

**The (de)construction of identity in NATO's narrative of legitimacy :  
the self, the other-as-self, the non-self**

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*Abstract*

The legitimacy of North Atlantic Treaty Organization (NATO) interventions is rarely left uncontested. Nevertheless, “legitimacy” as a concept generally combines both legal (i.e. a UN Security Council Resolutions (UNSCR)) and normative trends, such as common norms/identity, within the international community. In this order, what seems legitimate cannot be, at the same time, illegitimate. This paper explores these presuppositions through NATO's Operation Unified Protector (OUP) in Libya driven by a “Responsibility to Protect”. Therefore, rather than seeing “legitimacy” as a legal/normative authority, it reveals the underlying (un)questioned discourse of Western liberal “normality” working on constant and extremely unstable inscriptions of subjectivities : the Self (“NATO”), other-as-Self (“people worth assisting”) and non-Self (“foe”). Studying “legitimacy” as this everyday process of inscription, the paper shows how UNSCR 1970/1973 re-state Western “normality” in the legal mandate of OUP, and how NATO media thread from March to October 2011 reveals the blatant re-articulations of subjectivities working to “fit” defined “normality” onto destabilizing events and actions. In the end, what would have seemed at first sight a legal and/or legitimate military intervention is revealed to be, throughout the production of subjectivities, quite illegitimate on the very same legal/normative basis.

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. . . I called the president of my country from Benghazi to tell him, "There are people here, good people; these people hold the same values as we do, and they're going to die to the last one if we allow Gadhafi to go on to the conclusion of his criminal logic. Would you accept to receive them in Paris and thus send a strong signal to the butcher?" Nicolas Sarkozy immediately said yes. . . . I have seen these men enough, I have spoken with them enough, to know that [free and fair elections] [are] undeniably the dream, the goal, the principle of legitimacy.

*Bernard-Henri Lévy, March 2011*<sup>1</sup>

Spring 2011 was a time of immense acceleration: within few months, a number of North African regimes went from the status of "friend of the West" to "butcher"; some peoples, from "extremism" to "democracy". Less noted, but just as important, was the impressive speed (barely 30 days) with which the "international community" managed to mobilize the Security Council on its "responsibility to protect" (R2P) Libyan civilians being "systematically massacred".<sup>2</sup> Seen through a Western lens, this North Atlantic Treaty Organization (NATO)-led intervention was not only legal, given a United Nations Security Council (UNSC) mandate, but *legitimate*, too: legal *and* in keeping with international society norms now interested in "human security". In the following pages, after recalling the (underestimated) conventional aspects of "legitimacy" in its vast academic literature, we will try to explore the foundations of the affirmation of the *presence* of "legitimacy" related to the R2P criteria. Three prologues will discuss, *before our subject*, language as a dichotomous practice, explore how the "metaphysics of presence" benefits the logic of normalization of liberal Western society through the idea of legitimacy itself, and finally see how, using Derridian "Force of Law", even from a strictly legal point of view, legitimacy is *never purely there*. The analysis of the basis for the legitimacy narrative (its normative context and the UNSC resolution), and the narrative of NATO's intervention in Libya itself (seen through NATO media threads published by the Secretariat) will shed light on the fact that any "legitimacy" can *be* only at the price of multiple exclusions and rearticulations of subjectivities that mean that, on the same basis, an intervention such as NATO's, can be *at the same time* legitimate *and* illegitimate.

*Conceptual Mess : "Legitimacy" or Ubiquity?*

Let's be modest. It would be in vain to explore in such a small space the galactic-sized literature discussing the vague concept of "legitimacy". It is however possible to show some of its assumed principles. At first sight, "legitimate" refers to "established by law", if not "conforming to procedures".<sup>3</sup> The first analytical reflex is to naturally link legality and legitimacy: is legitimate what can be said to be in accordance with the accepted procedures of (international public) law. To that extent, the English legal tradition refers to the "rule of law" as the "the realization of the appropriate *conditions* for the development of human dignity",<sup>4</sup> while the continental tradition presupposes (individual/state) *consent* within the (international) social contract.<sup>5</sup>

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1 Lévy, 2011:49, 51.

2 The first time the concept was ever used without the consent of the host state (Kahler 2010:34; Bellamy and Williams 2011:846).

3 Clark 2005:17.

4 D'Entrèves 1963:698-701 (emphasis added); Buchanan 2002:703-704, 706, 709.

5 Stillman 1974.

(International) legitimacy quickly becomes synonymous with a mechanism of social control,<sup>6</sup> a *function* in society that is, while a privilege of *voluntary submission*, analogous to “power” as a concept. Following Barnett and Duvall,<sup>7</sup> we can therefore refer legitimacy to structural,<sup>8</sup> institutional,<sup>9</sup> compulsory (as manipulation), even “productive”, power.<sup>10</sup> Yet, crucial in this “power” are the related “standards of legitimacy” applying to both behaviours (actions) and recognition modes (actors).<sup>11</sup> We must then underline that legitimacy is, with a sociological eye, not this moral value to explore, but an *inter-subjective, relational and contextually specific* social phenomenon.<sup>12</sup> In other words, inextricably normative—not a norm, but a *composite* of norms. Ian Clark’s understanding in this matter is enlightening: “Legitimacy is international society’s aggregate instrument for seeking an accommodation between competing norms, and is essentially a political condition grounded in degrees of consensus about what is considered acceptable”.<sup>13</sup> Legitimacy then brings with it questions about both procedures through which this mechanism works, and its normative substance.<sup>14</sup> In any case, most definitions expose more or less the same duality (belief/domination): “[Legitimacy is] the normative belief by an actor that a rule or an institution ought to be obeyed”,<sup>15</sup> or “the terms by which people recognize, defend and accept political authority”.<sup>16</sup> These notions will even inspire Weberians to find the “causal variable” that offers a social order the prestige to be considered compulsory.<sup>17</sup>

Rarely acknowledged is the fact that legitimacy appears to be necessarily linked to *justifications*, to some deliberative, *discursive* qualities. For some, it is simply linked to the modern trend: rational-legal legitimacy (as opposed to “traditional” or “charismatic”) implies a submission to rational principles and their formalized procedures.<sup>18</sup> In other words, it is less to consent to a norm as such than to consent to the rationale behind a norm. This view brings the analyst to take into account the *audience* who judges calls for legitimacy,<sup>19</sup> and directs some to the Habermasian ideal of deliberative fora.<sup>20</sup> Closely linked, and even more widely assumed without questioning, is the idea that notions of legitimacy arise in *crisis*, when legitimacy corresponds no more to an *unquestioned truth*.<sup>21</sup> In a word: when justifications become crucial to the order.

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6 A sociological conception that opposes legitimacy and coercion or on the basis of pure personal interest. Cf. Hurd 1999, 2007; Wendt 1999; Symons 2010; Clark 2005; Finnemore 2009; or Hurrell 2007; Beetham 1991; Steffek 2003.

7 See Barnett and Duvall 2005.

8 Structuralist theories of hegemonic stability or orthodox Marxists see hegemony as giving material and rational incentives (See Krasner 1976; Wallerstein 1979).

9 Legitimate international organizations able to socialize and constitute identity of actors, developing agendas and independent interests (See Barnett and Finnemore 1999, 2005); see Keohane and Buchanan (2006) for an institutionalist point of view.

10 Valid norms, changing “identities” of actors, therefore their interests. Cf. Symons 2010; Coleman 2007; Finnemore 1996:23; Gelpi 2003.

11 Cf. Coleman 2007:27; Bukovansky 2002:44.

12 Symons 2010:5; Steffek 2003:259; see also Bukovansky 1999; Clark 2005:25.

13 Clark 2005:220; For Bukovansky, “the norms of a specific cultural system at any given time” (2002:24); central to English School scholarship. Cf. Bellamy 2005; Coleman 2007; Clark 2007; Finnemore 1996, 2009; Bull 1977, Hurrell 2007.

14 Cf. Coicaud 2002.

15 Hurd 1999:381; Hurd 2007:30; see also Keohane and Buchanan 2007:405; Gelpi 2003:14.

16 Bukovansky 2002:2.

17 Steffek 2003:252-254.

18 Steffek 2003:250-253; see also Stillman 1974:41; Keohane and Buchanan 2010:426-428.

19 Coleman 2007:24-26; In a state-centered world, she insists on the fact that states should be considered the primary audience judging the legitimacy of an action.

20 See Habermas 1988; Derrida and Habermas 2004; Steffek 2003:260-262.

21 Keohane and Buchanan 2007:410-412; see also Symons 2010:6; Coleman 2007:37.

All those ubiquitous qualities of legitimacy are forcing analysts of military interventions toward parsimony. In spite of *just-war* philosophers,<sup>22</sup> unfortunately beyond the present analysis, both proceduralists and substantivists, jurists and cosmopolitans agree that international organizations (i.e. UNSC) act as “gatekeepers” of the legitimacy of military deployment from one “sovereign state” to another, as dictated by the rule of general law. Here, Article 42 and Chapter VII of the UN Charter, referring to a crisis that *threatens international peace and security*, gives the UNSC the summum of (legitimate) authority, enabling it to “legalize” (and legitimize) such an intervention according to the norms/rules of the international society (grouped in the Charter).<sup>23</sup> If its source is debatable,<sup>24</sup> the result of the legitimate authority of the UNSC is echoed in the legitimacy of its mandates.

But, after various humanitarian failures in the 90s, the “international community” seemed to direct itself towards a “new” normative consensus. Right after NATO’s intervention in Kosovo, which was “illegal but legitimate”, in 2001 the International Commission on Intervention and State Sovereignty (ICISS) proposed a “new concept”: R2P, praised as a new norm prescribing the collective obligation to protect individuals,<sup>25</sup> filling the acknowledged gap between “legitimacy” (said to relate to “universal human rights”, “humanitarian protection”, and the necessity of the “rule of law” as a condition of dignity, etc.) and “legality” (UN Charter, “state sovereignty” and other “constitutive structures” of the international order).<sup>26</sup> The ICISS report offers two criteria assuring the legitimacy of foreign military intervention when a state is unable/unwilling to prevent “widespread” genocides/violences: the “just cause”, when events happening inside a state were threatening, now *or later* (i.e. an anticipatory statement), all peoples; and the “appropriate authority” (finally designated as the UNSC) able to define the conditions of engagement.<sup>27</sup> It is impossible to report all subsequent debates.<sup>28</sup> Suffice it to say here that, in 2005, the general ideas (while diluted) were enshrined by UN members in two small articles (in a 150-point document) in the World Summit Outcome.<sup>29</sup> Some cosmopolitans praised R2P as a semantic breach, able to change the relation of a state with *its* population (i.e. adding “human rights” criteria to the Westphalian understanding of sovereignty),<sup>30</sup> while other observers affirmed that there was nothing new: the Charter and its (illusory) principles of “state sovereignty” were just renewed, and the “international community’s” responsibility toward an imprecise state’s “manifest failure”<sup>31</sup> cannot simply ignore the already present Chapter VII of the UN Charter.<sup>32</sup> For the sake of our analysis, the reader will

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22 Just cause, just intentions, competent authority, last resort, proportionality, *jus in bello* and just peace. This tradition defines the criteria of legitimacy inspired by utilitarian morality, not only parallel to international law, but even contrary to it. Cf. Walzer 2006; Shaw 2005; Coates 2000; Atack 2002; see Fisher and Biggar (2012) on Libya.

23 Coleman 2007:2, 5; Forster 2006:95-97, 201, 213-218; Kaldor 2007:19; see also Bellamy and Williams 2011.

24 See Kahler 2010; for Coleman (2007), it is its effect to speak credibly in the name of the audience (i.e. the “international community”).

25 UN, December 2nd 2004:§§202-203; ICISS 2001.

26 Hehir 2010:219; Thibault 2009:3; Atack 2002:280-281.

27 Obviously in the face of the indeterminability of “criteria”, and on which authority is deemed appropriate. Thibault notes on this subject that the ICISS opened the door to possible interventions from regional organizations following Chapter VIII of the Charter without the go-ahead from UNSC (2009:6); see for anticipation in R2P: Hehir 2010:226-228.

28 For a vast literature, cf. Kaldor 2007:75-77; Weiss 2004; Hurrell 2007; Bellamy 2011; Bellamy and Williams 2011; see Chesterman 2011, Pattinson 2011, Weiss 2011 and Welsh 2011 on Libya; for a harsh critique see Warner 2003, 2011; Atack 2002; Hehir 2010.

29 Every state had a “[r]esponsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity”. If the national or regional pacific means could not see to it, the international community declared itself “prepared” on “case-by-case basis” to take collective actions following explicit authorization from the UNSC under Chapter VII (UN World Summit Outcome 2005, §138-139).

30 Weiss 2004:138.

31 Kahler 2010:25.

32 Despite efforts from ICISS, the idea of unilateral intervention without a UNSC mandate was totally rejected in this document, and in the ensuing 2009 debate in the UN General Assembly (Hehir 2010:225, 228-230).

see that, in both substance and procedures, the very same legitimacy “criteria” are reproduced:<sup>33</sup> on the legal side, UNSC, the international rule of law, contractarianism, etc.; on the sociological side, hierarchized norms having superior moral authority, linked to (consensually recognized) behaviour, implying (voluntary) coercion.

Nevertheless, this brief analytical overview seems deeply surreal: extremely parsimonious; crucial threads issuing from the very concept of “legitimacy”, such as the discursive side of the power of normalization by consent (indeed, thanks to what appears to be jovial innocence until proved otherwise), are totally assumed without question. The following sections will question the foundations allowing one to support those assumptions, then explore how they are deeply entwined with NATO’s intervention in Libya.

### *First Prologue: Language and Metaphysics of Presence*

It is necessary, as opposed to previous interpretations, to observe the fundamental role played by language. As such, if there is a reality outside language, it becomes clearly impossible to know it, to *conceive* of it, without the use of language. In this order, what the previous approaches valued is a problematic mimetic ideal: trying to represent the external political world as realistically as possible—those factual events having their proper qualities—by using words as means. Nevertheless, language is not formed by such a simple relation between signs (words) and reality. Language, and this is crucial for our purpose, is formed *only* by a relation *between signs*, between a signifier (e.g. “cat”/“chat”/“gato”) and a signified (the concept of cat), without any “reference” to a referent (which would be the cat in reality). Hence, language is a closed structure.<sup>34</sup>

This structure is, moreover, *differential*. To understand it, Derrida showed what he considered in the West the domination of a specific philosophical tradition called the “metaphysics of presence”, which constantly seeks a new ultimate foundation (replacing the fallen God) to hold the empirical world, to provide the criteria by which reality must be judged.<sup>35</sup> This metaphysics is always dichotomous, differential, valuing one side over an (inferior) other; one present, the other absent. Therefore, through generations, elements of the dichotomy will impose themselves on our thought as pure “presence”, e.g. masculine, order and legitimacy, which are always valued. This metaphysical quest of the ordered world of “presence” can only be carried out to the detriment of and by excluding the inferior from the rationale: the feminine, disorder and illegitimacy cannot be at the very same time “present”.<sup>36</sup> Nevertheless, what we believe to be present always *contains traces of different elements*. Signs are then not only different (as the necessity of difference from one and another), but deferential (*déférant*, where one sign always defers its meaning to other signs). This conception of traces, these characteristics of every sign, of language and of even modern Western thought, can be summarized for Derrida by an expression combining “difference” and “déférant”: *differance*.

Therefore, in this constant relational game, power expresses itself at its peak if the shape of the representations promoted is able to disguise into truth all the dichotomous elements subjectively valued.<sup>37</sup> So in this conception, power is far from direct: language, even before the act of ordering, shapes

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33 Since there is a lack of clarity on the criteria, Jean-François Thibault believes that we are in a mode where politization is inevitable. We could therefore speak of a new kind of legitimacy: “by defiance”, when rules are stripped of meaning in a specific context, when there is no support from the UNSC (Thibault 2009:7).

34 Bradley 2008:52-56, 62-64; see also Hansen 2006: chap. 2; Campbell 1998:24-26, 1998(b):6-7; Debrix 1999:11-12; Bleiker 2009:18-19, 87.

35 Bradley 2008:6-7.

36 See Bleiker 2001:30; Bleiker 2009:30-31.

37 Bleiker 2009:24, 89-92; Bradley 2008:18.

thought, imposes/excludes a series of assumptions, hierarchizes our conception of the world.<sup>38</sup> Any interpretation is a reinscription in time of the favoured element of a dichotomy established as truth.<sup>39</sup>

### *Second Prologue: Legitimacy, or the Normalization of Subjectivities*

Let's come back to conventional approaches that traditionally separate the domestic and international level when concerned with questions of legitimacy (even if they always try to join them together afterward).<sup>40</sup> "Inside", we will presume that legitimacy refers to voluntary consent to domination, from which the legitimate authority of the sovereign will come: the representative of amalgamated powers of (rational) individuals united in a community for peace, willing to domesticate their fellow beings using strategies of knowledge of the world.<sup>41</sup> Based on valuing rationality and causality, this liberal vision of "popular sovereignty" will then be the foundation of the conventional conception of political legitimacy; reason introduces contractarianism/democracy, laying down the conditions favourable to human self-development,<sup>42</sup> where the state acting on behavioural norms is the condition for the security of individuals. State (or sovereign authority) is, in this order, vested with the duty to interpret a charter of civilization, to domesticate its people; in other words, a normalization of individuals based on the constant *legitimate* exclusion of dangers from the social contract.<sup>43</sup>

If dangers must be "outside", some kind of *otherness*, the "content" of the State will always remain ambiguous.<sup>44</sup> Ontologically then, that necessitates a constant (re)inscription of the different by various non-coordinated practices serving to constitute identity. We said earlier that those differential interpretations stem from truths as reinscribed signs. Amongst such interpretations, the powerful metaphor of "body politic" represents the "healthy" legitimate order as the "normal", and the structural crisis, disorder and illegitimacy as "sickness". Here again, containing traces of their *differance*, these discursive representations always remains unstable and are deeply sensitive to alternative interpretations.<sup>45</sup> Here we have a totally different conception of the power of legitimacy and its consequences for social control: linked to a field of knowledge, expressed through *discourses*, this ordering (or, let's say, excluding) mechanism subtly inscribes the "normal" by imposing its own dichotomous elements as hegemony, while denigrating the rest.<sup>46</sup>

The very conception of unitary "state" changes. This imaginary space-time point will then find itself to be formed by diverse and combined government rationalities taking charge of the future of individuals.<sup>47</sup> Understanding legitimacy as legality is one of them (as law), and as a mechanism of social control is another (disciplinary) one. In fact, today the dominant rationality combines techniques and technologies of both into a new format: governmentality as "dispositifs de sécurité" (security devices).<sup>48</sup> Previously described normalization not only works by forbidding (through laws), or by prescribing/correcting (discipline), but tries instead to maximize positive feedbacks and minimize risks

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38 Bleiker 2009:88; Campbell 1998:chap. 3.

39 Bleiker 2001:27.

40 For Clark, it relates to the dualist nature of (international) legitimacy, where both levels cannot understand themselves apart from the other (2005:25, 175-180). The question he asks is: domestic legitimacy as the grounds of international legitimacy, or the contrary? (2005:186).

41 Campbell 1998(b):53; Weber 1995:5; Der Derian 1995:35.

42 Bukovansky 2002:7.

43 Der Derian 1995:35.

44 Campbell 1998(b):35-37, 75-88, 156; 1998; Hansen 2006: chap.3.

45 Campbell 1998(b):3, 31-32, 70-74; This is the undecidability: not the absence of possibility, of decision but the indeterminability of simply any conditions of existence and the means to represent them to us (1998(b):18-19); see also Hansen 2006:18-22.

46 Bleiker 2001:133-136; see also Elden 2008:38-39; Hansen 2006: chap. 2-3.

47 For discussions on the centrality of the State in security, see Krause and Williams 1997; Buzan and Hansen 2009; Lipschutz 1995; on governmentality, see O'Malley, Rose and Valvede 2006:89; Jaeger 2010.

48 Debrix 1999:23-24; Edlen 2008:25, 35; O'Malley, Rose and Valvede 2006:86; Jaeger 2010.

while working on the future, the probable, series to regularize.<sup>49</sup> Therein lies all the importance of knowledge (what *is to* happen), where individuals become instruments, means, conditions for anticipated effects on a whole. The method? Self-regulation by defining what is acceptable, or “normal”.<sup>50</sup> Crowley rightly summarizes what this governmentality implies: free individuals try to control or limit the freedom of others, using governance tactics that rely on freedom as means.<sup>51</sup>

The foundations of the liberal face of political legitimacy are now exposed: let things act on their own rules by defining what normal is, everything done with the use of truth as unquestioned discursive tropes, and where security offered by the social contract relies on the anticipatory protection of the (economic) expectations of individuals.<sup>52</sup> Far from a simple ordination/normalization, “legitimacy” implies specific axiological content, valuing individuals free from political violence as a precondition for economic self-development.<sup>53</sup> Repeating this mantra then, every discourse of “conventional” legitimacy plays a role in the materialization of specific subjectivity: the civilized-rational-ordered-liberal man.<sup>54</sup> This “normal” subjectivity leads easily to any kind of (legitimate) imposition of “treatments” (law codes) or any “surgical interventions” (as discipline) to correct the deviance of the social “patient”. But, as we said, self-regulation is always favoured: it is much more optimal.

Using Gramscian notions of hegemony, we can supplement our understanding of the domination of some discursive systems of exclusion that are easily masked in society.<sup>55</sup> Present not only in state (or international) institutions but in civil society too, openly combining coercion and consent, the discourse can co-opt counter-hegemonic ideas, or simply deny alternatives. What is important here is to always present conceptions as “universal” and for the greater good. In this “universalistic” game, liberal-internationalists are then of great importance to the global order.<sup>56</sup> For our purpose, what constitutes on the world scale, or in what might be called the international society of normalization, a legitimate government/state refers to the very same notions of “democratic” governance as economic liberalism.<sup>57</sup> The conventional conceptions of (international) legitimacy given above are obviously blind to this aspect of normalization. Founded on possessive individualism and instrumental rationality, the only (legitimate) state model is that which offers the previously analyzed (individual) security. In the very same universalistic logic,<sup>58</sup> these hegemonic notions impose themselves directly on the “decisions” of the international institutions, which are simply (re)producing the discourse of the legitimate order by giving their false seal of approval and marginalizing the alternatives, without ever legitimizing (in the conventional sense) those “corrections” of some “absurd” or “out-of-norm” (sovereign) state behaviours.<sup>59</sup> In fact, international institutions are as ontologically empty as states. They cannot be gatekeepers of anything, and even less of international legitimacy, since they are surreal simulacrum, trying to present themselves as having a “power”, but being, as Debrix says, without life, waiting to be filled with ideological content.<sup>60</sup> Thus, all (international) institutions, important to a conventional understanding of legitimacy leave the status of *pole* of power to *site* where powers and legitimate knowledge compete.<sup>61</sup>

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49 Foucault 1978:6-7, 10-11, 21; Dillon and Neal 2008:10-11.

50 Foucault 1978:39, 44, 65-67; O'Malley, Rose and Valvede 2006:91-100; Jaeger 2010:58.

51 Crowley 2003:59.

52 Burke 2002:9; Campbell 1998(b):65-67, 73-74.

53 Dalby 2002:12-13.

54 Dalby 2002:154; see also Blaney and Inayatullah 2010.

55 Bleiker 2001:146-157.

56 Cox 1988:168-169, 172; Gill 1995; Murphy 1994: 32-34.

57 Lerner and Walters 2004:500; see also Walters 2004:34-35; Sending and Neumann 2006:656-657; Gill 1995:405-407; Debrix, on a simulacrum of universal social contract (1999:9); see Jaeger 2010 on the use of international law for this purpose.

58 Cox 1988:171; Gill 1995:418-419; see also Neocleous 2006:380.

59 Cf. Weber 1995:4, 14-16; Campbell 1998(b):10; Hansen 2006:33.

60 Debrix 1999:6, 20-21.

61 Bleiker 2001:127-128; Jaeger 2010:54.

As such, it is impossible for them to *speak in the name of* any “international community”, since no audience pre-exists a repeated discourse that, as for individual subjectivities, is the only one to allow materialization. For Cynthia Weber, the very discourse of intervention is an attempt to stabilize the meaning of “sovereignty” and simulate interpretative communities (or audience).<sup>62</sup> By justifying one intervention, we always *refer* to some “community” (ours, or the one for which we act). But as we have seen, those communities are only signs arbitrarily constituted, without any referent. For Weber, “sovereignty” is then totally simulated: a sign referring to another sign, *ad infinitum*. We cannot simply intervene in the name of a given popular sovereignty (to install a privileged form of security/legitimacy): we must not only create the community, but act as a ventriloquist and make the community say what we want to hear.<sup>63</sup> This is such classic liberal-internationalist and governmentalized war discourse: a radical separation, for the sake of the justification of intervention, between “the regime” and “the people”, the latter holding the keys to sovereignty, then political legitimacy.<sup>64</sup> So with no judging community, legitimacy in the conventional sense looks like nothing but constant simulation.

How does this all relate to R2P? The reader will quickly understand that R2P is another attempt, mirroring the dominant governmentality in this international society of normalization, to impose conditions of (legitimate) normality on the whole: a state cannot be non-“responsible” for the security of its citizens (rational-civilized “men”); otherwise it must deal with a disciplinary correction coming from abroad. The question then is to protect from what? Linked to *internal disorder*, the underlying idea is the reproduction of the limited state, where (legitimate) threats must come from outside, and not from inside the very social contract. It is, once again, an attempt to maintain independent and autonomous sovereign state subjectivities: the only (legitimate) means to ensure individual safety.<sup>65</sup> Everything in R2P is based, like most liberal “humanitarian” notions, on the idea of “popular sovereignty” vested in the individual citizens of a state. Therefore, the very simple fact of being confronted with an undemocratic government would be in itself a violation of individual sovereignty (even for some observers arguably following international law), allowing intervention to “restore” democracy.<sup>66</sup> For post-colonialists, behind these “good intentions”, those Euro/ethnocentric liberal standards of “humanity”, promoting the legitimized idea of sovereignty in the hands of people and of government providing for the (minimal) common good, only perpetuates the myth of the “standards of civilization”, progress, modernity and ethical superiority of the West.<sup>67</sup> More importantly, it gives to the West its narrative for intervention.

### *Third Prologue: Event and Force of Law*

Let’s go back for a moment to the instability of all normalizing discourses. In this context, “events” will always be a threat to the stabilized identity of Self, the ground of the “normal”, and so, to the (legitimate) order. These tense situations worsened considerably in our era of hypermediatization, where the threats of diffusion of counter-hegemonic discourses are vastly enhanced. In this “battle for the wires” in the “mediascape”, TV and other, “alternative” media have an important capacity to *suture* identity representations.<sup>68</sup> The “reality” presented, thanks to technology, appears to the viewer as truth.

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62 Weber 1995:5, 112.

63 Weber 1995:13-14.

64 Weber 1995:65, 81-83; see also Murphy (1994) on liberal-internationalism in history, and Grondin (2011) on governmentality as justificatory narrative for the War on Terror.

65 See Walker 1997:68-70; Lipschutz 1995:10; Der Derian 1995:25; Campbell 1998:8-13; Hansen 2006:34-36. For Jaeger, human security is an example of the biopolitical will of international governance, linked to collectivization of security, transforming states into risk factors (2010:62-63, 65-68).

66 Attack 2002:284-285.

67 Barkawi and Laffey 2006:332, 340-341, 350-351; Barkawi 2005:103-104; see also Murphy 1994:chap. 6; Hehir 2010:224, 235.

68 Debrix 1999:119; Grondin 2011:255-256; Muller and Measor 2011:392-393; suture is a psychoanalytic concept:

Stories are always shown too quickly, too superficially to be completed, always interrupted by colourful advertisements, therefore blocking the completion of the suturing process: the reproduced discourse is then always very powerful *and* very unstable.<sup>69</sup> By chance, emotional trauma, dramas dislocating knowledge habits, can reinforce the dominant discourse. Bleiker underlines the fact that those moments where the *sublime* expresses itself (where intense agitation, anxiety and violence cannot be grasped entirely) bring with them a deep reflex of arbitrary control, a masculine-heroic correction in face of this lack of understanding.<sup>70</sup> The result is then a violent reinscription of the known dichotomies.<sup>71</sup> Here is why we must always take the narrative, the justification of legitimacy, very seriously: they form the necessary response attempting to hold afloat the dominant interpretation of the normal at the very moment the crisis questions *it*.

Of course, in those moments, legal coding can always give our narrative a sense of stability, with the inscription and institutionalization of its definitions of normality. But if the social environment is far too indeterminate to be entirely codable,<sup>72</sup> the codes themselves are highly unstable. In fact, at the very moment of the “event”, a big chunk of the response depends on our decision. The decision, however, is such that it becomes totally independent of all normative substance. The constitutive element of a decision is, from the standpoint of the content of a norm, totally strange and new.<sup>73</sup> This, for Derrida, means that the act of enforcing the law, even if it is inspired by norms or “universal codes”, is always violently unique at all times, crumbling all “criteriology”. Obviously, at the moment of decision, we could deliberate on the codes forever, but in fact the moment is one of precipitation, a “moment of craziness”, when no code stays as it was before; the codes will themselves be transformed and re-established on new grounds, always following the ubiquitous *differance*. This whole process is what Derrida calls *Force of Law*: at any moment of decision, the foundation and preservation of law blur.<sup>74</sup> Therefore, the very basis of a purely legalistic vision of legitimacy cannot hold, because the code itself is always transformed by a decision. So legitimacy would only be possible after the fact, after this “coup-de-force” founder of the code itself that is implied in Force of Law.<sup>75</sup> No law enforcement could be legitimate in this logic, since no legitimacy discourse can be used as a metalanguage when the language itself institutes reality.<sup>76</sup> Stripped down, the conventional concept of legitimacy, from whatever angle one could try to analyse it, cannot have a pure *presence*. Let’s see the implications of this theoretical overview by looking at the case of NATO’s intervention in Libya from March to October 2011.

### *First Act: Self, NATO ; Other, the Rest*

Our analysis of the Libyan case can begin directly by looking at the deep ethical superiority of NATO, which forms the heart of the metaphors creating the European “normality”, and therefore, the (represented) identity of NATO. A few weeks before the intervention, we were in fact updating ourselves through *Active Engagement, Modern Defence - Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization* of November 19, 2010. In other words, as any good foreign policy, NATO was formally (re)inscribing the limits of its identity and what was fa-

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the constant reactivation of subjectivity investing in a more favourable identity for the subject/viewer who decides to identify himself with the type of narrative presented. Suture plays on the missing elements in the “real life” of the subject (Debrix 1999:119-122).

69 Debrix 1999:126-132; Bleiker 2001:111-113; Campbell 1998:54.

70 Bleiker 2009:76-77.

71 Weber 1995:13; Campbell 1998(b):136-138; in a logic of emplotment of an historical narrative (Campbell 1998:35-43).

72 Schmitt 1934:6, see also 13-15, 36-37.

73 Schmitt 1934:30-32.

74 Derrida 1992:5-6, 23-26; Schmitt 1934:30-32.

75 Campbell 1998:26-30.

76 Derrida 1992:13-14.

cing it<sup>77</sup>. The Alliance was describing itself as a pole, a source of stability, *predictability*, freedom, hope, *indivisible* and *essential* security for its members. Its *primary responsibility*, its *will*, its *duties*: *safeguard* its members, defend *the* territory (which *is* at peace) and *its* population. NATO is said to be firm with its members, but equally capable of *detering* and defending, with its *unique, unparalleled, robust, modern* capacities (developed by NATO *itself*). Its members showing *solidarity* form the *unique* community of democracy, individual freedom, human rights and the rule of law (all considered *universal* and *perpetual* values).

NATO is opposed to a non-self which evolves in an unpredictable environment, full of challenges. It opts out of a *developing* crisis that can potentially (*deteriorate/molt*)<sup>78</sup> into a real conflict. This is why NATO will contribute to *manage* crisis and *stop* conflicts, contributing in this way to the security of the territory and population of the Alliance: instability can *directly threaten* by *fostering* extremism. NATO then has the power to bring forth its *essential contributions* only when it is possible and *necessary*, particularly when political developments can be *affected (inflected)*.<sup>79</sup> In order to do that, it proposes to *train* and develop local forces, so “that local authorities are able, as quickly as possible, to maintain security *without international assistance*”.<sup>80</sup>

The first obvious metaphor here is the powerful and authoritarian father. The patriarch is modern, rational, a good manager who knows how to anticipate.<sup>81</sup> In short, NATO is the archetype of modern governmentality. Responsible only to its family, NATO can equally be *capable* of goodness if it *decides* that we *need* its assistance. The second metaphor is, as said previously, linked to biomedical discourse: NATO is a doctor who knows the remedies for infections. Its body is in good health, while elsewhere the contrary seems true. Following classifications proposed by Hansen,<sup>82</sup> in spatial terms NATO represents itself as homogeneous, the *only* community of democracies; temporally, *the* pole of advanced civilization; ethically, responsible only to itself. If NATO can subjugate anything that threatens, it prefers, as we have seen, to teach how to fish instead of donating fish. It is, once again, in line with legitimized liberal discourse valuing autonomy and self-regulation.

## *Second Act: The Event*

Between November 2010 and January 2011, NATO was pretty much satisfied with this identity. But what was quickly called the “Arab Spring”<sup>83</sup> provoked a dislocation in Western identity narratives. It was the “event”, the sublime. We do not need here to go in detail: we had the hypermediatized hyperbole, combined with a burst of anticapitalist manifestations in Europe, of a new “Bastille”, a new “Prague”. This “democratic (re)birth”, long awaited but lost somewhere in Orientalist habits, blurred the image that Europe (but not only Europe) had of its Mediterranean neighbours: those who seemed for so long structurally (if not voluntarily) subjugated under the rule of autocrats, were *finally* waking up. According to Bleiker, we understand the conventional manner of grasping these mass resistance movements: what we see is a protester refusing its “voluntary servitude”, its “passivity” (if not its “femininity”), finally reasoning to heroically retake its stolen and violated sovereignty.<sup>84</sup> The time of “Arab exceptionalism” or “Islamic civilization” appeared ended.<sup>85</sup> The identity representations shaken by Western (and Al-Jazeera’s) homogenizing mediatization (strongly supported by diasporas and new

77 NATO, November 19, 2010; words in italics are the original ones used in the English version of the document.

78 As in the French version of the text, using cruder terms (§22)

79 Again, in the French version (§4c)

80 English version, §25 (emphasis added).

81 Which is the key to the perception that Europe has always been the thinker of the Euro-Asiatic continent, which sees itself anticipating beyond the seas (Derrida 1991:23).

82 See Hansen (2006: chap 3) for some methodological indications relating to identity representations.

83 In this already abundant literature, see, for example, Dalacoura 2012.

84 See Bleiker 2001: Part I.

85 A classic example: Huntington 2007; for critiques, see Todorov 2008; Soares and Osella 2009.

technologies used by protestors themselves through the “Web 2.0”<sup>86</sup>) was directly (re)sutured by the very same media: spatially dislocating the “Arab world” between liberals/moderates on one side, and autocrats and their goons on the other (a classic liberal reflex, as previously presented). On the temporal scale, the people “mature for civilization” facing regimes as barbarians. Ethically, the regimes would have to be removed by those winds of democracy. In the West, and it is the most important thing here, we now have responsibility to the Other-as-Self, this people that (finally) decides to follow norms of stabilizing self-regulation. As a consequence: the sublime was quickly rationalized by our (arbitrarily fixed) interpretative models. It was a once-in-a-lifetime occasion to suture subjectivities in keeping with the dominant discourse, and to present the picture of salvation and support to “progress”.<sup>87</sup> The West would not miss that opportunity.

### *Third Act: Deliberations*

The Libyan “regime” was obviously not following its assigned role in the Western script: it was not showing “normal” (domestic and international) legitimacy,<sup>88</sup> but it was even directly threatening the dominant discourse by showing itself ready to crush these “cockroaches” and “drug addicts on hallucinogens” instead of negotiating its demise, face to face with “heroic protestors”.<sup>89</sup> Quickly, the hegemonic discourse would mobilize all its means of credible knowledge, its experts in risk anticipation: the UN High Commissioner for Human Rights (and many more) described the events as violence that “may amount to crimes against humanity”.<sup>90</sup> For Bellamy and Williams, even if “*none* of the world’s existing genocide/atrocity *risk assessment frameworks* identified Libya as being at risk”,<sup>91</sup> by “chance” the “extraordinary” work of prospection from UN agents “correctly” anticipated danger.<sup>92</sup> The fact that these evaluations from the UN staff were harshly criticized by Amnesty International and International Crisis Group as biased, indeed simply false, seems not to have worried them.<sup>93</sup> Please don’t be surprised. Facing events, the desire for ordering leads toward manipulation of reality to the benefit of dominant interpretations: *we needed* to “prevent” “mass atrocities”, as prescribed by the recipe of R2P.

That is exactly what happened. (Only) ten days after the rise in the intensity of the violence and calls for dialogue from various regional organizations, the UNSC (i.e. the responsible, *legitimate* authority) met on February 25 and 26, 2011.<sup>94</sup> During deliberations, the situation was presented as a critical moment for the Arab Muslim world and/or international security/stability.<sup>95</sup> Big names in the West and the UN Secretary General used without restraint the simulated knowledge of the High Commissioner: crimes *committed* (past tense) as *possible* crimes against humanity. Very important for us here: nowhere in these speeches can we find any references to a possibility of (tribal, ethnic, civil, whatever) conflict in this country long described as split between Cyrenaica and Tripolitania, and held together by almost nothing.<sup>96</sup> It was clearly a reproduction of our interpretation of events, of our manner of under-

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86 Muller and Measor 2011:399.

87 See Debrix 1999:150-161.

88 Sadly, some authors believed until recently that Libya was finally “back to normal”: Stottlemire 2011; Jentleson and Whytock 2005-2006 on who won Libya, between “diplomacy” and “coercion”; Zoubir 2002 on Libya from “rogue” to “good fellow”.

89 Reuters, February 24, 2011.

90 Reuters, February 22, 2011.

91 Bellamy and Williams 2011:838.

92 See Debrix 1999 on this subject for a discussion of the panoptical methods of international organizations.

93 International Crisis Group, June 6, 2011.

94 All the following come from UN February 25, 2011 and UN February 26, 2011.

95 For example, the French representative: “[a] wind of liberty has arisen south of the Mediterranean. The Security Council had to meet this date with history on the side of the Libyan people. That is the historic significance of the vote this evening – a vote that we hope will open, beyond Libya, a new era for the international community as a whole” (UN, February 26, 2011).

96 International Crisis Group, June 6, 2011; Part of ontopolitical discourses, but in our context, limiting the use of

standing a popular protest, political legitimacy, security, all of this sutured by the mainstream media: spatially, a *regime* (explicitly differentiated from *authorities*) facing an homogenized category of civilians/victims/people: temporally, this “freedom-loving” people asking for “democracy” should be acknowledged; ethically, again, the West showing nothing but *solidarity*.

UNSCR 1970 was adopted unanimously, calling for a stop to incitement to hostility and violence *by the government*, imposing a ban on arms sales and travel, and a freeze on assets,<sup>97</sup> and calling for the protection of foreign nationals/investments in Libya [*sic*]. Even if the resolution was less caustic than Western representations, the big lines on responsibility for (past) crimes remained: “*widespread and systematic attacks . . . against the civilian population*” that “*may amount to crimes against humanity*”.<sup>98</sup> The same spatial, temporal and ethical divisions. Conventional understanding of resistance and political legitimacy were restated: the (heroic) people having legitimate demands, a (criminal) regime having lost the support of its people, and in between a strange haziness on who were those “authorities” asked to take their responsibilities.<sup>99</sup>

In the following days, some liberal internationalist go-betweens, such as Bernard-Henri Lévy, started to work hard, and promoted their “friends” from the Transition National Council (TNC). President Sarkozy of France, charmed by all this shifting democracy, turned his back on very profitable Mirage sales contracts with the regime and recognized officially, on March 10, 2011, the TNC as the legitimate representative of Libya (if the expression still had any meaning at all). Italy, in an awkward position, finally cancelled her “friendship treaty” with this “criminal” regime, a regime that until recently was very cooperative on immigration and oil issues.<sup>100</sup> On March 17, UNSC met another time to discuss UNSCR 1973 (a possible no-fly zone, strongly backed by the Arab League, among others).<sup>101</sup> Again, the French Minister of Foreign Affairs stated the Western interpretation: Qadhafi would be leading a *conquest* on liberated territory, while this *pan-Arab* revolution was showing a spirit of *maturity*.<sup>102</sup> The “international community” had to assume its “responsibilities”. To the surprise of many, UNSCR 1973 was adopted with ten in favour and five abstentions (Brazil, China, Germany, India and Russia). It proposed, nevertheless, an important clarification: “reaffirming that parties to *armed conflict* bear the primary responsibility . . . to ensure the protection of civilians”.<sup>103</sup> Officially then, it was acknowledged as an armed conflict, but the solutions contemplated were far from it: a ceasefire *and* official recognition of the “legitimate demands” *of the people*. The cynical result was acknowledging Libyan sovereignty and “national unity” while authorizing member-states and regional organizations to take “necessary measures . . . to protect *civilians* and *civilian-populated areas* under threat of attack”.<sup>104</sup>

For Bellamy and Williams, the adoption of the resolution signified that no states could legitimately justify inaction in circumstances of “mass atrocities”.<sup>105</sup> It seems fairer to say here that those “facts” were, in particular, bluntly articulated subjectivities by the dominant discourse, giving the im-

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“ethnic” terms to encompass “us” and “them” more easily (Campbell 1998:78-81).

97 *Namely*, the Qadhafi family, which was the quasi-totality of all cited individuals “involved in or complicit in ordering, controlling, or otherwise directing the commission of serious human rights abuses against persons in Libya . . .” (UN February 26, 2011).

98 Emphasis added.

99 A resolution of the Arab League of March 12 hoped for better contact with the Transition National Council, (TNC) since “the Libyan authorities [have] consequently lost their legitimacy” (Arab League, March 12, 2011). Only an African Union resolution *condemned* (indeed, the only one to acknowledge) the formation of rebel groups (African Union, March 10, 2011).

100 Zevi and Meichtry, February 26, 2011; Andrijasevic 2010.

101 Arab League, March 12, 2011; see Bellamy and Williams (2011:842) on the “whys” of this support.

102 In the words of Alain Juppé: “[a] great revolution that changes the course of history. From North Africa to the Persian Gulf, the Arab people clamour to breathe the air of liberty and democracy [a] great hope arose and democratic transition was launched in a spirit of maturity and responsibility” (UN March 17, 2011).

103 Emphasis added.

104 Emphasis added.

105 Bellamy and Williams 2011: 844.

pression of the “large scale” necessary to embrace intervention in the spirit of R2P. In the following pages, we will see that, if the UNSC decision seemed “legal”, as it refers to R2P, the decision itself transformed the “code” with the help of, among others, its Atlantic little brother, NATO, which was in fact performing the (legal/legitimate) mandate of normalization and would face specific events in the theatre of operations that could destabilize the whole dominant interpretation. Itself stuck in its own interpretative frame, NATO would be forced to take a series of decisions showing the gaps in its discursive construction. Therefore, efforts toward restabilization would play constantly with the (deeply flexible) identities of Self, the Other-as-Self, and the non-Self. The result: a “code” transformed by Force of Law, where “responsibility to protect” go hand in hand with regime removal, and where a legal/legitimate mission constantly worked against its own legal/legitimate mandate.

### *Final Act: (II)legitimacy*

The coalition set up to enforce the UN mandate was larger than the strict membership of NATO,<sup>106</sup> but the Alliance had the duty of coordinating the “no-fly zone” through Operation Unified Protector (its name is already meaningful). As daily “events” constantly threatened the stability of the legitimacy discourse, it will be interesting here to observe in detail the justificatory narrative that NATO was distributing to the media, and its continuous identity rearticulations.<sup>107</sup>

NATO media threads began in February, underlining the migratory flux *risks [sic]*, even if “peaceful protestors” asking for democratic changes, “the *only* basis for long-lasting *stability*”, were quickly supported.<sup>108</sup> On March 30, Operation Unified Protector was officially launched to “*stop* intolerable violence against Libyan civilians”<sup>109</sup> and to implement “all aspect of the UN resolution. *Nothing more, nothing less*”.<sup>110</sup> Legitimate? Conventionally speaking, surely. But the conditions for the end of engagement were already biased: (1) the end of attacks and *threats of attacks*; (2) troops must retreat to their bases; (3) the regime must grant access to humanitarian aid.<sup>111</sup> Everything, obviously, must be combined to achieve what NATO itself considers to be the *only true condition for stability* (i.e. liberal self-regulative subjectivities).

The materialization of those subjectivities would then be achieved by constant identity rearticulations. The non-Self would always be represented as systematically violent barbarians: “[we] strike forces that can *potentially* cause harm to the civilian population,”<sup>112</sup> that “use . . . civilians as human shields [as an] horrific [tactic, and] *also* [being] observed hiding behind women and children”.<sup>113</sup> Even though the mandate explicitly called on the “authorities” to assume their responsibilities, here regime and authorities are fused: “we underline the *need for the regime* to restore water, gas, electricity and other services to areas that have been *brutalized by regime* forces”.<sup>114</sup> The result was a total negation of the possibility of ending the mission if the Qadhafi regime stayed in power, because it was at the same time an (irresponsible) “regime” and (possibly responsible) “authority”. The Other-as-Self is not a victim/pacific protester anymore, but a troublemaker in combat zones: “. . . to ensure we do all we can to reduce the risk to civilians . . . but the risk cannot be reduced to zero . . . ; civilians can assist NATO by

106 Some Arab states, such as the United Arab Emirates, Jordan and Qatar; Germany and Italy were two important NATO members to refrain from participating.

107 Here, some 150 communiqués from March 30, 2011 to October 30, 2011 are analysed.

108 NATO, February 24, 2011, February 21, 2011.

109 NATO, March 18, 2011, March 22, 2011 (emphasis added); the United Kingdom, France and the United States were already present to enforce UNSCR 1973 as of March 19.

110 NATO, March 27, 2011 (emphasis added); it worth noting that, since then, at the end of every communiqué, UNSCRS 1973 goals are explicitly recalled.

111 NATO, April 14, 2011 (emphasis added).

112 NATO, April 7, 2011 (emphasis added).

113 NATO, April 9, 2011 (emphasis added); again in other terms, NATO, April 11, 2011.

114 NATO, April 14, 2011 (emphasis added).

*distancing themselves from Qadhafi forces*”;<sup>115</sup> “NATO destroyed an SA-8 surface-to-air missile yesterday. . . the operators were able to detect a number of civilians *playing football near the missile* and firing was delayed until the people dispersed”.<sup>116</sup> It is important to underline the fact that references to civilians to be protected are always made to contrast (then legitimize) identities: “We have no independent means of verifying reports of *possible* civilian casualties. *Unlike pro-Qadhafi forces*, we continue to go to great lengths to reduce the possibility of any civilian casualties”.<sup>117</sup> NATO (Self) as *impartial* (having intercepted a TNC plane at one point),<sup>118</sup> as *under obligation* (“[a]s long as Regime forces continue attacking their own people, we will intervene”<sup>119</sup>), as *determined*, when facing the *confusion* of Qadhafi forces.<sup>120</sup>

Throughout those weeks, *allegations* (always stated using the conditional tense) of civilian victims, whose protection was supposed to be guaranteed by NATO, were beginning to destabilize the whole legitimacy of the Operation.<sup>121</sup> The solution: the Alliance became a surgeon, using its technologies with *precision* in the centre of the capital, “with great deliberation to *minimize the risk* to innocent people”.<sup>122</sup> Obviously, in the face of NATO’s *rigorous* intelligence and positioning, Qadhafi seemed to be on another planet: “*reprehensible tactics* of placing military assets and operations *at the heart of civilian neighbourhoods*”<sup>123</sup> can hardly be compared to the “clinical and accurate manner [of] leaving living accommodation untouched”,<sup>124</sup> which were the *all too urban* tactics of NATO.

In June, NATO seemed confident: “we stand united to make sure that [the Libyan people] can shape [their] own future”.<sup>125</sup> But on the ground, the rebels were in a military impasse. Therefore, for the first time in the Operation, NATO used attack helicopters “to track and engage pro-Qadhafi forces who deliberately target civilians and *attempt to hide in populated areas*”.<sup>126</sup> Now the military was chasing those cowards in civilian/urban zones that were supposed to be protected. To (legitimately) widen the mandate then, NATO needed to show itself more than ever as a ventriloquist: “Anti-Qadhafi sentiment is increasing in Libya as *growing numbers* of Libyans demand the right to choose their own future . . . challenging his legitimacy openly and, in *doing so*, are [now] *under threat* of attack”.<sup>127</sup>

Explicit contrasts would continue: technical NATO forces vs. outdated Qadhafi forces; civilized NATO forces vs. barbarian Qadhafi forces. Nevertheless, one impressive moment of articulation needs to be underlined. To justify the attack on state television (despite both UNSCR 1970 and 1973 calling for freedom of the press . . .), NATO specified that those “terror broadcasts” were “means to intimidate the Libyan people and incite acts of violence against them [, a] policy to instil *hatred amongst Libyans*, to mobilize its *supporters against civilians* and to trigger bloodshed”.<sup>128</sup> A very uncommon rearticula-

115 NATO, April 20, 2011 (emphasis added); again: NATO, April 24, 2011; this process of “target” identification must be combined with subjectivity production and acts of surveillance, all disrupting territoriality of communities. See a special edition on the verticality of war (Adey *et al.* 2011).

116 NATO, April 24, 2011 (emphasis added); one must explain how ground-to-air missiles can threaten civilians, and how frightened civilians would play in such close vicinity to such systematic barbarians.

117 NATO, April 25, 2011 (emphasis added); a rhetorical game always present in the narrative: “allegations”, “possible” civilian victims, openly acknowledged on only a few occasions.

118 NATO, April 10, 2011

119 NATO, April 12, 2011

120 NATO, April 11, 2011.

121 Most of the time, the standard justification will be some *technical problems* (NATO, June 19, 2011; June 19, 2011 (b)).

122 NATO, May 1, 2011 (emphasis added).

123 NATO, June 24, 2011 (emphasis added).

124 NATO, July 1, 2011.

125 NATO, June 1, 2011.

126 NATO, June 4, 2011 (emphasis added).

127 NATO, June 12, 2011 (emphasis added).

128 NATO, July 30, 2011 (emphasis added); that decision would be harshly criticized by both the International Journalists Federation and the International News Safety Agency.

tion in the narrative here: the Libyan “people” were no longer monolithic, but split between *those* oriented toward hate, and the rest, i.e. civilians. Nevertheless, we quickly come back to unity. Even though sometimes the TNC appeared legitimate, nowhere would we see references to “civil war”, or the crucial fact that NATO was fighting alongside rebel factions.<sup>129</sup> In a word: just show that the regime was a (perpetual) threat and that non-fighting civilians were to be pitied. It was simple.

Events accelerated in August and September. Again, identity representations had to be rearticulated, this time with the post-Qadhafi period in mind: “Qadhafi’s remaining allies and forces also *have a great responsibility*. It is time to *end their careers of violence* [to] choose the *right side of history*”,<sup>130</sup> “[a] future [that] would have to rest on reconciliation, unity, and the rule of law”.<sup>131</sup> If incorrigible barbarians now had to be potential citizens, then all the violence occurring was for now attributed to “mercenaries” (mostly Sub-Saharan Africans). This blatant differential rearticulation between “Libyans” and “foreigners” is, as we said, at the heart of any legitimate idea of the liberal state. Obviously, as for the rest of the narrative, there was dead silence about all rebel offences and violence, even if commonly reported in the mainstream media, against loyalists (fighters *and* civilians), and even against “mercenaries”, who were in most cases only seasonal migrant workers.<sup>132</sup> Acknowledging all of this would have totally disrupted NATO’s “truth”... Finally, at the end of the mission in October 2011, we warmly welcomed the TNC’s speech about Libya’s *liberation*. NATO recalled that it received an *historic* mandate from the UN, and it celebrated the mission as “[one of] the most successful in NATO history”,<sup>133</sup> seen to with effectiveness, flexibility, precision, care, and *anticipating massacres*.<sup>134</sup> It was the archetype of a legal, legitimate incursion, sowing the seeds of liberal stability.

The reader will have observed, throughout the precise analysis of NATO’s justification of legitimacy, how the Alliance participated in two principal ways directly *against* the legitimacy and legality of UNSCR 1973. In the first instance, the resolution called for a political solution and a ceasefire, but NATO constantly described the facts as providing protection for innocent civilians against a barbarian, cruel, and systematic regime. There was absolutely no place for any “authorities” to exert either “responsibilities” or effect a political transition. The regime was delegitimized from the start; the people were installed as sovereigns, with no possible dialogue or solutions. In other words, the ceasefire was wishful thinking on the part of the UNSC, and the removal of Qadhafi was *the* solution for stability according to NATO. The second fact—a far more serious one on an ethical level—is that the mandate was explicitly to *protect civilians* (whatever its value). By using tactics of constantly “targeted” bombings, most of the time in civilian areas, and by targeting on the basis of *risk anticipation*, even if most of the targets were anything but threatening to anyone’s life, NATO itself was threatening the ones it was supposed to protect. In the final analysis then, NATO was the illegitimate third player in a civilian conflict. If this status was never acknowledged (in order to keep afloat its own version of the legitimacy of the mission), the Alliance in any case probably made matters worse. If some call all the failures threatening human life as “operational problems” during humanitarian intervention,<sup>135</sup> in the words of Dillon and Neal, we are facing liberalism that openly “[kills] to make live”.<sup>136</sup> Operation Unified Protector was therefore both legitimate *and* illegitimate on the same legal *and* normative basis celebrated by conventional approaches as *pure presence*.

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129 One of these rare occasions was when NATO needed to justify *friendly fire* (without calling it thus): the bombing of “military vehicles . . . part of an *opposition patrol*” (NATO, June 18, 2011 (emphasis added)).

130 NATO, August 22, 2011 (emphasis added).

131 NATO, September 1, 2011; any notions of reconciliation and pardon are strongly influenced by Christian, even ethnocentric and Eurocentric, logics. See Derrida (2000), Derrida and Habermas (2004).

132 BBC, July 13, 2011; RT, July 22, 2011; Human Rights Watch, July 13, 2011.

133 NATO, October 28, 2011; see also NATO, October 23, 2011.

134 NATO, September 1, 2011.

135 An expression of Tonny Brems Knudsen, recalled in Atack 2002:289.

136 Recalled in Morrissey 2011:287; see also Dillon and Neal (2008) on war as a necessity for liberalism.

This exercise of deconstruction of NATO's justification of legitimacy is not a logical approach. In the words of Richard Ashley, it is working from the discourse itself to show how it disrupts its own philosophy, its own hierarchies, which it pretends to follow. It, in fact, uses the text itself instead of imposing outside standards, in a ceaseless movement of recontextualization.<sup>137</sup> More than ever, we can see that any criteriology, in analysis or in empirical life, cannot have *presence*. Conventional approaches to legitimacy, legalist or cosmopolitan, proceduralist or substantivist, are all too blind to the instability of their own conceptualizations, to the aporias that, as Burke says, block the metaphysical discourse in fulfilling its promises of unity.<sup>138</sup> It is the problem of all concepts becoming absolute in themselves, imposing monological definitions. For Bleiker, as reality is fragmented, we must try to think of it in a fragmented manner.<sup>139</sup> Trying to deconstruct the legitimacy of a military intervention such as this one related to R2P, we are brought to see the strong normalizing tendencies, the constitutions of subjectivities, all of this rarely questioned. We are forced to see the importance of contexts: events, dominant discourses, hypermediatization, identity representations, in what was quickly and euphorically refused to Qadhafi's Libya, while at the time of writing that is still permitted in the Syria of Al-Assad.<sup>140</sup> We are also obliged to see that the Force of Law implied in NATO's intervention could probably change the whole code of "responsibility to protect", now linking it forever to its empirical consequence: the removal of "abnormal" regimes. Finally, what we saw until now as the summum of responsible and legitimate action toward human life can itself be the most important obstacle ever deployed against responsible and legitimate action toward human life. Indeed, the whole discourse is problematic: R2P, its particular subjectivities, which it tries to format, while hypocritical and blind to situations "that don't fit". In this sense, the ontology of repeated acts put forward here, instead of assuming these normalizations as structural blocs without agency, directly calls the observer to introspection, to see how we are always "acted upon and acting",<sup>141</sup> to see that between lie *our* responsibilities to criticize unquestioned accounts.

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137 Ashley 1988:251; Campbell 1998:21-24.

138 Burke 2002:4-5.

139 Bleiker 2001:231.

140 See interesting reflections from a Western war correspondent (Sengupta 2011).

141 De Goede 2006:9; see also Campbell 1998, 1998(b); Hansen 2006.

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