exceedingly poor human rights record sitting outside the de-roguing process, and the lack of consequence of Libya's controversies in Africa. Finally, Libya's return to formal diplomatic practice survived the re-emergence of the Lockerbie bombing in US politics following the controversial release and return to Libya of the only person convicted over the attack.

5.2 The Clinton Administration

5.2.1 Agreeing to the Lockerbie Trial

The de-roguing of Libya, from a US perspective, took its first major step when the UN Secretary General, Kofi Annan, announced on 5 April 1999 that Libya had agreed to release the two suspects of the Lockerbie bombing, Lamin Khalifah Fhimah and Abdelbaset Ali al-Megrahi, for trial at Camp Zeist in the Netherlands. This resulted in the immediate suspension of UN sanctions against Libya.[701] The US, UK and Libya agreed for the trial to be held under Scottish law and that it would be adjudicated by three Scottish judges with no jury. This agreement was similar to a position that Libya had argued for since 1993 but represented a significant shift in the position of the UK and the US who had argued that the Libyan suspects be tried in either the UK or US.[702] Although in many ways the US was responding to circumstances created by Libya and other states, it aimed to appear as if it acted in a manner that did not grant any legitimacy to Libya as an equal international actor.

The result of the trial, which was conducted from 2000 to 2001, was a guilty verdict for al-Megrahi while Fhimah was acquitted. As part of al-Megrahi's guilty verdict the judges stated that he was a member of the Jamahariya Security Organisation (JSO i.e. the Libyan Intelligence Services) and the judges drew the "clear inference ... that the conception, planning and execution of the plot which led to the planting of the explosive device was of Libyan origin."[703] The prosecution charge, of which al-Megrahi was convicted, that he conducted the bombing "to further the purposes of the Libyan Intelligence Services", was repeatedly used by the US Administration to demonstrate the responsibility of the Libyan state for the bombing.[704] There were some criticisms of the process of the original trial, most notably by Hans Köchler, one of the 5 UN appointed observers.[705] However, the Camp Zeist verdict for al-Megrahi was upheld by

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[701] UN Document S/PV.3992, 8 April 1999.

[702] Boyd-Judson, "Strategic Moral Diplomacy", pp 82-86.

[703] The High Court Of Justiciary At Camp Zeist, Case No: 1475/99, Her Majesty's Advocate v Abdelbaset Ali Mohmed Almegrahi and Al Amin Khalifa Fhimah, Prisoners in the Prison of Zeist,Camp Zeist (Kamp van Zeist), The Netherlands, p 75 para. 82.

[704] See "Full wording of initial charges" *BBC News*, 11 January 2001, http://news.bbc.co.uk/1/hi/493242.stm (last accessed 27 September 2010); and for example, Patterns of Global Terrorism Reports 2001,

[705] See for example: Hans Köchler, *Report on and evaluation of the Lockerbie Trial conducted by the special Scottish Court in the Netherlands a Kamp van Zeist*, 3 February 2001, http://i-p-o.org/lockerbie-report.htm (last accessed 27 September 2010)

a Scottish appellate court in March 2002 and in August 2009 he withdrew from a second appeal process but was released from prison for compassionate reasons due to ill health.[706] Regardless of the verdict, the agreement to hold the trial marked a significant early shift towards the de-roguing of Libya.

The option for holding the trial at Camp Zeist was presented to the UNSC (and Libya) following the development of the relevant legal framework and treaties between the UK (and Scotland), the US and the Netherlands.[707] There are two distinct factors leading up to the US's eventual agreement to try the Lockerbie bombing suspects that are relevant here. First, the US was acting, at least in part, in response to Libya's de-roguing in international society due to collapsing UN sanctions, and the intervention by prominent intermediaries such as Nelson Mandela, Hosni Mubarak, and Prince Bandar. This is significant because it not only shows the limits of the US's ability to impose roguing as a practice in international society, but also that international society can contribute to changes in the US's own practices. Second, despite a significant change in position, the US was careful to develop a practice whereby it was seen to be prescribing Libyan action, rather than developing a solution as part of a negotiated settlement. This example represents a continuing tension for US-Libyan relations over the course of Libya's de-roguing, between reciprocity as a principle guiding diplomatic behaviour, and the practice of roguing that seriously undermines the interaction of states on the basis of reciprocity.

The sustained undermining of the UN sanctions regime weakened the US position on the issue of Lockerbie and the US's policy of isolating Libya in general.[708] Over the mid to late 1990s, the UN sanctions were increasingly broken by a number of African states in particular. The breaches included increased diplomatic presence in the state capitals of Bamako, Bangui, Beijing, Beirut, N'Djamena, and Sana'a. In addition, offices of Libyan Arab Airlines remained open with staff in Cairo and Amman.[709] The increased number of airline flights from Libya also developed as a direct challenge to the sanctions. Many of these flights were in violation of the sanctions and

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[706] Hans Köchler was also highly critical of this process.
[707] For a discussion of the legal development prior to the trial see Anthony Aust, "Lockerbie: The Other Case" *International and Comparative Law Quarterly*, vol 49, 2000, pp 282-292.
[708] Confidential source, government official, interview with author, 2 November 2009.
[709] UN Document, S/1996/606.

even those flights with approval from the UNSC came to be interpreted as a symbol of frustration with the sanctions.[710] In 1998, the OAU passed a resolution stating that it would no longer continue to abide by the sanctions if there was not an agreement to try the suspects in a third state.[711]

As Ian Hurd convincingly argues, at least part of Libya's successful orchestration of the collapse of the confidence in the sanctions came about through its ability to strategically manipulate the norms and symbols of liberal internationalism to favour its case. This was problematic for the US because it then faced a choice between maintaining the integrity of the UNSC – and thereby moving to some form of compromise with Libya – or insisting that sanctions continue and severely undermining perceptions of the UNSC's legitimacy and effectiveness.[712] The US Administration acknowledged these problems with the UN sanctions. As Deputy Assistant Secretary of State for Near East Affairs, Ronald Neumann, lamented to a Congressional hearing on the Lockerbie trial in July 1999, while the sanctions had had some effect on Libya, the "symbolic dimensions" of air travel bans and the diplomatic restrictions were "seen as increasingly futile."[713] There was also acknowledgement by the Administration that there was the potential it would be increasingly isolated in the UNSC on the issue had the proposal for the trial not occurred.[714] Overall, this presented the Administration with a new problem regarding the roguing of Libya which it had not had in the past. Libya turned from being a state where isolation and sanctioning as a policy for the US was relatively low cost and unproblematic to a

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[710] Hurd, "The Strategic Use of Liberal Internationalism", p 516.
[711] The Council of Ministers of the Organization of African Unity, CM/DEC.403 (LXVIII) Decision on the Report of the Secretary-General on The Financial Situation of The Organization - DOC CM/2060 (LXVIII), meeting in its Sixty eighth Ordinary Session in Ouagadougou, Burkina Faso, from 1 - 6 June, 1998. http://www.africa-union.org/official_documents/council%20of%20minsters%20meetings/com/48CoM_1998b.pdf
The OAU had earlier expressed its opposition to sanctions in 1995; The Council of Ministers of the Organization of African Unity, "Resolution On The Crisis Between The Great Libyan Arab Jamahiriya And The United States Of America, The United Kingdom And France" Resolution 1587, meeting in its Sixty-Second Ordinary Session in Addis Ababa, Ethiopia, from 21 to 23 June, 1995. http://www.africa-union.org/official_documents/council%20of%20minsters%20meetings/com/44CoM_1995b.pdf
[712] Hurd, "The Strategic Use of Liberal Internationalism".
[713] US House of Representatives, "U.S.-Libya Relations: A New Era?", *Hearing before the Subcommittee on Africa of the Committee on International Relations,* House of Representatives, One Hundred Sixth Congress, First Session, Tuesday July 22, 1999, Serial No. 106-82, p 3.
[714] US House of Representatives, "U.S.-Libya Relations", p 9-10.

policy that was increasingly difficult to maintain and therefore required significant attention from policy makers.[715]

The agreement by the US and UK to suspend sanctions is also partly attributable to the intermediary roles played by Mubarak of Egypt, Prince Bandar of Saudi Arabia and Nelson Mandela of South Africa (and Mandela's Chief of Staff Jakes Gerwel).[716] For Mubarak's part, Egypt's and Libya's relations improved somewhat over the 1990s due to a number of issues of bilateral concern and due to Qadhafi's attempts to gain improved relations with the US through Mubarak as a strong US ally. Although Qadhafi did not appear to gain much real access to US decision makers through Mubarak and Egyptian officials, Libya received increasing public support from Egypt including a high profile visit from Mubarak to Libya in 1998. Although not a breach of sanctions because it was approved by the UNSC sanctions committee, this visit nevertheless added to increasing international opposition to the continuation of the sanctions.[717]

In a similar regard, Mandela's role proved to be some form of symbolic coercion for the US Administration, as he touted Qadhafi's legitimacy as an international actor as a reward for Libya's long time support for the ANC. While Mandela probably had some value in helping Qadhafi feel he would not be betrayed by the US and UK after releasing the suspects for trial, some of Mandela's actions were seen as an irritation by the US Administration because of his public support for Qadhafi throughout the UN sanctions period.[718] That Mandela was a factor in the US movement on relations with Libya is an example of how diffuse reciprocity – that is

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[715] The settlement of sanctioning Libya as a policy issue from the Reagan Administration meant that with the exception of the creation of the Lockerbie sanctions in the UN, US-Libyan policy was not given much time by decision makers. Interviews with confidential sources, (28 October 2009 and 2 November 2009).

[716] The access of Bandar and Mandela to the Clinton Administration, and their assurances to take Qadhafi's new approach seriously, was a factor in the White House decision to re-engage, Confidential Source, former Senior Whitehouse/State Department official – interview with author (2 November 2009). See also for examination of the role of Bandar, Mandela and Gerwel, Boyd-Judson, "Strategic Moral Diplomacy", pp 73-97.

[717] Regarding Qadhafi and Mubarak relations in the 1990s see Ronen, "Personalities and Politics", pp 6-8; regarding the 1998 visit and sanctions, Ian Black, "Mubarak's Libya trip seen as scam", *The Guardian*, 10 July 1998; Ian Black, "Lockerbie: the West takes a gamble", *The Guardian*, 21 July 1998; and Hurd, "The Strategic Use of Liberal Internationalism", p 516.

[718] Neumann, for example, referred to Mandela's loyalty to Qadhafi as "irritating" for the US over the Lockerbie sanctions: US House of Representatives, "U.S.-Libya Relations", p 3. The US also publicly criticised Mandela's meetings with Qadhafi in 1997, "U.S. Upset at Mandela's Plan to Visit Libya", *The New York Times*, 17 October 1997.

Mandela's support for Qadhafi years after Qadhafi's support for the ANC - with a third state party came to have some impact on bilateral relations. It is not so much an issue of Mandela providing a new understanding of Libya in the US but of how shifts in negotiation power caused problems for the US in maintaining the roguing process in international society more broadly. In many ways this represents part of a broader issue for Libyan foreign policy that helped the de-roguing process, whereby the use of long time supporters who emerged as political winners on the world stage was combined with cutting ties with continually controversial actors (such as the IRA and Abu Nidal group) by Libya in terms of its foreign relationships. Bandar's involvement on the other hand appeared to be more significant for the US. Bandar had easy access to US Administrations, and his involvement in the Libyan case – as a representative of Saudi Arabia – was reassuring to the US given Mandela's position regarding Libya.[719]

While the US was responding in a significant way to Libya's success in gaining support to undermine UN sanctions, and the involvement of high-profile international actors, it initiated a number of practices regarding the Lockerbie trial that attempted to continue to deny Libya's status as a legitimate negotiating actor on the issue. The US agreed to a trial on the basis that was very similar to that proposed by Libya, but the US's proposal was developed without Libyan consultation or input. Instead, the majority of the proposal's development in policy and legal terms was negotiated and implemented by the US, UK and Dutch Governments. The agreement was drawn up and ready to be enacted by respective acts of parliament and government regulation once Libya released the suspects for trial.[720] The Administration was at pains to point out that this was a *fait accompli* and that any rejection would be dealt with through additional sanctions.[721] As Secretary Albright put it, the proposal was "not subject to negotiation or change, nor should it be subject to additional foot dragging or delay."[722] This view was reiterated by an

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[719] See Boyd-Judson, "Strategic Moral Diplomacy", pp 83-83. Bandar's access to the high levels of the Administration was complemented by access to US officials at various levels in the State Department (conducted with significant informality and familiarity) including those charged with conducting the later talks with Libya. Confidential source interview with author, 30 October 2009.
[720] Aust, "Lockerbie: The Other Case", pp 285-291.
[721] Steven Erlanger, "U.S. to Ask Wider Libya Ban if Trial is Refused", *The New York Times*, 25 August 1998; a similar threat was made in early 1999, see, Paul Lewis, "A Warning At the U.N. To Libyans", *The New York Times*, 27 February 1999.
[722] Quoted in Erlanger, "U.S. to Ask Wider Libya Ban".

Administration official's testimony to the US House of Representatives on the issue in July 1999.[723]

The US was careful to frame any further issues regarding the Lockerbie trial on the grounds of "clarifications" and not to use the language of "negotiation" because of the argument that the US does not negotiate with "terrorists".[724] This line of "clarifications" was not simply the particular spin placed on the initial briefings regarding the Lockerbie trial. The Administration consistently used it to articulate and demonstrate its relationship with Libya to both the Congress and domestic US population. This wording was not simply applied by the US in public discussions with its domestic constituencies, but it was also taken up to some extent by the Libyan and UN officials involved in the process.[725] The suspension, rather than lifting, of UN sanctions is discussed in more detail in Chapter 2. The material difference between suspending the sanctions and lifting them completely was limited because the re-application of suspended sanctions would require a new UNSC vote. However, the US objected to the full lifting of sanctions because it represented a continued symbolic opposition to Libya's behaviour.[726]

When the US undertook in the first part of 2000 to review the travel ban placed on US citizens to Libya, it made concerted efforts not to use language that hinted at making concessions to Libya. The review of the travel ban is significant both in terms of how the US Administration attempted to justify the review process and the extensive backlash this review solicited on a bipartisan level in the Congress and Senate. The ban was established in 1981 and was one of the first significant steps by the Reagan Administration to develop the practice of roguing Libya on the basis of international terrorism.[727] The Clinton Administration claimed that the travel ban required review because the ban was based on narrow legal grounds that may no longer have been applicable to the Libyan situation. Even with the acceptance that the ban did not constitute a technical part of

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[723] US House of Representatives, "U.S.-Libya Relations", p 4.
[724] See Boyd-Judson, "Strategic Moral Diplomacy", pp 86-87; see also US House of Representatives, "U.S.-Libya Relations", p 4.
[725] See for as a non-US example, "Letter from Hans Corell, United Nations Legal Advisor, to Kamel Hassan Maghur, Head of the Libyan Legal Team dated March 26, 1999, and Annexes" reproduced in Matar and Thabit, *Lockerbie and Libya*, pp 287-303.
[726] Albright, *Madam Secretary*, p 330.
[727] Gwertzman, "Haig Links Moves Against Qaddafi"; D. Oberdorfer, "Haig Tells Europeans Of Stand".

the US sanctions against Libya, the political opposition to the review – let alone an actual decision to lift the ban – was very strong and on 13 April 2000 the US Senate passed Resolution 287 to express this. The resolution was passed without opposition and specifically called for the travel ban (along with all other sanctions) to remain in place. In justifying the resolution, the Senate specifically cites concern over Libyan officials regarding the review as a "positive signal from the United States" and furthermore that Libya's denials of involvement in terrorism implied that the "imminent danger" to US travellers remained.[728] The travel ban was not lifted until 2004 – and even then not without further controversy.

5.2.2 Ad hoc meetings with Libya, 1999 and 2000

The first set of negotiations with Libya following the release of the Lockerbie suspects for trial began in 1999. The process started in May 1999 when the then Assistant Secretary of State for Near Eastern Affairs, Martin Indyk, began secret talks with a Libyan delegation headed by Musa Kusa.[729] There were at least 5 meetings that continued with Indyk's replacement Edward Walker until they were broken off in the lead up to the 2000 presidential election. Part of the motivation for the talks stemmed from thinking inside the White House that Libya presented itself as a test case for the rehabilitation of a rogue state that could "signal" to other states that the US was open to change and that there was a path to the normalisation of relations with rogue states.[730] As such, Libya presented itself as a potential political win for the US strategy of isolating objectionable states.[731] This represents a significant level of continuity for the public portrayal of Libya as an example to other rogue states that would later emerge under the George W. Bush Administration. At the time, with UN sanctions suspended, Libya was lobbying other states to have them removed permanently. Conscious of this and wanting to maintain the sanctions – even if they were largely symbolic in their purpose – the US set a precondition for the secret talks. This precondition was that Libya stopped its attempts in the UN to have sanctions permanently

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[728] United States Senate Resolution 287, "Expressing the sense of the Senate regarding United States policy toward Libya, and for other purposes", 106th Congress, 2D Session, 13 April 2000; Ronald Neumann testimony before Congress, US House of Representatives, "U.S. Foreign Policy Toward Libya" *Hearing before the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations*, United States Senate, One Hundred Sixth Congress, Second Session, 4 May 2000, pp 6, 9, 10, 14-18.
[729] Kusa was then head of the Libyan Intelligence Service.
[730] Confidential source interview with author, 2 November 2009.
[731] This was identified as a motivating factor behind the talks by one official involved. Confidential source, interview with the author 30 October 2009.

lifted.[732] That the US Administration agreed to meetings at all was a significant shift in its policy towards Libya. As discussed in Chapter 2, Libya had sought on a number of occasions to open up channels of communication and negotiation with the US, including through a high profile former Democrat Senator, Gary Hart, during the Bush Administration and separately through a former Ford Administration State Department official, William Rogers, who at the time of the approach was working privately as a lawyer. Both of these approaches, while resulting in Hart and Rogers meeting with high level Libyan officials including Prime Minister Jalloud in Hart's case and Qadhafi in Rogers' case, came to nothing as the Administrations refused to engage in dialogue with Libya.[733]

Unlike the later talks between the US and Libya which were more clearly compartmentalised on the basis of issue areas, the Indyk and Walker talks were more wide ranging and were based on a "laundry list" of items identified by the Administration for Libya to "graduate" from US sanctions.[734] However, substantial movement regarding compensation for the victims' families and other issues regarding Lockerbie were requirements for dialogue in other areas such as WMD. This was even the case when Libya offered to sign the Chemical Weapons Convention and allow in inspectors. Indyk and Walker assert that Libya's WMD was not seriously addressed at the time because it was not a major threat, especially as it was thought Libya's WMD capacity was primarily chemical weapons. The US's prioritising of Lockerbie was even more significant given the attitude of the Libyans towards the talks with Indyk and Walker as they were willing to offer up all that was needed.[735] That is, even before the resolution of the Lockerbie affair and the decision to give up WMD, Libya was demonstrating an intention to alter its behaviour on terrorism and WMD without full reciprocation of benefits from the US.

The talks led by Indyk and Walker came to little. As the 2000 Presidential campaign approached, the Administration directed that the talks discontinue. The reasoning for this was that exposure of the talks during a Presidential campaign would be highly controversial given the sensitivity of

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[732] Indyk, "The Iraq War".
[733] Indyk quoted in Barbara Slavin, "Libya's rehabilitation in the works since the early '90s" *USA Today,* 27 April, 2004; Hart, "My Secret Talks".
[734] Slavin, "Libya's rehabilitation".
[735] Indyk, "The Iraq War".

the Lockerbie issue. In its final year, the Clinton Administration undertook a high profile State Department re-naming of rogue states to "states of concern".[736] However, that these talks consisted of a number of meetings with high level Government officials is a significant change in the US practice towards Libya. The later success of Libya's de-roguing also stems in part from the perception that US policy makers started to develop at this stage that Libya had made a fundamental change, which was represented by Libya's agreement to meet – at least in these early negotiations – whatever conditions the US laid down.[737]

In addition to the Libya talks, the State Department also entered into talks with Sudan and North Korea for the purposes of removing them from the State Sponsors of Terrorism list.[738] Unlike the Libya talks, these were publicly acknowledged. The North Korea case in particular is important because these talks represent an inconsistency whereby engagement with a rogue state was favoured over isolation. With the Bush Administration taking office in 2001, what had been a potential softened approach to Libya, and rogue states in general, was immediately – though temporarily – dismissed. The rogue state naming was reaffirmed, and for Iran, Iraq and North Korea this was accentuated with the "Axis of evil" label cast on them at Bush's State of the Union address in 2002. In Libya's case, when Walker informed the Bush Administration of the talks he had had with Libya it was clear that the new Administration was "nervous" of the political consequences, especially from the Lockerbie victims' families. The talks were not resumed.[739]

5.3 The George W. Bush Administration

Following the verdict of the Scottish court at Camp Zeist in January 2001 that al-Megrahi was guilty of carrying out the Lockerbie bombing, the Bush Administration resumed diplomatic meetings with Libya. The guilty verdict ensured that Libya's payment of compensation for the victims' families and acceptance of responsibility for the bombing remained on the US agenda.

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[736] Robert Litwak "What's in a Name? The Changing Foreign Policy Lexicon" Journal of International Affairs, vol 54, no 2, pp 375-392
[737] Interview with confidential source 2 November 2009.
[738] US Department of State, *Patterns of Global Terrorism 2000*, Government Printing Office, Washington DC, 2001.
[739] Slavin, "Libya's rehabilitation".

The Administration highlighted not just al-Megrahi's guilt but that he was determined to have been acting on behalf of the Libyan Intelligence Services.[740] However, it was the attacks of 9/11 that provided a catalyst for renewed diplomatic contact with Libya. Although the impact of the 9/11 attacks on US foreign policy should not be overstated, it nevertheless helped alter the pace of Libya's de-roguing process. Somewhat counter-intuitively, Libya's de-roguing benefited from the sharp rise in the prominence of the US's anti-terrorism narrative following the 9/11 terrorist attacks. The attacks highlighted the overlapping of Libyan and US interests against terrorism, and in particular Islamic fundamentalism.[741] However, viewing the episode following the 9/11 attacks in terms of the emergence of a common set of interests over-simplifies the issue. Prior to 9/11 both Libya and the US had easily recognisable problems with Islamic fundamentalist groups and some of these groups presented a threat to both US and Libyan interests. According to Martin Indyk, cooperation regarding Osama bin Laden formed part of the topics of discussion during his meetings in 1999 and 2000 with Libya, and he claims that Libya stated that it recognised this common threat.[742]

For Libya's part it became the first state to issue a Red Notice for bin Laden through Interpol – it was dated 17 August 1998.[743] The Red Notice was based on bin Laden's alleged responsibility for the killing of two German citizens in Libya in 1994.[744] Shortly after Libya's warrant issue, the US had announced that bin Laden was responsible for the bombing of the US Embassies in Kenya (killing 291 people including 12 US citizens – the only US citizens killed by terrorism in 1998) and Tanzania (killing 10 people) on 7 August 1998. On 20 August, President Clinton amended Executive Order 12947 to add bin Laden to the terrorist list, this happening on the same

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[740] See for example, Richard Boucher, "State Department Regular Briefing" *Federal News* Service, State Department Briefing Room, Washington DC, 31 January 2001; US Department of State, *Patterns of Global Terrorism 2000*, Government Printing Office, Washington DC, 2001.

[741] For example see, Alterman, "Postscript" in Vandewalle (ed), *Libya Since 1969*.

[742] Indyk, "The Iraq War".

[743] An INTERPOL Red Notice is lodged by a state with INTERPOL for those wanted for arrest – sometimes, incorrectly, referred to as an international arrest warrant. Ronald K. Noble, Secretary General of INTERPOL, "INTERPOL's Way: Thinking Beyond Boundaries and Acting Across Borders through Member Countries' Police Services" remarks at Tufts University, Boston, 1 March 2003, http://www.interpol.int/public/ICPO/speeches/SG20030301.asp (last accessed 30 September 2010).

[744] Although not widely publicised there is evidence to suggest that the US Administration knew of this situation well before 9/11: "Interpol releases detailed search warrants on bin Laden", *Agence France Presse – English*, 14 September, 2001; "Interpol reportedly says Usamah Bin Ladin may be in Venezuela" *BBC Summary of World Broadcasts*, Part 5 Africa, Latin America, and the Caribbean; VENEZUELA; AL/D3331/L, 14 September 1998.

day as US airstrikes against terrorist targets in Sudan and Afghanistan were made in response to the embassy bombing and to pre-empt further attacks.[745] Even before the executive order, the US Administration was aware of the threat of bin Laden, and was publicly articulating this threat. Osama bin Laden was featuring significantly in the *Global Patterns of Terrorism* reports released by the US State Department as early as 1996.[746]

The development of the foreign policy narrative of the War on Terror post 9/11 as articulated by the US provided new opportunities for Libya to demonstrate its value to the US in terms of offering intelligence regarding al-Qaida associated terrorist groups. It also provided some cover for the US Administration in publicly acknowledging talks with Libya. In this regard, the rehabilitated rogue of Libya became valuable not just in terms of its material benefit to the US Government in fighting terrorism – although this was certainly an important factor. The public story of Libya's rehabilitation was also significant. As part of the narrative of the War on Terror, the Administration put significant weight on gaining global opposition to terrorism in general and al-Qaida in particular.[747] The US had accused Libya of being slow in cooperating with the US regarding terrorism prior to 9/11. However, within a few days of the 9/11 attacks this changed as Libya (through Musa Kusa) provided significant intelligence on various terrorist groups to the US Administration.[748]

It was in this context that on 3 October 2001 the then Assistant Secretary of State for Near East Affairs, William Burns, met with a Libyan delegation headed by Musa Kusa in London. At this stage the UK had resumed diplomatic relations with Libya since 1999, and both British and US intelligence officials were involved in discussions with Kusa during the visit. Unlike the Indyk

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[745] US Department of State, *Patterns of Global Terrorism Report 1998*, Introduction page 2 of 6 and year in review pp 1 and 2 of 3.

[746] US Department of State, *Patterns of Global Terrorism 1996*, Government Printing Office, Washington DC, 1997. Bin Laden features heavily in reports in subsequent years.

[747] For example see, George W. Bush, "Remarks by the President To United Nations General Assembly" UN Headquarters, New York, 10 November 2001, http://georgewbush-whitehouse.archives.gov/news/releases/2001/11/20011110-3.html; US Department of State, *Patterns of Global Terrorism 2001*, Government Printing Office, Washington DC, 2002, pp vi-xiv; Office of the Coordinator for Counterterrorism, *Patterns of Global Terrorism 2002*, United States Department of State Publication, Washington DC, 2003, pp iii, ix. *National Security Strategy of the United States,* 2002, p 7.

[748] Gwertzman, "Libyan Expert".

and Walker meetings which maintained very tight secrecy – even within the US Government – the Bush Administration publicised this new set of meetings. The State Department phoned the Lockerbie victims' families to inform them of the meeting. However, Kusa's presence was not mentioned and only revealed by the British press after the event.[749] Given the success of the US in keeping other contacts with Libya (and Kusa) secret when it desired, it is unlikely that keeping his presence secret was a high priority. The priority of these meetings, as framed by the Administration, was the resolution of the remaining issues regarding the Lockerbie bombing, particularly the issues of compensation for the victims' families, Libya's acceptance of responsibility for the bombing, the more general issue of it renouncing terrorism.[750] These issues were the outstanding features of the UN resolution 731 regarding Libya, which set out the conditions on which UN sanctions were later imposed through resolutions 748 and 883.

Despite Libya's attempts to link the compensation settlement with the lifting of US sanctions against Libya, the US Administration was careful not to recognise any relationship between the two issues. The approach taken by the Administration to the talks, which lasted for almost 2 years, was to focus on the outstanding Lockerbie issues. According to the account of the negotiations by Flynt Leverett, one of the State Department officials involved, the terms for Libya – developed between the US and UK – were clear:

> We presented the Libyans with a "script" indicating what they needed to do and say to satisfy our requirements on compensating the families of the Pan Am 103 victims and accepting responsibility for the actions of the Libyan intelligence officers implicated in the case.

> We also put an explicit quid pro quo on the table: if Libya met the conditions we laid out, the United States and Britain would allow United Nations sanctions to be lifted permanently.[751]

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[749] Nick Pelham, "The Terrorism Crisis: From Foe To Ally: Libyan linked to Lockerbie welcome in UK", *The Observer*, 7 October 2001; Barbara Slavin, "In terrorism fight, U.S. consults Pan Am 103 suspect", *USA Today*, 12 October 2001.

[750] According to the account of one victim's family, the US State Department informed them that the meeting was solely regarding Lockerbie, Susan Cohen and Daniel Cohen, "Gadhafi the terrorist; Sometimes the enemy of enemy is another enemy" *The Washington Times,* 9 November 2001. The focus on Lockerbie was essential to the Administration's public framing of the meetings but broader intelligence issues were discussed, see Howard LaFranchi, "Libya's bid to bluff image, end US sanctions", *The Christian Science Monitor*, 31 May 2002.

[751] Leverett, "Why Libya Gave Up on the Bomb".

While on the surface, it appears that these negotiations were guided by the principle of reciprocity, the extent to which the US's withdrawal of its opposition to fully lifting UN sanctions can be considered a reciprocal action is dubious on two grounds. First, the US only abstained from the voting for resolution 1506 in 2003 that formally removed sanctions, rather than taking the positive action of voting for the resolution.[752] At best its actions were a tacit allowance of formal acknowledgement by the UN of a practice that already existed. However, it did remove the primary justification that the US had used to undermine Libya's bids for UNSC membership for the 1996-1997 and 2004-2005 terms.[753] Second, the importance of gaining US support for formally lifting sanctions stems from the privileged position the US has as a permanent member of the UNSC. Therefore, not only is this an asymmetrical relationship between the US and Libya based on their institutional position in the UNSC, to the extent that any reciprocal action can be conceived to have existed it significantly distorted the equivalence reciprocal benefits strongly to detriment of Libya.

That the US Administration chose to make the meetings public represents a move from the previous Administration which viewed any such disclosure as very costly in a political sense. At that stage, they were concerned with the problems that would develop from the victims' lobby and the potential impact on the upcoming election. However, the Bush Administration's departure from the practice of secret negotiations was coupled with a careful framing of what the meetings actually meant for the US-Libyan relationship. Indeed, in a manner similar to the process of clarifications that followed the offer for the Lockerbie trial at Camp Zeist discussed above, the Administration presented the meetings in terms of strict control on the topic of the meetings and the minimisation or denial of meetings as negotiations. As Assistant Secretary of State for Near Eastern Affairs, William Burns characterised the meetings: "Our message has been blunt, and it has not varied: Libya must comply fully with its Security Council obligations... There are no shortcuts. If the Libyans meet their obligations, the door will start to open for a variety of international interactions with Libya."[754] At the time, the Libyans articulated a similar line, with the Libyan Foreign Affairs Minister Abd-al-Rahman Shalqam stating later in that year

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[752] See UN Document S/PV.4820 (Part II), 12 September 2003.
[753] Discussed in Chapter 2.
[754] William J. Burns, "Challenges and Opportunities for the United States in the Middle East and North Africa" *Remarks to the Hannibal Club at the Meridian International Center*, Washington, DC, 30 January 2002.

in October 2002: "The dialogue with the Americans is conducted to discuss the Lockerbie case... and has nothing to do with bilateral relations."[755]

5.3.1 Private Negotiations and Lockerbie Victims' Compensation

While the US Administration was in talks with Libya to elicit compensation for the Lockerbie victims' families and to gain Libya's acceptance of responsibility for the bombing, the actual negotiations regarding the level of compensation was dealt with directly between the Lockerbie victims' families' legal representatives and the Libyan Government. This decision added some important dynamics to the de-roguing process that had political implications not only for the US-Libyan relationship but for how Libya had to resolve other cases of terrorism it had been involved in, such as the La Belle disco bombing and the UTA flight 772 bombing. The roots of the process of dealing directly with the victims' families are a number of legislative developments in the US Congress from 1996 onwards that allowed US citizens to take direct civil legal action against State Sponsors of Terrorism. Although the Clinton Administration initially made some public speculation about the appropriate levels of compensation for the Lockerbie bombing, the US policy changed to reflect the view of the victims' families that the level of compensation should be determined by the US courts.[756] The result was the payment of compensation by Libya of an amount so significantly more than had occurred for similar incidents that it set a political precedent for related cases.[757] The way in which Libya negotiated the compensation settlement with the Lockerbie families also sought to influence the US Administration into lifting sanctions by turning the Lockerbie families into a lobby for Libya.[758]

In 1996 the US Congress amended the *Foreign Sovereigns Immunity Act* (FSIA) to restrict the diplomatic immunity for those states designated as State Sponsors of Terrorism following a failed attempt in a New York court of some relatives of the Lockerbie victims to sue Libya over

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[755] Secretary of the General People's Committee for Foreign Liaison and International Cooperation Abd-al-Rahman Shalqam interview for Al-Sharq al-Awsat, London, in Arabic 3 Oct 02, "Libyan foreign minister on Lockerbie compensation, ties with US, Iraq crisis" *BBC Summary of World Broadcasts*, October 4, 2002.
[756] US House of Representatives, "U.S. Foreign Policy Toward Libya", pp 18-19.
[757] By political precedent I mean the extent to which the Lockerbie compensation payment had political consequences for either Libya or other states involved in some similar cases. Discussion as to whether this set a legal precedent for other cases is beyond the scope of this study.
[758] Schwartz, "Dealing with a 'Rogue State'", p 570.

the bombing.[759] This change paved the way for the prosecution of these states in civil US courts for compensation for US victims of terrorist attacks. The states that have been subjected to such court cases include Cuba, Iran, Iraq, and Libya – who in general have refused to recognise the suits and mount defences to the cases in court. The success of court cases under this legislation has been limited. Large payments have been awarded by the courts against state sponsors of terrorism, with Iran subject to the biggest damages payments followed by Libya. In total as at August 2008, US Courts had awarded more than $US1.6 billion to plaintiffs in cases against Libya. However, in general, these payments have remained largely unpaid, and attempts to recover the money from various assets in the US of the states involved have failed. The primary obstacle to this has been the White House as the Clinton Administration blocked Congressional attempts to recover the owed money from the embassy buildings and assets in the US or the investments frozen under various sanctions against those states.[760]

In arguing against the moves by Congress the White House cited the restrictions it would place on US foreign policy by reducing the financial leverage of sanctions and the concern that reciprocal action would be taken against US assets, embassies and interests in the states subjected to the lawsuits.[761] That the White House was moved to use this argument shows the power of diplomatic norms of immunity in undermining the projection of the roguing process in domestic US politics into the international sphere. In this sense, the White House moved to keep the payments as an internal domestic issue by offering US Government funded compensation payments to the plaintiffs in various cases.[762] However, in the Libyan case, there were important symbolic consequences of the cases, as along with the Lockerbie compensation agreement – which stood somewhat separately to this legislation – these actions ultimately resulted in a separate terrorism claims agreement being made with Libya in 2008 as a final aspect of its de-roguing in the US.

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[759] Leslie McKay, "A New Take on Antiterrorism: Smith v. Socialist People's Libyan Arab Jamahiriya", *American University International Law Review,* 1997, vol 13, pp 442-443. This original legislation has been subjected to a series of further resolutions of Congress to overcome various legal hurdles in bringing cases against the state sponsors of terrorism, see Jennifer K. Elsea, "Suits Against Terrorist States by Victims of Terrorism", *CRS Report to Congress*, Congressional Research Service, 2008.

[760] Elsea, "Suits Against Terrorist States", pp 8-15.

[761] Elsea, "Suits Against Terrorist States", pp 8-15.

[762] The Bush Administration devised a proposal for compensation instead of court settlements, and later an exemption for Libya, see, Elsea, "Suits Against Terrorist States", pp 63-65.

5.3.2 The Development of the Lockerbie Compensation Case

The negotiations between Libya and the Lockerbie victims' families began in July 2001. The first meeting, held in Paris, was between the victims' families' lawyers Kreindler & Kreindler LLP, and a group of Libyan businessmen, headed by Mohamed Abdel Jawad. The use of the group of businessmen was given the pretext that the purpose of the compensation was to have the Lockerbie issue resolved on the basis that the associated sanctions were hurting Libyan business. The Libyan team was up front about denying responsibility. Instead the motivations for Libya were presented as an economic necessity. Given this, the negotiations set about drawing a clear link between the settlement with the victims' families and the removal of their pressure on the US Government. The Libyan Foreign Minister Shalgam would later say that the final settlement of $US2.7 billion was based on the assumption that it would be recouped within only 20 months of all sanctions against Libya being lifted.[763]

On 28 May 2002, Kreindler & Kreindler LLP recommended to the Lockerbie victims' families a deal that it had made with Libya that directly linked compensation payment to US Government foreign policy.[764] The agreement was that each of the victims' families' estates would receive $4 million for the ending of UN sanctions, $4 million for the ending of US economic sanctions and $2 million for the removal of Libya from the US state terror sponsor list.[765] Given the failure to elicit direct reciprocity from the US, the Libyan practice here represented a push to gain reciprocal concessions from the US through negotiations with private actors. The significance of this change in practice for diplomacy should not be underestimated. This moves beyond normal diplomatic practice of a two level game where diplomatic agreements need to be palatable to the domestic public. It flips the process whereby an agreement negotiated directly with an interested domestic party seeks to alter the related state's foreign policy in a manner it may be otherwise

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[763] Alden and Khalaf, "Dealing with Gadaffi".
[764] Alden and Khalaf, "Dealing with Gadaffi".
[765] Although this deal was later formally agreed to, this initial announcement was subject to denials by Libya: "Lawyers say Libya offers Lockerbie compensation, Libya denies the plan", *Agence France Presse – English,* 29 March 2002; Peter Slevin, "Pan AM 103 Settlement is Elusive; Cultural, Legal Issues Stall Lawyers' Negotiations with Libya", *The Washington Post*, 8 July 2002. The final condition was subjected to a deadline that was amended a number of times by Libya, see St John, "Libya and the United States", p 139.

opposed to. The legal avenue opened up by the changes to the FSIA in 1996 helped to solidify this practice in the Libyan de-roguing case.[766]

In response to this attempt to force US foreign policy through the compensation negotiations, the US government informed the Lockerbie victims' families that it would not consider the conditions linking payment and the lifting of sanctions as part of decisions regarding its foreign policy towards Libya.[767] This line had been expressed earlier by Secretary of State Colin Powell, who asserted that the compensation was not the "entire issue" and with the State Department highlighting that Libya was still required to meet other conditions laid down in the relevant UN resolutions.[768] Furthermore, the negotiations took until August 2003 to be finalised, in no small part due to the wording of the acceptance of responsibility which was required by both the US Government.[769] The practice of the US shows how it moved to dissociate itself from this link between the compensation agreement and US foreign policy. The US abstained from the vote to permanently lift UN sanctions in 2003 rather than vote for it and warned Libya that it should not be "misconstrued as a decision now to modify United States bilateral measures, regardless of future Libyan behaviour."[770] The remaining sanctions also came to be linked more with the issue of Libya's WMD and followed their progression more closely. Indeed, when the link between Libyan engagement and the outstanding payment of compensation re-emerged after the 2006 removal of Libya from the state sponsor of terrorism listing, the issue was driving by Congress holding back the confirmation of the US Ambassador to Libya.[771]

5.3.3 Further Consequences of the Lockerbie Compensation Deal

The settlement of compensation between Libya and the Lockerbie families complicated the de-roguing process. In some respects this process reflected the practice of payment of reparations

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[766] As at 2008 (prior to the U.S.-Libya Comprehensive Claims Settlement Agreement) Libya was second only to Iran in terms of compensation sought and awarded by US courts under this legislation, although the compensation remains largely unpaid, see Elsea, "Suits Against Terrorist States", p 75.

[767] Scharwtz, "Dealing with a 'Rogue State'", pp 569-570.

[768] Nicholas Kravel, "U.S. won't tie Libya's off to sanctions", *The Washington Times,* 30 May 2002.

[769] Peter Slevin, "Libya Accepts Blame in Lockerbie Bombing; Letter on Flight 103 in Bid to Ease Sanctions", *The Washington Post*, 17 August 2003.

[770] US Permanent Representative to the United Nations, James B. Cunningham, UN Document S/PV.4820 (Part II), 12 September 2003; also Alden and Khalaf, "Dealing with Gadaffi".

[771] This is discussed in more detail below.

that has long existed in international relations. The US was insisting that Libya take responsibility for the Lockerbie bombing and pay compensation to the victims' families. However, negotiation of the compensation payment took place privately between Libya and lawyers for the Lockerbie victims' families without US government involvement. The role of the Lockerbie victims' families' lobby as a non-state actor was reflective of the development of an emerging practice in US politics that became imposed on the international system.

The magnitude of the compensation payments for Lockerbie was significantly higher than other cases of fatalities from aviation and the initial payments provided for similar cases of terrorism such as the UTA bombing.[772] The French Government agreed to a $US 30 million compensation payment following the *in absentia* conviction of the bombers in 1999. The French Government faced significant public backlash after the details of the potential size of the Lockerbie compensation payment began to emerge and this had an impact on the process of removing the suspended UN sanctions against Libya as France threatened to use its veto power.[773] It was only in September 2003 that an agreement was made between Libya and France that permitted the permanent lifting of the UN sanctions. The French veto threat on the sanctions could have potentially held up the payment of the Lockerbie compensation.[774] In announcing the compensation deal, the French foreign minister said that France would no longer object to the UNSC vote on Libyan sanctions, although at that point no details were provided regarding the level of the compensation.[775] In January 2004, after further and at times problematic negotiations, the UTA victims' families signed an agreement – to which the French government was not a party – worth $170 million, in addition to the $34 million paid in 1999. Libya promised the money through the Qadhafi Foundation but did not accept responsibility for the

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[772] I am not making a claim here about how this practice transfers to international law as this is outside the scope of the thesis. Instead my comments are intended to reflect solely on the international *political* consequences of this issue for the roguing/de-roguing of Libya.

[773] Matar and Thabit, *Lockerbie and Libya*, p 24; Bernard Estrade, "British resolution would end Libya sanctions".

[774] Craig S. Smith, "Libya and France Reach Agreement on Victim Compensation", *The New York Times*, 12 September 2003; Colum Lynch, "French Imperil Libyan Deal on Flight 103", *The Washington Post*, 19 August 2003; The US also publicly expressed its dissatisfaction at the French position, see Gary Younge, "Libya sanctions lifting delayed: French threaten veto unless UTA families agree", *The Guardian*, 10 September 2003.

[775] Philip Delves Broughton, "Lockerbie deal clears French hurdle" *The Daily Telegraph*, 12 September 2003.

bombing.[776] Although negotiated separately from the French Government, the Libyan and French foreign ministers met the same day, to sign declaration of further diplomatic cooperation.[777]

The other important feature of the de-roguing process regarding terrorism was the re-emergence of the La Belle Disco bombing case as a hurdle to Libya's de-roguing. The bombing appeared more firmly on the US domestic politics agenda following the trial of five suspects that began in 1997. The verdict delivered in November 2001 convicted four of the five suspects and linked Libya directly to the bombing.[778]At the time of the La Belle bombing it was dealt with directly by the US airstrikes against Libya. However, its re-emergence as an issue was a result of the end of the Cold War and the opening of Stasi files following the unification of Germany.[779] This resulted in Libya having to deal with the La Belle issue in terms of providing compensation to the victims' families to further demonstrate its rehabilitated status.

This emergence of the practice of seeking compensation for past events had significant financial impact on Libya and slowed the re-engagement process. The La Belle case did not have a significant impact on the removal of sanctions, nor was Libyan acceptance of responsibility for the case required in the manner it was for the Lockerbie bombing. The issue of responsibility for La Belle was taken seriously by the US Congress but less so by the Administration. When Libya did agree to pay compensation it framed it as a humanitarian gesture and did not accept

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[776] Keith B. Richburg, "Libya to Pay $170 Million In Bombing of Airline in '89" *The Washington Post*, 10 January 2004; Craig S. Smith, "Libya sets payout".
[777] Jon Henley, "Libya agrees payout for French jet bombing", *The Guardian*, 10 January 2004.
[778] US Department of State, *Patterns of Global Terrorism 2001*, Government Printing Office, Washington DC, 2002, pp 35-36, 67.
[779] Stasi information regarding Libyan involvement in the La Belle disco bombing emerged as early as 1990, and the Stasi intelligence was significant in the investigation and trial over the La Belle bombing: Cody, "E. German Defectors"; Emerson, "Where Have All His Spies Gone?"; Atkinson, "U.S, Delays Underlined"; Drozdiak, "Murder Trial"; Kim, "Berlin Disco Terror Trial"; Karacs, "Campaign Against Terrorism".

responsibility.[780] However, compensation for the La Belle bombing victims formed part of the payment required for the Senate to confirm the US ambassador to Libya in 2008.[781]

5.3.4 Libya and WMD

By 2003 the Lockerbie bombing and other terrorism related issues were dealt with through publicly acknowledged diplomatic contact and privately with negotiations between the victims' families and the Libyan Government. However, at the same time, the de-roguing of Libya through its renunciation of WMD went through two phases: the secret contacts with intelligence officials of Libya, the UK and the US that led up to the announcement in December 2003; and the publicly acknowledged implementation process that followed. The literature is divided on the motivation for Libya's December announcement, from the deterrent effect of the Iraq War, to the fruition of economic sanctions and the diplomatic dialogue discussed above, or the tacit change in US policy away from regime change in the Libyan case.[782] In this section, I am less concerned with identifying Qadhafi's motives, instead I focus on how the roguing process restricted diplomatic practice regarding WMD in Libya's case, and how the WMD announcement was used by the US as part of the de-roguing of Libya. In terms of the implementation of Libya's WMD disarmament, the episode shows that as Libya reintegrated with international society, specific reciprocity emerged as a more dominant practice of the US-Libyan relationship. Once fully implemented, the WMD issue was also linked to evidence of Libya's reformed character in the sphere of terrorism. In addition, the framing of Libya's foreign policy practices by the US Administration began to promote the strategic nature of their interaction and downplay the normative preference for isolation that had dominated in the past. As a result the major policy controversies that remained between Libya and the US were increasingly dealt with within the institutional practices of international society, such as diplomacy.

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[780] Office of the Coordinator for Counterterrorism, *Patterns of Global Terrorism 2003*, United States Department of State Publication, Washington DC, 2004, p 91.

[781] US Senate, "Nominations of the 110th Congress-Second Session" *Hearings before the Committee on Foreign Relations*, United States Senate, One Hundred Tenth Congress, Second Session, 30 January through 24 September, 2008, pp 727-753.

[782] The best discussions of this in the academic literature are: Tucker, "The Rollback of Libya's Chemical Weapons Program"; Newnham pp 363-384, "Carrots, Sticks, and Bombs", pp 77-94; Bahgat, "Proliferation", pp 105-126; Jentleson and Whytock, "Who 'Won' Libya?", pp 47-86. Hochman, "Rehabilitating a Rogue", pp 63-78; St John, "Libya Is Not Iraq", pp 386-402.

5.3.5 Giving up WMD Secret Talks March to December 2003

The December 2003 announcement by Libya that it would give up its WMD programme was a dramatic public surprise. However, the announcement, which was presented by Qadhafi and Prime Minister Blair and President Bush to their respective states, was the direct result of nine months of negotiations that began in March 2003. These talks were distinct from dialogue regarding the Lockerbie case and from earlier offers by Libya to give up its WMD. The talks were conducted almost exclusively, at least until the final stages, by intelligence officials from the US, UK and Libya in London.[783] The approach was made by Libya, and Qadhafi himself would become involved when, in secret, intelligence officials visited Libya to meet with him and inspect a number of Libya's WMD facilities.

Although the WMD talks started before the final agreement between the US and Libya regarding Lockerbie, its resolution by August 2003 facilitated the movement on WMD. Initially, Qadhafi's son, Saif, set up the WMD talks in London, and they were conducted primarily with UK and US intelligence officials from MI6 and the CIA, rather than diplomatic officials. The British Intelligence service MI6 and certain Libyan officials had developed a long standing and "businesslike" relationship through working together on a number of issues including the Yvonne Fletcher issue and IRA terrorism,[784] and this relationship potentially aided in later difficulties. The British involvement was significant and after the initial contact most of the meetings were headed on the Libyan side by Musa Kusa.[785] While the agreement covered the range of Libya's WMD programme, as Libya discontinued its nuclear, chemical and biological weapons, it was the nuclear weapons programme that dominated the discussions.[786] At the time, US intelligence mistakenly believed that Libya would have appropriate levels of weapons grade uranium for a nuclear capability by 2007.[787]

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[783] The first contact was made between Libya and an MI6 official, see Michael Evans, "Libya knew game was up before Iraq war", *The Times,* 13 March 2004.

[784] Stephen Fidler, Roula Khalaf and Mark Huband, "Return to the fold: how Gadaffi was persuaded to give up his nuclear goals", *Financial Times*, 27 January 2004.

[785] Some others were held in Rome: Fidler, Khalaf and Huband, "Return to the fold".

[786] Mark Huband, "Libya: Secret talks 'focused on nuclear expertise'", *Financial Times*, 22 December 2003.

[787] Report to the President of the United States of *The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction*, 31 March 2005, pp 253-254.

The talks progressed well, and in September MI6 and CIA officials met with Qadhafi in Libya. The same month Qadhafi received written communications from Blair, which cleared room for US and UK officials to visit Libyan weapons facilities.[788] However, there was a potential problem when in October 2003 a cargo ship, the *BBC China,* travelling to Libya was intercepted by Italian authorities. Acting on, and with the supervision of US intelligence officials, the Italian forces uncovered an extensive array of mechanical equipment that was tied to Libya's nuclear weapons programme. This interception was a key feature in the arrest of the Pakistani nuclear scientist AQ Kahn and the unravelling of a network selling nuclear intelligence and equipment to Libya and a number of other states, including Iran and North Korea.[789] The discovery immediately prompted a visit to Libya by the US and UK intelligence officials involved in the secret negotiations.[790] As recalled by Saif Islam Al-Qadhafi, the way that the intelligence officials dealt with the *BBC China* discovery demonstrated the goodwill that was being established among the negotiators.[791] The inspections, which were agreed to in principle earlier in the talks, were conducted in October and again in December and the officials were given extensive access to the facilities. As one official described the level of access provided: "One of our most senior analysts said this was the most extraordinary disclosure in his 30 years of doing this."[792]

The exposure of the AQ Kahn network is argued by some US officials to have been a significant motivator in eliciting full Libyan compliance with the dismantling of its WMD programme because when Libya was presented with the extent of the US knowledge of its WMD, Libya understood it would be more expensive and difficult to secure.[793] However, in terms of the de-roguing process, the impact on the US side should not be underestimated. This is because the

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[788] MacLeod, "Behind Gaddafi's Diplomatic Turnaround".
[789] Albright, David and Hinderstein, Corey, "Unravelling the A.Q. Kahn and Future Proliferation Networks", *The Washington Quarterly*, vol 28, no 2, 2005, pp 111-128.
[790] MacLeod "Behind Gaddafi's Diplomatic Turnaround".
[791] MacLeod "Behind Gaddafi's Diplomatic Turnaround".
[792] Tyler and Risen, "Secret Diplomacy".
[793] Tucker, "The Rollback of Libya's Chemical Weapons Program", p 365. Another interpretation of the events surrounding the *BBC China* – although denied by those involved in the process – was that the AQ Kahn shipment was tipped-off to intelligence officials by Libya as a gesture of goodwill, Fidler, Khalaf and Huband, "Return to the fold". Similar *speculation* was conveyed by a US official involved in previous talks with Libya, confidential interview with the author 30 October 2009.

unravelling of AQ Kahn and the Libyan WMD provided the US significant political value in the process of Libya's de-roguing. As stated earlier, Libya proposed unsuccessfully to give up its WMD programme in the 1990s. However, Libya accelerated its WMD programme in 1995 and from 2000 to 2002 received nuclear material.[794] Unlike previous episodes when WMD was considered a low value part of negotiations with Libya, and yet still a convenient feature of the roguing process, the more substantial the WMD programme the more likely it was that giving it up could be used to demonstrate rehabilitation and de-roguing. In this respect the more threatening a rogue Libya became the greater opportunity there was for its rehabilitation. Viewed in this way, Libya's WMD behaviour indicates that the Qadhafi regime was "hedging its bets" regarding WMD whereby even if the US failed to accept the value in Libya disarming, Libya would still possess a WMD capability that would have future deterrent value.[795]

With Libya increasing the value of its WMD programme as part of the de-roguing process, the timing of the announcement was also significant because it gave the Bush Administration significant scope to gain political advantage by framing Libya's foreign policy change in terms of the Iraq War.[796] The week leading up to the announcement also included some high level diplomatic contact, including Tony Blair's first phone conversation with Qadhafi, and conversations between the US national security adviser Condoleezza Rice, the UK's foreign policy and defence adviser Nigel Sheinwald, and Libyan officials.[797] Although Libya claimed that it came to the decision itself, the statement of the policy change was announced virtually simultaneously by President Bush and Prime Minister Blair. The original statement made by Qadhafi announcing the decision was the product of a long meeting at the Travellers Club in London on 16 December 2003. Up to three versions of the Libyan announcement were delivered back and forth through significant negotiation between the officials from Libya, the US and the UK on the day preceding the announcement.[798] Only with the announcement that Libya had committed to giving up its WMD did the US disclose the existence of the meetings regarding Libya's WMD programme.

[794] Bahgat, "Proliferation", p 110.
[795] The argument that Libya was hedging its bets is made in Slavin, "Libya's rehabilitation".
[796] George W. Bush, "Libya Pledges to Dismantle WMD Programs", The James S. Brady Briefing Room, 19 December 2003.
[797] Tyler and Risen, "Secret Diplomacy".
[798] Fidler, Khalaf and Huband, "Return to the fold".

The path of Libyan dialogue with the US and UK in both its secret and publicly acknowledged forms, shows a clear sequencing of major policy issues regarding Libya's de-roguing.[799] This sequencing of issues regarding Libya and the US relationship continued when more thorough diplomatic dialogue emerged under the Bush Administration from late 2001 onwards. It is attributed by some analysts as an important aspect of building confidence in agreement making between the two states that had such a confrontational past.[800] However, the ordering of the preferences in terms of Lockerbie and then WMD depended on the development of the roguing process towards Libya. That is, the roguing process limited the scope for US-Libyan relations to develop through small incremental steps or by working on less controversial issues. It could only progress through major declarations.[801] The process of negotiations shows that the sequencing of Lockerbie, terrorism and WMD are reflective of the public political narratives that were relevant to the US-Libyan relationship. In particular, any major movement on the WMD issue was politically constrained until Lockerbie, as the most prominent issue, was resolved.[802] As a senior State Department official involved in the Lockerbie talks put it: "It needed to be one step completed, before the next could begin... You didn't want these families and their compensation to be mixed with the dismantling of chemical weapons facilities."[803]

5.3.6 Implementing Libya's de-roguing

By the end of 2003, Libya had committed to the major behavioural changes that led to its de-roguing. However, it was not until May 2006 that diplomatic relations were formally restored, June 2006 that Libya was removed from the State Sponsors of Terrorism list, and 2008 that a full ambassador was sent to Libya. Then in 2009 and 2010, major controversy reappeared with the release of al-Megrahi from prison and his return to Libya. This reflects the caution the Administration had regarding the domestic political circumstances surrounding Libya. As the US

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[799] Sequencing term is used in Alterman, "Postscript", in Vandewalle (ed), *Libya Since 1969* p 242.

[800] Alterman, "Postscript", in Vandewalle (ed), *Libya Since 1969,* p 242.

[801] A similar approach taken by Boutros-Ghali with the UK over the UN sanctions, see Boutros-Ghali, *Unvanquished*, pp 190-192, 200-202.

[802] This should be read as the major resolution on acceptance of responsibility and agreement to pay compensation, even though some implementation issues remained.

[803] Quoted in Ron Suskind, "The Tyrant Who Came in From the Cold," *The Washington Monthly*, October 2006, http://www.washingtonmonthly.com/features/2006/0610.suskind.html

had so strongly developed diplomatic isolation as a normative feature of is policy towards rogue states, Libyan recalcitrance at a time of diplomatic engagement would be politically embarrassing for the Administration. However, the period from the end of 2003 onwards is when the US-Libyan relationship became characterised by specific reciprocity, both in terms of policy outcomes and the US's public framing of its foreign policy towards Libya. As the de-roguing of Libya developed there was a shift in the way that the Administration (but not Congress – hence causing a tension in US foreign policy) framed the relationship between diplomacy and the character of the Libyan regime. As a result the US turned, in the Libyan case, to dissociate diplomacy from its normative function of granting legitimacy on Libya as an actor in international society, instead highlighting its material function as a tool of US foreign policy.

There was also a continuation, from 2004 onwards, of the framing of Libya as a rehabilitated rogue and one that should provide an example to other rogue states such as Iran and North Korea. What is significant about this approach is that in many respects – outside the US and a small handful of other states – Libya was already treated as a normal member of international society. A number of European states by this stage had increased their interactions with Libya. Regardless, Libya saw value in buying into the US perspective of it as a rogue state that was transforming itself. This is not only demonstrated by Libya's behavioural change but some of Qadhafi's justifications for it.[804] This was evident in comments Qadhafi provided to a US Congressional visit to Libya in 2004 where he stated that the Iraq War formed part of his decision making over WMD.[805] Even if Libya's motives for dealing with the US were based strongly on material interests, in order to access these interests Libya had to take on the normative practice that the US was imposing through the rogue state doctrine.

From the US perspective, the need for Libya's demonstration of rehabilitation extended beyond material compensation and behavioural change, as Libya was required to express regret for its

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[804] Although a significant degree of inconsistency in Qadhafi's framing of its behavioral change is evident, these acknowledgements are nevertheless important indicators of a new direction in the regime's outlook.

[805] Congressman Curt Weldon, testimony at "Disarmament of Libya's Weapons of Mass Destruction", US House of Representatives, *Hearing before the Subcommittee on International Terrorism, Nonproliferation and Human Rights of the Committee on International Relations,* House of Representatives, One Hundred Eighth Congress, Second Session, 22 September 2004, Serial No. 108-145, p 8.

past behaviour. This is demonstrated by the delay, albeit short, in the lifting of the US travel ban regarding Libya in February 2004. Qadhafi had just hosted a meeting with Italian Prime Minister Berlusconi in February which Berlusconi described as a "meeting between friends" and Tony Blair had accepted an invitation for a future visit.[806] With Libya's re-integration developing further, the US State Department was to announce on 24 February the lifting of the travel ban and an increase in the diplomatic staff operating out of the US interest section in the Belgian Embassy in Libya.[807] However, the Libyan Prime Minister Shokri Ghanem claimed in an interview on the BBC that Libya did not accept responsibility for the Lockerbie bombing, or the shooting of British Policewoman Yvonne Fletcher in 1984. Instead, Ghanem stated that Libya had bought itself out of US and other sanctions through the payment of compensation to the victims' families.[808] Upon hearing the interview the State Department cancelled the announcement, thereby delaying the lifting of the restrictions and asserted that without a retraction the comments would be part of considerations regarding how to proceed with Libya.[809] The delay was short lived as the retraction demanded by the State Department from the Libyan government was expressed through the Libyan news agency, JANA. The report referred to Ghanem's statement as "inaccurate and regrettable" and clarified the expression of Libyan responsibility that was made in the August 2003 Libyan letter to the UN as part of the formal lifting of UN sanctions against Libya.[810]

Libya's immediate retraction of the statement prevented the issue from having any sustainable implications. However, the way it was dealt with at the time indicates that the US, in particular, perceived expressions of remorse as an important feature of the de-roguing process. Given that the US announcement included an increased diplomatic interaction between Libya and the US,[811] the potential consequences for maintaining Libyan diplomatic isolation were significant. Even the response of the UK Government, which was more muted, included the UK government

[806] "Berlusconi meets with 'friend' Kadhafi in Libya", *Agence France Presse*, 10 February 2004.
[807] Barry Schweid, "Libyan statement stalls White House lifting of travel ban" *The Associated Press*, 24 February 2004.
[808] Ewen MacAskill, "US snub for Libya over PM's remarks" *The Guardian*, 25 February 2004.
[809] Patrick E. Tyler, "Libyan Casts Doubt on Plane-Bombing Guilt, Ending Thaw for Now" *The New York Times*, 25 February 2004.
[810] "Libya says it Regrets Remarks" *The Washington Post*, 26 February 2004.
[811] David E. Sanger "Bush lifts travel ban on Libya; Diplomatic dialogue will also be expanded" *The International Herald Tribune*, 27 February 2004.

seeking clarifications from Libya regarding the comments amongst opposition party calls that the visit be cancelled.[812] On the Libyan side, although it did not eventuate, suggestions were made at the time that Ghanem may need to resign.[813] The timely retraction of the comments ultimately provided the political space for the US Administration and the UK Government to continue along their process of engagement with Libya, which would have been significantly more difficult had the retraction not been so readily forthcoming.

Although the de-roguing of Libya, particularly regarding terrorism, was dependent in the first George W. Bush Administration on public contrition for its past, the implementation of Libya's WMD disarmament took a different approach. As Bowen argues the Libyan disarmament process was striking in terms of the cooperative approach of the parties and that the model used strongly reflected the approach of the US-Russian arms control process as opposed to the demands made of Iraq under the UN Special Commission (UNSCOM) model.[814] The US-Russian model is framed by the basic phrase "trust but verify" and the phrase, along with the associations it had with the Reagan Administration, was used by US officials in describing the Libyan WMD disarmament process.[815] This is an important development in Libya's de-roguing because it represents the development of specific reciprocity as a guiding principle for US/Libyan relations and Libya's movement away from a rogue state status to a more legitimate but nevertheless controversial state.

[812] Kim Sengupta, "Libya Denies Responsibility for Lockerbie and Embassy Murder" *The Independent*, 25 February 2004; Philip Webster, Shirley English and Stewart Tendler, "U-turn casts doubt on Blair trip" *The Times,* 25 February 2004.

[813] Tyler, "Libyan Casts Doubt".

[814] Bowen, *Libya and Nuclear Proliferation*, pp 71-72. Bowen also argues that the Bush Administration wanted this old US-Soviet policy to expand in its scope to other disarming states, Bowen, *Libya and Nuclear Proliferation,* p 78.

[815] See, John R Bolton "Lessons From Libya and North Korea's Strategic Choice" Remarks at Yonsei University, Seoul, South Korea, *Federal News Service*, 21 July 2004; Statement of Paula A. DeSutter, Assistant Secretary, Bureau of Verification and Compliance, US State Department, "Weapons of Mass Destruction, Terrorism, Human Rights and the Future of U.S.-Libyan Relations" *Hearing before the Committee on International Relations*, House of Representatives, One Hundred Eighth Congress, Second Session, 10 March 2004, Serial No. 108-112, p 16. The general approach of trust and verify in background terms of US foreign policy was also expressed to me in an interview with a senior former State Department official, confidential source, interview with author 14 November 2009. It continued to be used in some form in justifying the move to closer relations between the US and Libya at the end of 2008, see for example Statement by C. David Welch "Special Briefing On U.S.-Libya Relations", Washington DC, 2 September 2008 (http://2001-2009.state.gov/p/nea/rls/rm/109064.htm); Condoleezza Rice, "Interview with Zain Verjee of CNN", Tripoli, 6 September 2008 (http://2001-2009.state.gov/secretary/rm/2008/09/109223.htm)

Libya's WMD disarmament had three stages. As Libya took the steps to disarmament, the US increasingly reciprocated these steps by lifting a number of restrictions and sanctions that had been placed on Libya. The first phase, completed in January 2004, involved identifying the extent of Libya's WMD programme and moving the most dangerous WMD materials (and documentation) that Libya held to the US for storage.[816] It also included the inclusion of the IAEA to help inspect the disarmament process. The inclusion of the IAEA was part of a general approach to minimise the presence of the US in Libya[817] and help Qadhafi distance the disarmament process from the perception of US intrusion. Following this phase of the disarmament process, the US eased travel restrictions regarding Libya and increased diplomatic interaction through the establishment of staff in the respective interest sections of each state. However, these developments, as discussed above, remained very sensitive to the Lockerbie issue and the comments made by the Libyan Prime Minister at the time that Libya bought its way out of UN sanctions.

The second phase included the removal and securing of the remainder of the materials regarding Libya's WMD programme, dismantling Libya's nuclear centrifuge and reactor equipment, and the removal of uranium reactor fuel to Russia. It also included Libya destroying around 3000 chemical weapons munitions.[818] From a diplomatic perspective, the US made a significant move to re-establish diplomatic relations through the creation of a Liaison Office in Tripoli in June 2004. This came with the announcement easing a number of other economic restrictions including the application of the Iran Libya Sanctions Act to Libya. The general easing of conditions was justified primarily on the issue of WMD and the creation of the liaison office was framed as the Administration's "recognition of... deepening dialogue and diplomatic engagement

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[816] Bowen, *Libya and Nuclear Proliferation*, p 75; and Statement of Paula A. DeSutter, Assistant Secretary, Bureau of Verification and Compliance, US State Department "Disarmament of Libya's Weapons of Mass Destruction" *Hearing before the Subcommittee on International Terrorism, Nonproliferation and Human Rights of the Committee on International Relations,* House of Representatives, One Hundred Eighth Congress, Second Session, 22 September 2004, Serial No. 108-145, p 23.
[817] The US was conscious of having "as small a footprint as possible in Libya" see Statement of Paula A. DeSutter, "Disarmament" House of Representatives, p 23.
[818] Bowen, *Libya and Nuclear Proliferation*, p 76. Statement of Paula A. DeSutter, "Disarmament", House of Representatives, pp 23-24.

on a broader range of issues."[819] Although the statement maintained Libya's designation as a state sponsor of terrorism, claiming it would be in place until all Lockerbie commitments were met, the announcement came on the same day as a meeting between US and Libyan officials over the Libyan involvement in terrorism, potentially including the attempted assassination of the Saudi Prince Abdullah.[820] However, with the Bush Administration pushing for rewards regarding WMD non-proliferation, outstanding issues regarding terrorism became less prominent in the framing and practice of Libya's rehabilitation at this point in time.

The final phase of the disarmament process lasted until the end of September 2004. It primarily focussed on verifying that the disarmament process was complete. It required the review of documentation and follow up interviews with Libyan officials and those working on the WMD programmes to establish the extent to which the operations had developed.[821] The main reciprocal gesture made by the Bush Administration for the completion of this final stage was the removal of the state of national emergency regarding Libya established by the Reagan Administration in 1986.[822] Earlier in 2004 the Administration renewed the national emergency against Libya and justified it in broad terms on the grounds of terrorism, WMD and human rights. However, the discontinuation of the national emergency regarding Libya was declared on 20 September 2004 by George W. Bush's executive order 13357. The most explicit justification used was Libya fulfilling its commitments to remove its WMD programme. The President asserted "that the situation that gave rise to the declaration of a national Emergency... has been significantly altered by Libya's commitments and actions to eliminate its weapons of mass destruction programmes and its Missile Technology Control Regime (MTCR)-class missiles, and by other developments."[823] That these sanctions against Libya were lifted on the justification of Libya's movement on WMD and timed in response to Libya's WMD disarmament, even though

[819] Statement by the Press Secretary "U.S. Eases Economic Embargo Against Libya" 23 April 2004, http://georgewbush-whitehouse.archives.gov/news/releases/2004/04/20040423-9.html
[820] Office of the Spokesman, US Department of State, "Alleged Libyan Plot Against the Formal Establishment of a U.S. Liaison Office" Washington DC, 28 June 2004.
[821] Bowen, *Libya and Nuclear Proliferation*, p 76. Statement of Paula A. DeSutter, "Disarmament", House of Representatives,, pp 24-27.
[822] Bowen, *Libya and Nuclear Proliferation*, p 76-77.
[823] Executive Order 13357 of George W. Bush 20 September 2004, note that the reference is to the three previous executive orders: 12543 of January 7, 1986; Executive Order 12544 of January 8, 1986; and Executive Order 12801 of April 15, 1992.

the original creation of the state of emergency was a response to Libya's international terrorism, shows the extent to which the US shifted its framing of Libya's de-roguing to the issue of WMD.

5.3.7 Formally Restoring Diplomatic Relations in 2006

While the issues of terrorism and WMD were dealt with separately in the secret negotiations between Libya and the US, the two issues merge significantly in the Administration's public practice towards Libya. I discussed in Chapter 2 how the characteristics of terrorism and WMD were combined as part of the roguing process. In 1999 WMD also began to feature in the *Global Patterns of Terrorism* reports and the threat that it posed to US and world security when linked to state sponsors of terrorism was specifically highlighted. This combination has continued each year.[824] As discussed above, the US's response to Libya's WMD disarmament was the primary driver and justification for lifting a series of sanctions the US placed on Libya in the 1980s because of its support for terrorism. In a similar way, WMD was used in addition to terrorism as a justification for removing Libya from the state sponsors of terrorism list in 2006.

The announcement on 15 May 2006 that Libya was being removed from the state sponsors of terrorism list was made in the same statement in which the US said it would upgrade diplomatic ties with Libya by establishing a full embassy. Secretary Rice framed the decision in terms of Libya's continued cooperation with the US in anti-terrorist policies, Libya's general renunciation of terrorism, Libya's decision to give up WMD, and the example Libya provided for Iran and

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[824] US Department of State, *Patterns of Global Terrorism 1999*, Government Printing Office, Washington DC, 2000; US Department of State, *Patterns of Global Terrorism 2000*, Government Printing Office, Washington DC, 2001; US Department of State, *Patterns of Global Terrorism 2001*, Government Printing Office, Washington DC, 2002; Office of the Coordinator for Counterterrorism, *Patterns of Global Terrorism 2002*, United States Department of State Publication, Washington DC, 2003; Office of the Coordinator for Counterterrorism, *Patterns of Global Terrorism 2003*, United States Department of State Publication, Washington DC, 2004; Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2004*, United States Department of State Publication, Washington DC, 2005; From the 2005 report onwards, WMD terrorism was given its own chapter, see, Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2005*, United States Department of State Publication, Washington DC, 2006; Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2006*, Washington DC, www.state.gov/s/ct/rls/crt/2006/82737.htm (released 30 April 2007); Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2007*, United States Department of State Publication, Washington DC, 2008; Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2008*, United States Department of State Publication, Washington DC, 2009.

North Korea.[825] There is a possibility that Libya could have been removed from the list earlier following the Lockerbie and WMD deals but it was held up by potential Libyan involvement in a plot to assassinate Saudi Crown Prince Abdullah in November 2003. Although Libyan officials were arrested in the plot, the Libyan government denied being behind the assassination attempt. While this formed a justification for maintaining Libya on the terrorist list, the Administration openly acknowledged in early 2005 it was engaging in a "dialogue" with Libya to address the issues of the assassination attempt.[826] Shortly after becoming King, Abdullah solved this problem for Libya by pardoning the Libyan suspects in 2005.[827] However, the issue of Libya's final instalment for the Lockerbie compensation of $US2 million per victim remained outstanding, which is significant because under the initial agreement with the victims' families, Libya would pay this when it was removed from the terrorist list. By this stage in the US-Libyan relationship, issues of compensation for past terrorist events became an issue that the Administration decided to deal with through publicly acknowledged and institutionalised diplomatic relationships.[828] Libya did not make the final payment for Lockerbie until October 2008.

It was on 30 June 2006 (following the 45 day waiting period required by legislation) that Libya was officially removed from the US designation of State Sponsors of Terrorism. The combination of renouncing terrorism and giving up WMD continued to be referred to in the US's framing of the decision. For example, the State Department's *Global Pattern of Terrorism Report,* which is the report to Congress regarding international terrorism, described the decision to remove Libya from the list "as a result of the historic decisions taken by Libya's leadership in

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[825] Condoleezza Rice, "U.S. Diplomatic Relations With Libya" Washington DC, 15 May 2006, http://2001-2009.state.gov/secretary/rm/2006/66235.htm

[826] William J. Burns responses to questions submitted for the record, US House of Representatives, "Libya: Progress on the Path Toward Cautious Reengagement" *Hearing before the Committee on International Relations*, House of Representatives, One Hundred Ninth Congress, First Session, 16 March 2005, Serial No. 109-25, p 11.

[827] The US considered that the issue was resolved from this point: Statement by C. David Welch, Assistant Secretary for Near Eastern Affairs, "Issues Related to United States Relations With Libya" On-the-Record Briefing, Washington DC, 15 May 2006.

[828] A general push towards increased diplomatic engagement with rogue regimes in the Bush Administration was attributed by one Senior State Department official to Condoleezza Rice, confidential source, interview with author, 12 November 2009. Apart from the Lockerbie issue, the Administration expected that the diplomatic relations include Libya dealing "in good faith" with outstanding US court cases regarding terrorists incidents in the 1980s, see Statement by C. David Welch, Assistant Secretary for Near Eastern Affairs, "Issues Related to United States Relations With Libya" On-the-Record Briefing, Washington DC, 15 May 2006.

2003 to renounce terrorism and to abandon its WMD programmes."[829] This classification, unlike the term "rogue state", holds significant legal ramifications in the US. Under the terms of the relevant legislation those states classed as state sponsors of terrorism are subject to trading and financial restrictions, and the removal of sovereign immunity for some forms of civil prosecution regarding terrorism.[830] This episode represented the final removal of major US sanctions against Libya.

The linkage of WMD to the removal of Libya from this list demonstrates that the State Sponsors of Terrorism list is as much a political instrument for broader foreign policy ends, as it is a reflection of the evaluation of the terrorist activities of states. It also shows how the US continued to portray Libya as an example to other rogue states, especially the potential nuclear powers of Iran and North Korea. North Korea's case is striking because it had not been involved in any terrorist attacks since 1987, and the dispute over some Japanese terrorist suspects permitted to live in North Korea last had significant policy movement in 2002.[831] However, it was not until 2008 that it was removed from the list, and this was done on the grounds of the US commitment to the six party talks with North Korea regarding nuclear proliferation.[832] Given the developments following this with North Korea's nuclear testing it is hardly surprising that nuclear proliferation is not mentioned in the *Country Report on Terrorism* in 2009.[833] As discussed in Chapter 2, Iraq was removed from the terror sponsor list, in part for strategic purposes regarding the Iran-Iraq War in the 1980s. Similarly, the removal of Libya from the State Sponsor of Terrorism list, in part as a carrot for WMD disarmament, shows the dependence

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[829] Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2006*, Washington DC, www.state.gov/s/ct/rls/crt/2006/82737.htm (released 30 April 2007);

[830] For a discussion of the legal and political consequences of the designation as a stat sponsor of terrorism see Matthew J. Peed "Blacklisting as Foreign Policy: The Politics and Law of Listing Terror States" *Duke Law Journal,* vol 54, issue 5, March 2005, pp 1321-1354; Alison E Chase, "Legal Mechanisms of the International Community and United States Concerning State Sponsorship of Terrorism" *Virginia Journal of International Law*, vol 45, issue 1, 2004, pp 41-138.

[831] Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2007*, United States Department of State Publication, Washington DC, 2008.

[832] Mark E. Manyin, *North Korea: Back on the Terrorism List?* Congressional Research Service, Washington DC, 2010, pp 4-5.

[833] Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2007*, United States Department of State Publication, Washington DC, 2008; Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism 2008*, United States Department of State Publication, Washington DC, 2009.

of the rogue state construction on the changing political priorities of the US and the context within which it operates.

5.3.8 Human Rights, Libya's Role in Africa and Diplomatic Engagement

As the process for Libya's de-roguing in the US was based on WMD and terrorism, the absence of other issues in the process is important. The issues of human rights and Libya's role in Africa are particularly instructive in this regard. Although Libya was not seriously rogued on the basis of its human rights violations, poor human rights and oppressive government were sometimes included in the general framing of rogue states as a collective.[834] This was also identified by the US as an area of concern for future relations with Libya at the vote lifting UN sanctions against Libya in 2003.[835] Even if human rights abuses were not part of the roguing process, there was significant political scope for the Administration, if they so chose, to maintain this issue as a barrier to re-integration in a manner similar to the retroactive justification of WMD for maintaining Libya's isolation.

The US's re-engagement with Libya was not significantly based on the human rights issue. This conclusion apparent from looking at Libya's human rights record and noting how little change occurred over the period of the US/Libyan re-engagement. It is worth noting that from 1989 to 2010, Freedom House ranked Libya in the worst category for closed and oppressive regimes giving it the worst possible score and rank for every year of the period. In 2010 this meant that Libya was among the nine worst nations for human rights.[836] Throughout the Bush Administration, the US State Department's reports on human rights categorised Libya's human rights record as "poor"[837] although, Libya is absent as an example of a tyrannical state in the 2006 National Security Strategy – in which 7 states are mentioned, including four of the five state sponsors of terrorism.[838] Hence there was little discernable change in Libyan internal

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[834] See for example, Lake, "Confronting backlash states".

[835] US Permanent Representative to the United Nations, James B. Cunningham, UN Document S/PV.4820 (Part II), 12 September 2003.

[836] Freedom House, *Country ratings and status, FIW 1973-2010*, http://www.freedomhouse.org/template.cfm?page=439

[837] US Department of State, *Country Reports on Human Rights Practices*, years 2000 to 2008, http://www.state.gov/g/drl/rls/hrrpt/index.htm

[838] *National Security Strategy of the United States of America*, March 2006, p 3.

human rights and political openness over the entire course of the roguing and de-roguing process.

More importantly, however, the absence of human rights from the de-roguing process is demonstrated by the way that the US Administration framed human rights as an issue served better by engaging with Libya rather than isolating it. In responding to Congressional concerns regarding Libya's human rights record and the place it had in the engagement process with Libya, William Burns, the then Acting Under Secretary for Political Affairs, asserted that the promotion of individual rights and freedoms in Libya was part of a wider pursuit of US strategic objectives in Libya that "require invigorated diplomacy, not disengagement."[839] That the Administration chose to frame improving human rights as a product of engagement, rather than a qualifier for engagement, provides further evidence of the value of WMD and terrorism as the driving ideational features of rogue statehood and isolation. In terms of the rogue state doctrine there would be no inconsistency in the US dragging its feet on Libyan re-engagement for human rights. It was also an issue taken seriously by a number of members of Congress interested in Libyan/US relations, and the Bush Administration needed to publicly justify overlooking it as a barrier to engagement.

The Administration's lack of concern with the human rights issue in Libya was also represented in the approach to the Bulgarian Nurses case. In 1999, Libyan authorities arrested five Bulgarian nurses (and one Palestinian doctor) working in Libya, accusing them of deliberately infecting 400 Libyan children with HIV. Despite an investigation of the case by the Libyan Peoples Court in 1999 finding there was no evidence of conspiracy among the nurses against the state of Libya, the case was referred to a Libyan criminal court and, in May 2004, the nurses were found guilty and sentenced to death by firing squad. The timing of the sentence was just six months after the Libyan announcement to give up its WMD programme, and the US Congress took an interest in the case, passing a resolution in July 2004 urging the Libyan government to review the case because of the harshness of the penalty and significant concerns over the fairness of the court

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[839] William J Burns, Prepared Statement, US House of Representatives, "Libya: Progress on the Path", p 7.

case. Furthermore, the Congress stated that the resolution of the issue should be a factor to further improvements in Libyan/US relations.[840]

However, it did not emerge as a significant agenda concern for the Administration in its public description of the conditions for re-engagement, nor did it slow the Administration's response to Libya. Diplomatic relations were restored while the nurses were still being held and it was not used as part of the Senate's justification for delaying the confirmation of the US Ambassador to Libya.[841] In mid July 2007 the six had their sentences reduced to life imprisonment by a higher Libyan court and they were extradited to Bulgaria upon which the Bulgarian President pardoned them and they were freed. The extent of the US concern was to protest and call for a fair trial, with Congress being more vocal than the Administration.[842]

The issue of human rights was never a central part of the roguing of Libya – nor, as Litwak points out, a characteristic that seriously attached to the US approach to rogue states in general since the 1980s.[843] Therefore, it is perhaps unsurprising that it was not central to Libya's de-roguing process. However, regional belligerence has been identified as a key characteristic of rogue states in general and Libya in particular.[844] As part of the de-roguing process discussed in Chapter 4, Libya's re-engagement with African states was the starting point of its de-roguing in international society in general. This change by Libya undoubtedly helped it in its de-roguing process with the US but was not a major issue. Instead, when challenged over Libya's African record, the Administration from 2003 onwards highlighted Libya's new and "constructive"

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[840] See US House of Representatives, H. Res. 733 "Calling on the Government of Libya to review the legal actions taken against several Bulgarian medical workers." 20 July 2004, 108th Congress, 2nd Session
[841] The opposition to Cretz's nomination was justified on the grounds of Libya's outstanding compensation for victims of terrorism: "Lautenberg, Menendez, Schumer, Clinton to Block Bush Appointment to Libya: Senators Say U.S. Should not Pursue Diplomatic Recognition of Libya Until Victims of Libyan Terror are Compensated" *States News Service*, 12 July 2007.
[842] Indeed, the announcement of Cretz's nomination was made on the same day as the Libyan Supreme Court upheld the death penalty for the nurses: Elisabeth Rosenthal and Matthew Brunwasser "Libya Upholds Death Sentence in H.I.V. Case" *The New York Times*, 12 July 2007.
[843] This is discussed in more detail in Chapter 2 of this thesis. See Litwak, *Rogue States*.
[844] Discussed in chapter 2, see also Hoyt, (2000) "Rogue State Image in American Foreign Policy" *Global Society*, vol 14, no 2, O'Reilly, "Perceiving Rogue States".

presence in the region. Libya's attempts to help in Darfur were also highlighted by the Administration.[845]

This is not to say that the argument about Libya playing a more positive role in the African region was not without merit. A number of the African states developed strong diplomatic relationships with Libya, in spite of previously expressing very public concern with Libya. Libya was no longer involved in conflicts as significant as its intervention in Chad in the 1980s. The severity of Qadhafi's actions in Sierra Leone, Liberia and Mauritania, for example, were played down by the Administration and, importantly, problems with Libya's African policies were linked to continuing diplomatic dialogue and understanding.[846] This movement away from prescribing the boundaries of behaviour to Libya in terms of its African policy as a *precondition* for diplomatic dialogue, towards diplomatic dialogue as a way of resolving differences or problems, underpins the movement of Libya away from its outlaw status. Furthermore, even with this positive outlook on Libya's role in Africa, it is apparent that it was a characteristic peripheral to Libya's de-roguing. As Deputy Secretary of State John D. Negroponte praised Libya's role in Darfur on his visit to Tripoli in April 2007, he asserted that "because of Libya's historic decision in 2003 to renounce terrorism and weapons of mass destruction, we are now able to work together as partners on areas of mutual interest."[847] Similarly, in describing her visit to Libya in 2008, which was the first by a US Secretary of State during the Qadhafi regime, Condoleezza Rice asserted that the core dealings were in relation to WMD and terrorism and held up Libya, on this basis, as an example that the US has "no permanent enemies" and that other states could take a similar "strategic decision."[848]

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[845] William J. Burns responses to questions submitted for the record, US House of Representatives, "Libya: Progress on the Path, p 14; John D. Negroponte, "Remarks Delivered in Tripoli, Libya" As Prepared for Delivery, Tripoli, Libya, 18 April 2007.

[846] See William J. Burns, US House of Representatives, "Weapons of Mass Destruction, Terrorism, Human Rights and the Future of U.S.-Libyan Relations" *Hearing before the Committee on International Relations*, House of Representatives, One Hundred Eighth Congress, Second Session, 10 March 2004, Serial No. 108-112, p 12. Also; William J. Burns responses to questions submitted for the record, US House of Representatives, "Libya: Progress on the Path", pp 14-15.

[847] John D. Negroponte, "Remarks Delivered in Tripoli, Libya", Tripoli, Libya, 18 April 2007.

[848] Secretary of State Condoleezza Rice, *Interview with Erin Burnett of CNBC*, Tripoli, 5 September 2008.

5.3.9 Senate Confirmation of the US Ambassador to Libya

The final obstacle in the process of Libya's de-roguing was the confirmation of the US ambassador to Libya. Since 2006 Libya and the US did have full ties and there was a US chargé d'affaires in Libya. The Administration nominated Gene Cretz to be Ambassador of Libya on 11 July 2007. However, Cretz was not confirmed by the US until 20 November 2008 and sworn in on 17 December 2008.[849] In and of itself, the absence of a US ambassador in a state is not significant in terms of the roguing process and, because of the need for the US Senate to confirm ambassadors such postings are occasionally vacant, even among the US's closest allies.[850] However, the grounds on which the confirmation of Cretz's ambassadorship to Libya was blocked by the Senate continued to demonstrate the force of Libya's rogue state image and the importance of US domestic politics in the roguing and de-roguing process. Therefore, the issue remains important because even though the absence of an ambassador may not be that unusual, the reason for the absence was extraordinary and only applicable to a small group of states that have been subjected to the roguing practice by the US, and in this case when the conditions of Libya's de-roguing were finally met, the ambassador was confirmed almost immediately.

The delay was of Cretz's confirmation was articulated by Senator Kerry, Chairman of the US Senate Committee on Foreign Relations, as being solely due to the Libyan payments and not the credentials of Cretz as an ambassador.[851] This delay was led by Senators who called for Libya to pay compensation for non-Lockerbie victims of Libyan terrorism as well as outstanding compensation in the Lockerbie case.[852] This issue was negotiated between the US and Libya from May 2008 and formed the US – Libya Comprehensive Claims Settlement Agreement

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[849] US Department of State, "Confirmation of Gene A. Cretz as Ambassador to Libya" 28 November 2008, http://2001-2009.state.gov/r/pa/prs/ps/2008/nov/112462.htm

[850] For example, in 2008 at the same time as the Cretz confirmation was being held up, there were a number of ambassadors (out of a total of about 180 nominations for judicial and government posts) awaiting confirmation in the Senate. Bush publicly complained about this in early 2008. See G W Bush, "President Bush Discusses Pending Presidential Nominations, Urges Senate Confirmation" 7 February 2008, http://georgewbush-whitehouse.archives.gov/news/releases/2008/02/20080207-8.html; Office of the Press Secretary, "Fact Sheet: Senate Must Act on Nominations to Federal Courts and Agencies" 7 February 2008, http://georgewbush-whitehouse.archives.gov/news/releases/2008/02/20080207-9.html

[851] John Kerry, "Nominations of the 110th Congress-Second Session" *Hearings before the Committee on Foreign Relations*, United States Senate, One Hundred Tenth Congress, Second Session, 30 January through 24 September 2008, p 728.

[852] Sean Mccormack, Department Spokesman, State Department Regular Briefing, *Federal News Service*, 18 July 2007.

signed on 14 August 2008.[853] The Libyan Claims Resolution Act which was the congressional tool used to aid the agreement was viewed by Congress as "a part of the process of restoring normal relations between Libya and the United States."[854] A major feature of the agreement was a fund that was set up to pay compensation to victims of Libyan terrorism, including the remaining Lockerbie funds discussed earlier and payment to US victims of the La Belle disco and UTA 772 bombings. The fund permitted monetary contributions to come from any groups – including US firms interested in commercial operations in Libya – and not just the Libyan state. The conditions for the fund were that US Government revenue could not be used nor could either Government pressure US firms to donate.

However, Libya did not make the payment immediately and Cretz's ambassadorship was further delayed at the confirmation hearing in September, noted above. On 31 October 2008, the US announced that Libya made a transfer of $US1.5 billion from Libya to the US Government to provide compensation to victims for terrorism. The relevant Senators withdrew their opposition to Cretz's confirmation in November. This transfer was a way of removing victims' claims from the courts and provided payments to many terrorist victims in what the State Department spokesperson referred to as an "unprecedented, generous manner."[855] The payment allowed the Administration to implement further aspects of the agreement which most notably included restoring the sovereign immunity of Libya from court action that had been restricted under the *FSIA* for terrorist activities due to Libya's designation as a state sponsor of terrorism. In announcing the agreement on 31 October 2008, David C Welch, then Assistant Secretary of State for Near Eastern Affairs, claimed that it removed the "last obstacle to a normal relationship between the United States and Libya."[856] This move towards diplomatic practice was significant and not as easily upset as it had been in the past by symbolic concerns. For example, in answering questions on the claims payment in October 2008, Welch downplayed a question by

[853] "Joint Statement by the United States and Libya" Media Note, Office of the Spokesman, Washington, DC, 30 May 2008; "U.S. - Libya Joint Statement - Comprehensive Claims Settlement Agreement" Media Note, Office of the Spokesman, Washington, DC, 14 August 2008.
[854] *Libyan Claims Resolution Act,* 2008, Public Law 110-301, sec. 3. "Sense of Congress", 4 August 2008.
[855] David C Welch, "Briefing on the U.S-Libya Comprehensive Claims Settlement Agreement" *Department of State,* 31 October 2008.
[856] David C Welch, "Briefing on the U.S-Libya Comprehensive Claims Settlement Agreement" *Department of State,* 31 October 2008.

the press over comments made by Saif Islam al-Qadhafi that Libya bought into lifting the sanctions and noted Saif's positive role in negotiations and claimed that at times tempers frayed.[857] This is a significant contrast to the episode in 2004 when the lifting of the travel ban to Libya was delayed due to similar comments by the then Libyan Prime Minister Ghamen.

5.4 The Obama Administration

The impact of Libya's image as a rogue state on Libya's participation in diplomatic practice, continued to diminish throughout the Obama Administration. As the controversies of Lockerbie resurfaced with the release of the al-Megrahi from prison in Scotland and Libya complained about not receiving enough in return for giving up its WMD, Libya's diplomatic participation was not undermined. Instead these episodes reflect Libya's legitimacy to be controversial, which had been previously denied to it through the roguing process. The Lockerbie bombing resurfaced as a major political issue in 2009 when the Scottish Justice Secretary, Kenny MacAskill, announced that al-Megrahi would be released from prison and returned to Libya on compassionate grounds. The Scottish Government justified the release based on medical reports that al-Megrahi was suffering from advanced prostate cancer and had a further life expectancy of less than three months.[858] This decision was extremely controversial and faced significant domestic opposition in the US. The line of the US Administration was that it was opposed to the release with President Obama referring to it as a "mistake."[859] Al-Megrahi's arrival back in Libya also coincided with the 40th Anniversary celebrations of the Qadhafi regime. In a very public display al-Megrahi was welcomed home in a manner that the Western media portrayed as "heroic".[860]

Reports emerged in the press of pressure from the then UK Government on the Scottish Government to release al-Megrahi in order to remove barriers for British companies to operate in

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[857] David C Welch, "Briefing on the U.S-Libya Comprehensive Claims Settlement Agreement" *Department of State,* 31 October 2008.
[858] "Lockerbie bomber freed from jail" *BBC News Online*, 20 August 2009.
[859] Quoted in James Kirkup, Auslan Cramb and Alex Spillus "Barack Obama leads condemnation of Scotland for freeing Lockerbie bomber" *The Daily Telegraph*, online edition, 20 August 2009.
[860] The Libyan Ambassador to the US, Ali Aujali, justified the scenes of jubilance in Libya at al-Megrahi's return in terms of the widespread view of his innocence over Lockerbie. See Ali Aujali "Why Libya Welcomed Megrahi: We are standing with America in the fight against terrorism" *The Wall Street Journal*, 2 September 2009.

Libya. The UK Foreign Office, the Department of Justice and the Scottish Government publicly released correspondence between them regarding this issue in response to the accusations in the press.[861] However, the controversy continued beyond al-Megrahi's initial release as he lived beyond the three month life expectancy that justified his release. Furthermore and unfortunately for the UK, the increasing controversy over al-Megrahi's release coincided with the BP oil spill in the Gulf of Mexico (from April 2010). It was in this context that BP's practices came under greater scrutiny in the US, and in particular BP's role in lobbying the UK Government for a prisoner transfer agreement with Libya. It emerged in press reports in July 2010 that this prisoner transfer agreement was considered a barrier to the "commercial interests" for BP to operate in Libya.[862] In July 2010, a group of US senators called for investigation into BP's role in the al-Megrahi release.[863] The consequence for the UK in the long term is probably limited, but there were some short term effects. Upon taking office, the first trip to the US of UK Prime Minister David Cameron was completely overshadowed by the issue in terms of the public political reporting of the visit.[864] There was also an attempt – albeit unsuccessful – by the US Senate Committee for Foreign Relations to question senior UK politicians, including MacAskill and former UK Foreign Secretary Jack Straw.[865] Throughout the controversy it was the UK as much as Libya that suffered.

The construction of Libya as the "rehabilitated" rogue also provided Libya with some opportunities to frame this aspect of the US-Libyan relationship to gain political advantages. In March 2009, Libyan officials complained publicly to the US press about the lack of rewards for giving up the WMD programme. As the Libyan Ambassador to the UN and former Libyan foreign minister Abdelrahman Shalgham put it, "We gave some devices, some centrifuges, for example for America, but what do you give us? Nothing... That's why we think North Korea and

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[861] Andy McSmith and Nigel Morris, "PM 'did not want Megrahi to die in Britain'" *The Independent*, 2 September 2009.
[862] The admission by BP still denied involvement in negotiations over al-Megrahi. Andrew Hough "BP admits 'lobbying UK over Libya prisoner transfer scheme but not Lockerbie bomber'" *Daily Telegraph*, online edition, 15 July 2010.
[863] Rowena Mason and Jonathan Sibun "BP oil spill: US politicians accuse BP over Lockerbie terrorist al-Megrahi" *The Daily Telegraph,* online edition, 14 July 2010.
[864] For example from alternative news sources; "Lockerbie bomber dominates PM Cameron's US visit" *BBC News Online*, 20 July 2010; McGinn, "Cameron's First U.S. Visit".
[865] Goodenough, "Democrat Postpones Senate Hearing".

Iran are hesitating now to have a breakthrough regarding their projects."[866] These comments were reinforced only a few weeks later in early April by the Libyan ambassador to the US.[867] The Libyan complaints were possibly designed to secure civilian nuclear technology and other defence equipment.[868] This proposition gains some strength with the meeting between Libyan officials and Secretary of State Hillary Clinton in April, resulting in Clinton's call for further cooperation between the two states and a meeting between Qadhafi and US Senators in August to discuss military equipment purchases.[869] This re-assertion by Libya of the potential value of its change in policy on WMD for other rogue states is indicative of the strength of the particular framing that the US applied to Libya's de-roguing process.

5.5 Conclusion

Scholars of Libyan/US relations point to features of US foreign policy that either forced or encouraged the change in Libya's behaviour as a rogue state. This chapter has taken a different path and examined the path acceptable to the US for Libyan re-integration with international society to occur. Although Libya's de-roguing focussed on the issues of terrorism and WMD, it was not solely dependent on Libya meeting these two criteria, nor was it solely dependent on the US signalling to Libya that it no longer sought regime change as an aim of US policy. An additional factor to Libya's de-roguing was that Libya moved from its rogue state status in a particular path that could operate within the established narrative of what a rogue state was, as articulated by the US in the years preceding Libya's reintegration. This is not to say that the path of Libya's de-roguing was predetermined and inflexible. The deconstruction of Libya's roguing was a dynamic process that changed with different political contexts in a manner similar to the construction of Libyan outlawry by the US discussed in chapter 2.

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[866] Michael Slackman "5 Years After It Halted Weapons Programmes, Libya Sees the U.S. as Ungrateful" *The New York Times*, 10 March 2009.
[867] Ali S. Aujali, "Libya States Its Case" letter to the editor, *New York Times*, 3 April 2009.
[868] Michael Slackman "5 Years After It Halted Weapons Programmes, Libya Sees the U.S. as Ungrateful" *The New York Times*, 10 March 2009.
[869] Sara Hassan "U.S. Secretary of State Calls for Closer Ties with Libya" *Global Insight,* 22 April 2009; Sara Hassan "U.S. Senators Meet Libyan Leader, Discuss Transfer of Military Equipment" *Global Insight*, 17 August 2009.

The end of the Cold War, which was fundamental to the universalisation of some aspects of the US roguing of Libya, also had a peculiar effect on the de-roguing of Libya in the US. The re-unification of Germany and the Stasi knowledge of the La Belle disco bombing resulted in the trial and conviction of suspects in Germany for the bombing. The case reaffirmed Libyan involvement in the bombing. The US had long asserted Libyan involvement and took the military action against Libya in 1986 as a result. However, the conviction helped raise the issue of compensation for the La Belle victims in US politics – particularly in Congress – and this helped slow the full development of diplomatic relations between Libya and the US. Domestic US politics also played a significant role in other aspects of Libya's de-roguing. This was particularly in the form of the Lockerbie bombing victims' families lobbying of Congress and the Administration. The influence of this lobby was not limited to the resolution of the Lockerbie bombing but it placed significant constraints on the other aspects of Libya's de-roguing both in terms of limiting US foreign policy, especially over WMD, and dramatically increasing Libyan payments for the resolution of other terrorist incidents it had been involved in.

The material aspect of Libya's de-roguing should not be overlooked. The US took significant steps in the de-roguing process when UN sanctions became more difficult to enforce and when Libya's WMD programme was identified as a more significant threat. However, these material motives could not be dissociated from the normative framework developed through the process of roguing Libya. These material factors were framed either in a manner that supported the interpretation of Libya as a case for rehabilitation and an example to other rogues, or they were downplayed or not openly admitted to in the public sphere. Similarly, Libya's membership of the rogue state collective, meant Libya presented an opportunity to persuade other rogue states that were of a higher priority to the US, such as Iran and North Korea, to take on relevant behavioural changes. In this regard, Libya's de-roguing had symbolic value in the rogue state narrative for the US, even if this process was ultimately unsuccessful in changing the behaviour of other rogue states.

The story of Libya's de-roguing also supports the assertions of English School scholars, among others, that diplomacy is a strong socialising force in international relations. Libya ultimately

abandoned its objectionable behaviour but the US roguing of Libya also became more difficult to maintain. This is not to say that controversies did not remain and the consequences of the roguing process in domestic US politics continually spilled over into the international sphere. The increasing scale of payments of compensation for past terrorist actions is a key example. However, the de-roguing of Libya in the US was in part a response to Libya's increased diplomatic participation elsewhere in international society. This included the US's inability to maintain UN sanctions against Libya over Lockerbie. In addition, Libya's decision to give up WMD, which was trumpeted by both the US and the UK as a qualifying feature of Libya's reintegration into international society, was facilitated significantly by Libya's participation in diplomatic practice with the UK that was re-established formally in 1999 and the existence of informal diplomatic networks including intelligence officials. Finally, as the de-roguing process continued, diplomatic practice and the principle of reciprocity emerged as more powerful features of the US-Libyan relationship. As a result, the US Administration came to deal with policy controversies with Libya within the framework of diplomatic practice – rather than trying to exclude Libya from it – and gradually shifted focus to the instrumental rather than normative characteristics of diplomacy as a feature of US foreign policy.

6. Conclusion

6.1 Introduction

The purpose of this thesis has been to provide a fuller account of the conception of rogue statehood in international society. Existing International Relations literature fails to adequately explain the relationship between the US's continued practice of labelling certain states as "rogues", "pariahs" or "outlaws" and the process of isolating them from international society on that basis. As Saunders argues, the issue of rogue states includes an implicit assumption of an international society to which they relate.[870] However, most literature that takes the US use of the rogue frame seriously overlooks any systematic engagement with the norms and institutions of international society. Conversely, the scholarship that deals with international society is far less concerned with directly tackling the US framing of and practice towards rogue states. Despite a number of works showing – to varying degrees – that a category of outlawry and rogue statehood is compatible with international society and even exists in various forms, little has been said about exactly how certain states have been constructed as outlaws or rogues and the resources employed to achieve this.[871] Given that the literature that examines international society (such as the work of English School scholars) has continually expressed the importance of the great powers in managing international society, and that since the end of the Cold War this role has fallen primarily on the US, it is surprising this issue is overlooked. After all, rogue states have been a major preoccupation for consecutive US Administrations, in both its public expressions and its foreign policy practice. Therefore, this thesis was driven by the research questions of how Libyan rogue statehood was constructed and contested, and how it interacted with the existing institutions of international society such as diplomacy, great power management, international law and war.

In answering these questions, I have argued that the US was able to develop roguing as a quasi-institution of international society because it successfully fixed Libya's position in international society in terms of the rogue state frame and the appropriate relationship of other states to Libya. This was achieved through a combination of successful multilateral diplomacy, selective

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[870] Saunders, "Setting Boundaries", pp 23-53.
[871] The studies of identifying the objective outlaw states that reject the modern rogue frame include: Geldenhuys, *Deviant Conduct*; Nincic, *Renegade Regimes*.

unilateral acts and threats of war against Libya, and a direct confrontation with the norm of continual bilateral diplomacy with Libya. Nevertheless, roguing was unsustainable as a quasi-institution over the longer term because Libya was able to successfully manipulate its material resources and the existing institutions of international society to increase its participation in international society and undermine the mechanisms used for maintaining the rogue state construction. Libya was most successful when it was able to take advantage of the differing regional interpretations of international society's institutions and reframe diplomatic engagement in terms of differing regional interests. The changing dynamics of the normative and political commitment of states to the characteristics that made up the rogue frame (such as terrorism and WMD) also opened up opportunities for de-roguing. Although Libya's roguing by the US led to its roguing in international society, it was the de-roguing of Libya in international society that drove Libya's de-roguing in the US. Libya's de-roguing also suggests that the existing institutions of international society made the maintenance of roguing as a quasi-institution increasingly difficult over time. However, even though, taken together, international society's existing institutions are resistant to roguing, the course of events and the outcome of de-roguing depended on the active engagement of relevant states in using international society's institutions for roguing or de-roguing purposes.

This conclusion sets out the findings of the thesis in response to the two research questions. The first section reviews how roguing was constructed and contested in international society. The second section reviews the role played by the existing institutions of international society – diplomacy, sovereignty, international law, great power management and war – in shaping this process. The third section sets out some ideas for future research based on what the study tells us about existing accounts of outlaw and rogue states in international society. This chapter ends with a brief epilogue explaining the relationship between the current situation in Libya as of August 2011 and the roguing and de-roguing discussed in the thesis.

6.2 Conclusion from the Libyan Case Study

6.2.1 Fixing the meaning of Libyan Rogue Statehood in the US and International Society

In constructing roguing as a quasi-institution of international society, which involved fixing the rogue frame to the practice of isolation, the US moved to highlight four key characteristics (or sub-frames) of Libya over time: terrorism, regional subversion, pursuit of WMD, and Libya as Soviet proxy. However, these characteristics, while important for indicating more specifically the basis of Libya's rogue statehood, also had varying implications for the adoption and contestation of the roguing process in general. The implications of each characteristic for the overall roguing process were sensitive to changing political contexts and each characteristic was valued more among certain audiences than others. The final de-roguing of Libya in the US required a reframing of Libyan statehood to a "rehabilitated" rogue.

The attachment of terrorism to the roguing process was the most constant feature of Libya's roguing and had the most significant implications. Since the early days of the Qadhafi regime, the US had raised concerns about Libyan involvement in terrorism. Throughout the 1970s the US increasingly expressed concern about the Qadhafi regime's involvement in international terrorism but did not frame arguments linking this behaviour and the need to marginalise or isolate Libya from international society in strongly normative terms. However, it was only with the commencement of the Reagan Administration that terrorism as an issue was raised to the point of being associated with a rejection of the continual dialogue norm. Furthermore, while Libya's diplomatic isolation started with a focus by the US on severing bilateral relations, an extensive and sustained practice by the Reagan Administration to multilateralise the roguing of Libya soon emerged. Following an increase in high profile terrorist attacks by Libya in Europe, the Administration sought Western European and G7 adoption of measures to reduce the diplomatic participation of Libya on the basis of terrorism. The terrorism aspect of roguing dominated Libya's relations with international society throughout the 1990s as UN sanctions restricted Libya's diplomatic participation. This period reflected the most widespread acceptance of Libya's roguing in international society but it also largely limited roguing to the issue of terrorism.

Regional subversion and belligerence was the second key characteristic applied to Libya; it formed part of the US-based construction as well as a somewhat independently developed form of roguing, particularly in the African region. Libya's intervention in its region was an early feature of the Qadhafi regime's foreign policy. It included intervention in Uganda and, more intensively, in Chad, beginning with disputed border claims but extending in the early 1980s to significant military support for opposition groups in Chad. This was added to by a largely unrecognised claim to the international waters of the Gulf of Sidra as Libyan territory, and various attempts at unification projects with other states who had varying degrees of willingness. This led to a significant level of regionally based practices of isolating and marginalising Libya from Arab and African affairs. There were significant and sustained breaks in bilateral diplomatic relations over the 1980s between regional states and Libya due to this and Qadhafi also suffered from an unprecedented denial of the position of OAU chairman. The US also used regional belligerence as part of the roguing process and adopted diplomatic strategies and low-level military confrontation in the Mediterranean to further this characteristic of Libya's rogue statehood. However, although this aspect of Libyan rogue statehood was shared between the US and African and Arab regions, US actions were easily reframed in terms of US imperialism, showing that there was a high level of sensitivity in relation to the US acting to punish Libyan rogue behaviour. There was a divergence between the acceptance of Libya's rogue statehood and the presumption that in a decentralised international society, any member, particularly a great power, had the authority to punish such rogue statehood.

It was a long time before the pursuit of WMD developed as part of the Libyan rogue frame. It certainly had roots in the Reagan era but it emerged much more significantly in the post-Cold War era with the development of the rogue state doctrine and then the Iraq War of 2003. The post-Cold War rogue state doctrine was important because it became a way of collectivising Libya with other rogue states. Prior to this, Libya's roguing had taken a more individual dynamic and unlike the post-Cold War focus on Iraq, Iran and North Korea, in the 1980s Libya was a lead rogue – particularly on the basis of terrorism. Libya had expressed a desire to obtain WMD, including a nuclear capability, since the 1970s, but with a few exceptions, the issue was barely used in roguing Libya until the 1990s. By lumping Libya with other states facing significant concerns in relation to the pursuit of WMD, the rogue state doctrine had the effect of further

fixing the WMD sub-frame to Libya. In addition, because of Libya's roguing over terrorism and the implementation of UN sanctions, some states were able to use the extended restrictions and monitoring of Libya to escalate the WMD characteristic. Indeed the success of fixing the WMD characteristic depended largely on Libya's prior roguing regarding terrorism. Over time, because of a refusal to set resolution of terrorism issues aside, WMD was used to reinforce Libya's roguing. With the Iraq War in 2003, this dynamic changed and the symbolic value of Libya giving up its WMD helped progress its de-roguing process.

Finally, the Libya as Soviet proxy characteristic was the least durable and most limited characteristic associated with Libya's roguing. It was Cold War specific and its veracity significantly lessened well before the end of the Reagan Administration. The dynamic was obviously Western centric to a far greater extent than the other three characteristics. Even though there was a clear dissociation of the Qadhafi regime from Soviet led communism, the characteristic emerged when Soviet-Libyan relations developed on instrumental terms on the back of the US's refusal to trade arms with Libya in the 1970s. The Libya as Soviet proxy strategy was abandoned largely due to the improved US-Soviet relationship over the 1980s and it was somewhat reversed when the US implied that the Soviet Union was being tarnished by its association with Libya.

The four characteristics discussed above were key elements in the establishment of roguing as a quasi-institution of international society. It is evident that the first three – terrorism, WMD, and regional belligerence – were policy practices that Libya was involved in and that at various times provided some level of threat to international order. However, the US's success in roguing was to attach these characteristics to an overall frame of rogue statehood and establish a normative link between the rogue state frame and the marginalisation and isolation of Libya from participation in international society. Regardless, the rogue state frame remained dynamic and each of the four characteristics fluctuated in importance and in relation to the consequences of roguing as a quasi-institution within different regions and changing political contexts.

The rogue frame was essential to fixing the meaning of Libya's rogue statehood but it was not a product of argument alone. Various sanctions, military actions and diplomatic strategies were involved in the framing process. These are discussed further below. Similarly, the de-roguing process was neither achieved by Libya moving through each characteristic to demonstrate it no longer applied, nor by effectively defeating the roguing frame through argument and dialogue. Instead Libya's de-roguing depended on its own use of the institutions of international society to challenge the link between the rogue frame and marginalisation and isolation from international society. Material and political interests, unrelated to the issues of roguing, were used by Libya to encourage international engagement and opposition to the roguing process. In this respect, a significant part of the de-roguing process was not ideationally based but was a function of interests and material power. The importance of material interests is readily accounted for in the existing literature,[872] but I argue that the institutions of international society made a significant contribution to the course and outcome of Libya's de-roguing, and this has not been adequately accounted for in the literature. Before discussing the thesis's conclusions in this respect, I want to cover one final aspect of the rogue frame that was essential to the de-roguing process – the US's reframing of Libya as a rehabilitated rogue.

Libya's de-roguing in international society was a precursor to and contributing cause of Libya's de-roguing in the US. Some significant changes in Libyan behaviour facilitated this process but it was also due to the significant success of Libya and other relevant states in undermining any practical significance that roguing as a quasi-institution had in relation to Libya in international society. As a result the US found itself in the position of maintaining a largely ineffectual unilateral stance which increasingly denied it of economic opportunities that other, especially allied, states could maximise. In addition, the residual domestic constraints of the roguing process meant that significant political opposition to engagement remained. The solution for the US under the George W. Bush Administration – which advocated as hard a line on the roguing process as any Administration – was to reframe Libya as a "rehabilitated rogue". The progress in the Lockerbie dispute and the political value in having a rogue state voluntarily give up its WMD program after the war in Iraq failed to uncover any WMD from Saddam Hussein's regime were

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[872] See for example, Nincic, "Getting What You Want, pp 138-183; Newnham, "Carrots, Sticks, and Bombs", pp 77-94; Jentleson and Whytock, "Who 'Won' Libya?", pp 47-86.

used to argue to largely domestic US audiences that Libya could set the example for other rogue states to follow. Libya itself was not passive in this process and actively used its previous association with terrorist groups to hand over information that became exceptionally politically valuable following the 9/11 attacks and the establishment of the War on Terror. The suggestion that Iran and North Korea should follow Libya was often made by the US, and over several years the US moved to reduce restrictions on Libya, and re-establish full diplomatic ties. From a US perspective, Libyan reform as opposed to US compromise was essential to the reframing, however, concerns regarding Libya's regional belligerence and Libya's human rights violations came to be considered issues resolvable through diplomatic engagement rather than continued isolation.

6.3 Implications for International Society and Conceptions of Rogue Statehood

6.3.1 The institutions of International Society

The outcome of the Libyan case suggests that, taken together, the institutions of international society examined in the thesis function to resist the roguing process over the longer term. That is, roguing as a quasi-institution was generally incompatible with existing international order and, without significant change to the existing institutions, roguing was only temporary. However, the findings in terms of the individual components of the institutions of international society were far more mixed, with some aiding the roguing process and others the de-roguing process. In some respects these components (such as diplomatic reciprocity) were functional in that when they operated in certain episodes they structured the consequences in such a way that they subsumed state agency. Similarly, some aspects of international society – such as continual dialogue or legal restrictions regarding war – placed clear restraints on states in pursuing aspects of the roguing process. On the other hand, some components of the institutions of international society (including multilateralism) did not have an impact on roguing and de-roguing *per se* but became important instruments for states when they chose to use them for either purpose. Finally, the impact of the institutions of international society on roguing and de-roguing was sensitive to the framing for which they were used, but at times opportunities opened up for manipulation in other areas. For example, the roguing of Libya on the grounds of terrorism largely set the parameters for de-roguing on similar grounds, that is, demonstrating a commitment to anti-terrorism policies

and paying compensation to past victims. However, the US and UK were still able to "move the goal posts" from de-roguing on the grounds of terrorism to de-roguing in relation to the pursuit of WMD. Similarly, Libya's ability to contest the UN sanctions stemmed in no small part from multilateral engagement in the African region which had little relation to meeting the criteria regarding terrorism set out in the sanctions' resolutions. This transfer of frames and instruments of international society's institutions to different aspects of roguing and de-roguing was not entirely effective on its own, but was dependent on the normative and material interests of relevant states combining to create tipping points which substantially altered the roguing and de-roguing processes.

Diplomacy

This thesis gave particular attention to diplomacy and three of its norms of continual dialogue, multilateralism, and reciprocity. Wiseman, Sharp and others have argued for both the strength of continual dialogue as a norm of diplomacy and its potentially positive role in dealing with rogue states.[873] The Libyan case supports the idea of the strength of continual dialogue but cautions against necessarily considering it as preferable to isolation. Continual dialogue remained a strong norm of diplomacy and posed significant challenges to the roguing of Libya. Although a number of bilateral breaks in diplomatic relations occurred with Libya over the 1980s, gaining multilateral support for complete breaks was elusive. The EEC measures involved significant reductions in diplomatic practice, but contact channels and embassies remained open. Furthermore, in developing the agreement to implement the sanctions, Greece conditioned its support after gaining a commitment for the EEC to engage in "political dialogue" with Libya. The condemnation of the EEC by other states drew attention to the incompatibility between the restrictions and the normal practice of diplomacy. Indeed, even the UNSC had difficulty in limiting Libyan diplomatic representation even as it was clearly mandated as part of the sanctions. In a 1996 report to the UN Sanctions Committee, it was noted that a number of states, including China as a permanent member, had seen increases in the number of Libyan diplomats in their capital cities in direct contravention of the sanctions.

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[873] Sharp, *Diplomatic Theory,* pp 207-211; Wiseman, "Engaging the Enemy"; Wiseman, "Pax Americana", pp 409-430.

Continual dialogue can also be considered to be behind the move of Libya to give up its WMD and this reflects its importance in one of the key episodes in the de-roguing process. In this respect, the role taken by UK diplomats and intelligence officers in maintaining greater ties with Libya than the US helped in working through some difficult parts of the WMD negotiations. However, it was also the case that the US's roguing meant that continual dialogue became an end in itself for Libya. Part of the process for Libya in demonstrating its rehabilitation as a rogue state was changing its rogue behaviour for nothing other than the chance to open regular channels of dialogue. If Libya's norm-breaking behaviour is to be considered as having been a significant threat to international order, then the US's opposition to continual dialogue with Libya in the first place must be considered as partly positive in upholding international order. This is true even in light of evidence that the US's rigidness in maintaining Libyan isolation for a long period, and not reacting to early signs of Libya's changed behaviour, may have prevented an earlier resolution of the Lockerbie affair.

As part of the roguing process, the US sought to limit diplomacy with Libya while at the same time expanding it with other states. Claims that the US was simply concerned with unilateral action that undermined diplomacy are not reflective of the full story. Multilateral diplomatic engagement was an essential feature of the roguing process, and had a greater impact than unilateral declarations. This was relevant to all major events in relation to the roguing of Libya. The 1986 bombing was preceded and followed by high profile diplomatic tours of Europe. Although the military action was unilateral (with some help from Britain) the multilateral consultation was significant. This included in no small part the decision of the US to get Europe on side. The Lockerbie sanctions were a strong case of diplomatic practice, in that they were the first successful attempt to get the UNSC to sanction a state for involvement in terrorism. The UK, US and France worked together and the UTA bombing was included in this process. Additionally, following 9/11, the national security strategy significantly elevated diplomacy as a primary function of dealing with the war on terror and rogue states. In short, continual dialogue with states about isolating and taking action against rogues was high on the US foreign policy agenda. The US's decisions to act unilaterally in a number of cases may have been a challenge to

existing international law, but the diplomatic practice surrounding this shows that multilateralism in diplomacy remained strong. Once the rogue frame was constructed, the multilateral dynamics of roguing also gave certain states some flexibility to manipulate it for their own preferences of the rogue frame. The final cessation of EU sanctions is indicative of this as Britain used them to capitalise on the political victory in getting Libya to give up WMD and Germany pushed for La Belle disco bombing compensation. The UN sanctions were also important here as the UK used the UN sanctions committees to pursue Libya on WMD even though it was terrorism that formed the basis for UN sanctions.

Multilateral diplomacy was an equally essential part of the de-roguing process. However, the relationship was not primarily due to Libya's ability to contest roguing within the institutions in which it was being rogued. Instead it included the innovation of new multilateral organisations (such as COMESSA) and re-establishing itself in various regional organisations – particularly as the OAU transformed to the AU. Libya's use of material resources was an important factor here as Libya paid the organisation's required contributions for a number of states – building Libyan support within the organisation as a result. In this respect, Libya focussed on solving the regional features of its roguing such as the intervention in Chad and promoting itself as a new "conflict manager" of several regional disputes including the Ethiopian/Eritrean conflict. This then helped Libya encourage African states to oppose UN sanctions and significantly undermine their continued implementation, therefore pushing the UK and US to solve their disputes with Libya over terrorism.

Reciprocity functioned in diplomacy to reinforce the roguing process in terms of encouraging both further hostility and rogue behaviour. Following the 1986 military attacks on Libya and the adoption of the EEC common position, Libya launched an unsuccessful missile attack against the Italian island of Lampedusa because of NATO bases located there. Another example followed the imposition of UN sanctions against Libya in 1992. Shortly after the passing of resolution 748, there was an attack on the embassy of Venezuela by a group of Libyans in protest against the sanctions. The symbolism of the attack as a form of Libyan retribution against the UNSC and its members was not lost. The UNSC reconvened on 2 April 1992 to issue a statement on the

Venezuelan complaint, condemning the act of violence, demanding Libya pay damages to Venezuela and importantly reminding Libya of its responsibility to secure embassies from acts of "terrorism".[874] As a consequence, Russia – its former ally in opposing the US construction of Libyan outlawry in the 1980s – began a process of withdrawing a significant number of its military advisors and technicians from Libya. Furthermore, reciprocity guided Libya to make reductions in the level of diplomatic contact and relationships, thus furthering its diplomatic marginalisation. Because of the multilateral targeting of Libya as a rogue state, this reciprocal action had the disproportionate effect of isolating Libya more than those constructing or accepting Libyan rogue statehood.

Although reciprocity was mainly analysed in terms of diplomatic practice in the thesis, its effects also emerged in the use of and response to threats of war. David Armstrong argues that Qadhafi's use of terrorism was an attempt to level the difference in material power balance between Libya and its "enemies".[875] If we consider this in terms of how the reciprocal acts of violence between the US and Libya were part of the roguing process another implication arises from Libyan terrorism. This is because interpretations of reciprocal equivalence[876] were shaped by both existing institutions of international society (such as the laws of war) and the context of the roguing process. For Libya, the use of unconventional violence such as terrorism may present itself as a fair and appropriate reciprocal response to US action – particularly military strikes. However, its use when interpreted through the rogue frame, which fixed the meaning of Libya's actions, undermines any shared consideration among international society that terrorism is an equivalent response and instead makes such behaviour further grounds for roguing. The success of this is evidenced in the final normalisation of relations between the US and Libya, over payments made for victims of violence. Libya tried on numerous occasions to have compensation for the victims of the US military strikes on Tripoli linked to Libyan payments to US victims of the La Belle disco bombing and final payments to the Lockerbie bombing victims. However, no such recognition was forthcoming and indeed the US made it a condition of its

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[874] UN Document S/PV.3064, 2 April 1992.
[875] Armstrong, *Revolution and World Order*, p 293. It is likely Armstrong included the US in Libya's "enemies" given he is discussing the power balancing strategies of revolutionary states.
[876] On equivalence see Keohane, "Reciprocity in international relations" and Alvin W. Gouldner, "The Norm of Reciprocity: A Preliminary Statement", *American Sociological Review*, vol. 25, no. 2, April 1960, pp 171-175

agreement with Libya that neither the US government itself, nor any US company (under direction from the US government) could contribute to the fund used to compensate victims of all three events.

On a number of occasions, concern regarding diplomatic reciprocity limited some of the actions of roguing. This was illustrated most in the relationship between the US Executive and the Congress regarding the roguing process. Attempts by Congress to legislate for the seizure of Libya's diplomatic property to compensate individuals for relevant terrorist acts were blocked by the Executive, which was significantly concerned about how such proposed action would set precedence for other states to take action against the US embassies abroad. Furthermore, after the US was convinced that Libya had "re-qualified" for diplomatic relations, positive reciprocity became a characteristic of the relationship and mutual benefits were exchanged.

Sovereignty

The sovereign recognition of the Libyan government placed strong limitations on the effects of the rogue frame and the roguing process. Sovereignty more than any other aspect of international society placed limitations on the extent to which roguing could delegitimise Libya as an actor in international society and it also provided some of the most significant resources and practices to draw upon for de-roguing. Libya's membership of the UN and a number of regional organisations, which at the most basic level was the result of Libyan statehood, allowed it to continually challenge the roguing process. Far from being an easily dismissable symbolic protest, Libya's membership had real political consequences. In addition, states were interested in limiting the extent of the erosion of Libyan sovereign control by the Qadhafi regime, not through sympathy, but through concern about setting precedents that could be used against other regimes. These are rather intuitive conclusions but nevertheless important to empirically confirm in light of the challenge that the rogue frame creates for the sovereignty of its targets. This also cautions against the practical implications that can be drawn from those scholars, such as Simpson, who argue that contemporary international legal practice shows the existence of legal

hierarchies in international society.[877] Instead the Libyan case of de-roguing indicates strong practical political consequences from the reinforcement of the formal notions of sovereign equality that formed following the period of decolonisation in international society.[878]

However, there is less intuitive implication for sovereignty from the roguing process, which stems from the great powers (particularly the US) using roguing as a response to the issue of international terrorism. It is apparent that Libya as a rogue state was considered ultimately responsible for the actions of non-state actors regarding terrorism unless it could demonstrate otherwise. In two of the three major terrorist acts that had serious consequences for Libya, La Belle and Lockerbie, the regime was at least one step removed from direct involvement. Neither court cases determined direct links to Qadhafi and the leaders of the regime. However, in both cases the most significant actions taken were state based responses against Libya in the form of military strikes and UN sanctions. One of the conditions of Libya having the UN sanctions lifted was to accept responsibility for the actions of its officials. By insisting on state responsibility for the actions of non-state actors regarding terrorism, rather than marginalising the responsibility of states, the roguing process reinforced states as the primary actors in international society. As such the attachment of the terrorism characteristic to the roguing process has the ironic implication of reinforcing statehood as a basis for international society, while at the same time trying to delegitimise the position of rogue states within it.

Great Power Management and War

The English School has long been concerned with the role of great powers in managing international order.[879] The Libyan case represents a failed attempt by a great power to reshape international order on the basis of a rejection of the legitimacy of rogue states' participation in international society. In this respect, the role of the US in roguing Libya should be seen as similar to its role – as argued by Morris – in the Iraq War.[880] That is, as an example of great

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[877] Simpson, *Great Powers and Outlaw States*.
[878] Hedley Bull and Adam Watson, "Conclusion" in Bull and Watson (eds) *The Expansion of International Society*, p 434.
[879] Bull, *The Anarchical Society* pp 102-107.
[880] Morris, "Norm Innovation and Great Powers", p 279.

power norm innovation rather than the US undermining international society, as argued by Dunne.[881] Existing English School accounts on great power management also provide some good explanations of how the Libyan case played out. Until the end of the Cold War Libya's roguing was limited to the Western sphere. As Bull argues, great power management requires agreement among the powers to effectively manage international order,[882] and because there was no agreement between the two super powers on this particular issue it is not surprising that it limited roguing in this way. After the Cold War, the rise of US hegemony resulted in the most effective universalisation of Libya's roguing. This is in line with Clark's argument that hegemony can remain an institution of international society but there is no longer any need for great power agreement.[883] The Libyan case follows this path. However, the de-roguing that followed shows the limits for continued hegemonic change to international society, especially because this depended in no small part on the institutions of international society providing Libya the resources to de-rogue.

Of course, the US had its own difficulties with the issue of equivalence regarding its military strikes against Libya following the La Belle disco bombing. The military strikes were considered an appropriate response by the US Administration at the time but widely denounced by other members of international society in terms of US imperialism. This was a popular frame drawn on by states such as Libya at the time. Libya had some success in gaining symbolic support for this frame at the UN and in other fora. In this respect it was the US military strikes that failed the equivalence test. However, the material implications of this episode worked in favour of the roguing process as the US action escalated the Libyan terrorism issue and encouraged the adoption of further European action in the form of sanctions against Libya. At this time the roguing process on the basis of terrorism was limited to US, Western European and allied states, and the consequences of the US military response for Libya across the world's other regions were reflective of the regional variation to the acceptance of Libya's rogue statehood.

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[881] Dunne, "Society and Hierarchy", pp 303-320.
[882] Bull, *The Anarchical Society,* pp 200-201.
[883] Clark, *Hegemony*, p 48.

International Law

Although the extent to which international law was altered by the roguing process is beyond the scope of the thesis, there were some ways in which it shaped the roguing and de-roguing processes. International legal institutions were avoided by the US in trying to rogue Libya and sought after by Libya for de-roguing. This was most notable in the Lockerbie dispute where there was clear tension between its definition as a legal dispute to be dealt with by the ICJ or a political dispute through the UNSC.[884] Given the US and UK's privileged position on the UNSC they sought to marginalise the ICJ's involvement so that sanctions could be implemented. Instead of legal avenues having the effect of codifying and formalising the Libyan state as an outlaw or rogue, the instruments of international law were used primarily by Libya to avoid roguing. What is perhaps more interesting is the extent to which non-state actors – in the form of lawyer representatives of victims of terrorism – came to be involved in the de-roguing process. The US Administration permitted the Libyan government and victims' families of the Lockerbie bombing to negotiate compensation separately from the US government. Following the success that the families had in gaining a very high level of financial compensation from this process, financial payments came to be of greater importance in Libya's de-roguing elsewhere including France (over the UTA attack) and Germany (over the La Belle disco bombing). In this respect we see the Lockerbie settlement acting in a manner for other states to seek similar reciprocal advantage from Libya for past terrorism actions.

6.4 Future Research

The idiographic nature of this study places strong limits on the conclusions that can be drawn about other cases of modern roguing or more historical cases of the construction and contestation of pariah or outlaw states. In terms of the contemporary cases, a more extensive engagement between the US foreign policy literature on the rogue state frame and the international society literature is needed to more fully explain how roguing once used by the US and other great powers can reshape international order. This work can complement the more common approaches that focus on identifying rogues or outlaws based on what norm-breaking behaviour fairly constitutes such a label. The other rogue states of Iraq (prior to 2003), Iran and North

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[884] see Schwartz, "Dealing with a 'Rogue State'", pp 560-561; Geoff Simons, *Libya and the West: From Independence to Lockerbie,* Centre for Libyan Studies, Oxford, 2003, pp 163-164.

Korea present themselves as cases for similar contemporary studies. However, future research needs to be mindful of the continuing veracity of the rogue frame and the changing dynamics of the characteristics attached to it. The remainder of this chapter discusses some possible corrections that this – and similar future studies – can make to current conceptions of international society.

6.4.1 Rogue Statehood and Regional Variation

The regional variations and the conflict between roguing and some of the existing institutions of international society have some important implications for conceptions of outlawry as a phenomenon of international society. One of the most important refers to theoretical assertions that an outlaw in a decentralised society – such as international society – is subject to punishment and enforcement by all the members of the society. Libya's roguing in the African region is instructive in this regard. Although there was some evidence of acceptance of Libya's rogue statehood in the region, which corresponded to the global roguing of Libya being constructed by the US, the US's authority to punish such outlawry was significantly constrained. This was due to the challenges made by Libya and adopted by many African and Arab states – who according to analysts probably had little sympathy for Libya – that US and European actions against Libya, both military and in terms of diplomatic and economic sanctions, were renewed expressions of imperialist intervention in the region. In many respects this anti-imperialism frame was used as much by Libya to counter US actions as Libya's use of claims protesting its innocence of norm breaking behaviour. At the same time as a number of African and Arab States were prepared to take their own action against Libya, the anti-imperialism frame resonated well.

It is only recently that the English School has started to more systematically explain what sub-global or regional international societies are like in terms of what institutions they share with international society and how they interact with sub-global institutions. The recent edited volume by Barry Buzan and Ana Gonzalez-Pelaez is important along with the more restricted works.[885] More work needs to be done, but the Libyan case would support the suggestion by Buzan and

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[885] Buzan and Gonzalez-Pelaez (eds), *International Society and the Middle East*; Buzan, *From International to World Society?*; Diez and Whitman, ''Analysing European Integration'', pp 43-67; Narine, "The English School and ASEAN", pp 199-218.

Gonzalez-Pelaez that anti-imperialism is an institution of what they term sub-global Middle Eastern (ME) transnational and inter-human society – which developed as a reaction to great power management in the inter-state realm and nevertheless pressures ME governments in the inter-state sphere.[886] It is a reasonable conjecture which may also be applicable to the African region. Establishing roguing or categorising outlawry is likely to be a continually contested process, and the more we know about regional international societies the more we can understand about how roguing will develop across international society. The Libyan case shows that agreement about the rogue or outlaw character of a state does not translate to agreement over punishment or even who has the authority to determine and carry-out such punishment. The legitimacy of great powers to act to uphold international order may need to be tempered in the case of outlawry to accepting that the regional state collectives and organisations may be more suitable in judging and punishing outlaw or rogue states.

6.4.2 Rogue Statehood and Rightful Membership

The roguing and de-roguing of Libya suggests that there should be some modification to the current theories of rightful membership of international society stemming from domestic sources of legitimacy. This correction to Clark refers to roguing specifically as a process that is distinguished from the exclusions based on domestic sources of legitimacy. Clark is right to point towards some development of rightful membership on the basis of the internal nature of states due to adherence to good governance, human rights, and democracy.[887] However, until February 2011, the inclusion of Libya as a rogue state in the out-group has little to do with these characteristics used for membership. That is, rogue states are a specific type of state that sits outside this group but the characteristics of good governance, human rights and democracy tell us very little about whether a state is a "rogue" or another type of state excluded from this core group. Similarly, the de-roguing process had little to do with these features and indeed was a problem that came to be dealt with through further engagement with Libya rather than exclusion. This is not necessarily inconsistent with Clark's general argument and a refinement of the discussion of the characteristics that set rogue states apart as a collective is both examined throughout this thesis, and would add additional detail to the establishment of criteria for rightful

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[886] Buzan and Gonzalez-Pelaez, "Conclusions", p 235.
[887] Clark, *Legitimacy,* pp 173-180.

membership and how extensively and seriously they are taken by states within international society.

Beyond this correction, any discussion of rogue states as a separate category of exclusion from a more restricted international society needs to include power as a factor. The contemporary rogues are characterised by being at best middle powers, and generally small powers and this is part of the framework in which they operate in the minds of US foreign policy makers.[888] The pariah states of the 1960s and 1970s similarly had little scope to alter the international society – indeed they sought nuclear projects as part of their insecurity.[889] The pursuit of WMD has become increasingly associated with rogue statehood, while those *with* a substantial nuclear weapons program have avoided the roguing process. These states do not share common domestic sources of legitimacy, such as democratic governance, that may justify overlooking WMD as a characteristic for roguing. In this respect, future studies of roguing and de-roguing could pay particular attention to whether at some point Iran and North Korea gain a WMD capability that substantially changes their ability to materially resist roguing or substantially challenge international order. The realisation of a full WMD capability may alter the status of these states in international society to make roguing unrealistic in each case.

6.5 Conclusion

This thesis has argued that the US framing of Libya as a rogue state developed into a quasi-institution of international society as the US fixed the characteristics of terrorism, regional subversion, pursuit of WMD and Libya as a "Soviet proxy" to the normative purpose of Libya's isolation and marginalisation from international society. To establish roguing in this way the US, over time, used a combination of multilateral engagement with states to isolate Libya along with acts and threats of war to escalate the roguing of Libya as an issue for other states to deal with. However, roguing remained a weak quasi-institution that was unsustainable over the longer term as Libya was able to de-rogue using a combination of its own material resources and an instrumental use of the institutions of international society. As a whole, international society is

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[888] O'Reilly, "Perceiving Rogue States", pp 298-302, Hoyt, "The 'Rogue State' Image", pp 306-308.
[889] Harkavy, "Pariah States", pp 135-163.

structured in a way that made roguing difficult to sustain. Largely, the effect of international society reflected the intended purpose of relevant states, as it provided a variety of resources that could be used to either construct or contest roguing, but it did so in a way that helped level the power disparity between the US (and other great powers) and Libya. However, the temporary success of the US also resulted from some aspects of the institutions of international society, reinforcing the roguing process as somewhat uncontrollable.

6.6 Epilogue

An intriguing feature of the roguing and de-roguing process was that human rights was generally avoided as a predominant aspect of the Libyan case. Libya's human rights record has been consistently among the worst in the world in both the freedom house measure and in the US State Department's own reports for the entire period under study – representing perhaps the most constant feature that is associated with rogue states but rarely forms part of the overall practice. It is true that human rights was sometimes in the mix of claims about Libya's rogue character[890] but it did not relate to the major episodes of roguing and indeed even at the time of de-roguing the US Administration was stating that human rights abuses were more appropriately dealt with through diplomatic engagement.

This changed significantly with the dramatic events in Libya during the first half of 2011, which left the Qadhafi regime more isolated and more threatened than ever before. In February, Libyan diplomats overseas, including ambassadors to the UN and the US, renounced their support for Qadhafi and declared allegiance to the "people" which came to be represented by National Transitional Council (NTC).[891] With events rapidly changing, it appeared in the early days that Qadhafi would very quickly be ousted by a popular internal revolt, following the dramatic overthrow of the governments in Tunisia and Egypt. However, unwilling to go the same way, Qadhafi launched a brutal attack on the opposition forces and Libyan civilians. The Qadhafi regime surrounded the NTC stronghold town of Benghazi where the revolution started.

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[890] For example Lake, "Confronting backlash states".

[891] 22 February 2011 Reuters Africa, http://af.reuters.com/article/libyaNews/idAFN2227065120110222; for UN http://www.unmultimedia.org/tv/webcast/2011/02/h-e-mr-abdurrahman-mohamed-shalgham-libyan-permanent-representative-security-council-meeting.html

Qadhafi's son made a speech implying that the residents of Benghazi faced a massacre. The UNSC with strong support from some European states (particularly the UK and France), the Arab League and the US developed resolutions 1970 and then 1973 which authorised member states to take "all necessary measures" short of foreign occupation to protect the civilian population of Libya.[892] Effectively, a US then NATO led operation with some additional support from the Arab states took up this responsibility and prevented the likely massacre in Benghazi. Their involvement has been primarily in the form of aerial bombing which has undoubtedly helped the Libyan opposition move a long way towards achieving a decisive outcome. Qadhafi (at the time of writing) remains free but has lost effective control over a significant part of the country including the capital Tripoli. The UNSC resolutions and NATO intervention mean that for members of international society he has no future as a Libyan leader. This has included the International Criminal Court laying charges of crimes against humanity against Qadhafi, his son Saif, and Abdullah Al-Senussi (head of the Libyan intelligence service). [893]

On the surface, the current situation may look like a rogue state finally having the consequences of its willingness to break fundamental norms of international politics realised, as the members of international society have united to delegitimise the Qadhafi regime completely. However, while the NATO intervention and the withdrawal of recognition of the Qadhafi regime as the government of Libya represent a qualified success for the principle of the responsibility to protect,[894] Qadhafi's current fate is the manifestation of a different dynamic than that of rogue statehood, which characterised the regime for much of its existence. The international response to Libya is driven by fundamental changes to Libya's domestic politics, which, for the first time, mean that there is a viable alternative body to recognise as the representative government of the Libyan state. This body now holds effective political control of Libya. The UK's July 2011 announcement that the final group of diplomats associated with the Qadhafi regime in London would be replaced with representatives from the NTC, reflecting the "facts on the ground" in

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[892] The first resolution 1970 placed an arms embargo and travel ban on the Qadhafi regime, UN Document S/RES/1970 (2011), 26 February 2011; Resolution 1973 authorised the military strikes, UN Document S/RES/1973 (2011), 17 March 2011.

[893] Warrant issued on 27 June. BBC online, "Libya: Muammar Gaddafi subject to ICC arrest warrant" 27 June, 2011. http://www.bbc.co.uk/news/world-africa-13927208 (accessed 18/09/11)

[894] Tim Dunne, "Libya and R2P: What now?" 3 March 2011, http://www.lowyinterpreter.org/post/2011/03/03/Libya-and-R2P-What-now.aspx

Libya, is instructive.[895] This case falls clearly within James' conception of a change in the recognition of a government on the basis of domestic political control.[896] Even though the Qadhafi regime's prior image as leading a rogue state may have helped garner international support for intervention in Libya – as opposed to Syria, for example – it is the domestic change that has resulted in members of international society almost unanimously deciding to support the opposition in a Libyan civil war, rather than acting to re-rogue Libya.

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