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MASTER'S THESIS

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Adel Nagi Bakka

10.02.2017

**KARABUK UNIVERSITY SOCIAL SCIENCES INSTITUTE
INTERNATIONAL POLITICAL ECONOMY MASTER PROGRAM**

ACCURATE DECLARATION

As a graduate thesis, I would like to emphasize that. I am writing this work without resorting to a path and help that is contrary to scientific and tradition. That the works I have used are those shown in the source and that I make use of these works by citing ever use: I affirm it with condemnation.

I declare that I will endure all the moral and legal consequences that will arise if this instate does not observe a certain period and that a non-compliance with the seminar is detected.

05/01/2017
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Signature

DEDICATION

This thesis master degree in international relations and of international political economy.

It will be in this thesis, a historical review of the many accidents that highlight the participation of the former Libyan regime and supporting and financing various terrorism. It covers essentially, in more detail, the story of Lockerbie and the subsequent UN Security Council sanctions during this era. This paper divided into three main sections: Brief historical background about global terrorism and Libya's former regime. Moreover, the involvement of Libya in World sponsors of terrorism. The history of the Lockerbie terrorist attack.

Finally, the dispute among (ICJ) and the Security Council about the jurisdiction and interpretation of the Montreal treaty.

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LIST OF ABBREVIATIONS

ANO	Abu Nidal Organization
CIA	Central Intelligence Agency
DELP	Democratic Efficient Lighting Programmer
FBI	Federal Bureau Of Investigation
ICJ	International Justice Court
IRA	Irish Republican
MCV	Medical College Of Wisconsin
(M.19)	Movement 19 De Abril
NPI	National Provider Identifier
NUSCR	Nottingham University Society Change Ringers.
ODA	Official Development Assistance
PLO	Palestine's Liberation Organization.
PAN.AM	Pan American.
PFLP	Popular Front For The Liberation Of Palestine
PIRA	Provisional Irish Republican Army
RUF	Revolutionary United Front
SCCRC	Scottish Criminal Cases Review Commission
P.K.K	The Kurdistan Worker's Party.
XXI	The Twenty –First Century
TWA	Trans World Airlines
TIA's	Transient Ischemic Attack
MRTA	Tupac Amaru Revolutionary
UNCT	UN Security Council Resolution
UTA	Union De Transports Aerial
UK	United Kingdom
UN	United Nations
US	United States
UST	University Of St. Thomas
VTA	Valley Transportation Authority
WMD	Weapons Of Mass Destruction

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INTRODUCTION

“Terrorism "planning and business practice of the brutal murder for political reasons against non-combatants by the national groups, local or bigoted.¹

A large number of liberation movements as "the progressive state of Libya under Gaddafi's control and the war has strengthened the national gangs, and terrorist organizations in addition to this. These groups and terrorist organizations got the capabilities and supported both through actions and words

Much support for terrorism as a result of the Libyan regime, which seeks to interfere in the politics of the Arab decision, and one of the goals set which seeks Colonel Gaddafi in the lead. For a considerable length of time, the Libyan administration of kept up a very much archived history of large case Sponsoring terrorism issues. Implied bolster, close collaboration, and good support for organizations and movements throughout the years have often served lots of Libyan interests. Indeed the employment of Terrorist organizations different by the Libyan leadership was an inherent element of its outside arrangement for various years and at one point even pushed it into direct. Military escalation with the USA Consistently, Libyan desire in the Arab and Muslim universes, and also goals for impact all through Africa, and Libya support global terrorism. Curiously the Gadhafi administration additionally bolstered Islamic activists in African nations, specifically, Morocco and Algeria. This support was completely inconsistent with Gadhafi's over the disdain of Libyan political Islam. At a certain point, Gadhafi even claimed that Islamic activists were more "hazardous than AIDS," and utilized the severest techniques to stifle local Islamic opposition.

While it and builds on it of supporting terrorism, and Libyan leadership provide to its customer's extraordinary measures of weapons and cash. Libyan travel documents are to then use that usually by the many armed terrorist groupings Libyan leadership allows him well in its territory to utilized for the preparation, shelter and a wide assortment of terrorists from this unique foundation of its kind, the Japanese Red Army, and the IRA.

Moreover, it by fighters loyal to the regime in Guatemala, El Salvador, and Colombia, as well as a terrorist organization M-19. Libyan leadership has also maintained relations with gatherings of militants in the Philippines, Bangladesh, and Pakistan. Colossal and terrorist organizations backed by the state to work in Libya,

¹ U.S Ministry of Foreign Affairs, the Office of the Coordinator for Counterterrorism, the reports of States on terrorism, April 30th 2007.

which in 1988 in a plane crash during the Blow up above Lockerbie. The incident, an accident that has killed 270 people, an accident.

Moreover, even become case the "Lockerbie" and "Pan Am 103" in all the news in the world. Together with the pumping of Pan American Airlines Flight 103 detonated issues and hypothesis and contention and affirmations and charges and speculations. Families of victims of the crashed plane Lockerbie victims establish a collection of vocal pressure and require the imprisonment of the culprits and the penalties and everything would achieve justice. It entered the Lockerbie case history as a standout amongst the most critical events of the previous century.

After taking a different school for three years by the United States Agency for examination by the (FBI). Ramirez and Galloway and the Scottish police, and the arrest of Libyan nationals orders in November 1991 Gaddafi ignored the legal dimension of the case and did not recognize the shelling, and he accused the United States plot with the ultimate goal of bringing down his government.

As a result, Libya has become isolated from the world, especially after the sanctions imposed by the international community. The Libyan people have suffered a lot and lost a lot, as a result of the policies of his regime, which led to the imposition of international sanctions. Moreover, in the Libyan judicial system are the absent in this equation altogether.

This was not the case in any way. It was an example of Lockerbie with the real enormous difficulties facing Gaddafi is not in any way. Potential uses in one day, a powerful argument against western Libya on this issue, but because the West can get a resolution requesting the United Nations Security Council against Libya to extradition Libyan citizens, there accused in the Lockerbie case.

The UK and US call for the extradition of the defendant and the Libyan government refuses. The formula provided by the two countries and can be up to military activity against Libyan, and the application of Part VII of the Charter of the UN.

Gadhafi admitted responsibility for the incident. Moreover, before pay compensation to relatives of the victims. Moreover, all the relevant authorities but insisted he did not interfere in the case And did not give the order to carry out this incident The direct approach to the Security Council by the USA and Britain, given the illegal nature of this issue with the Montreal Convention of 1971. Gave this trend a political nature of the

case, rather than legal nature And to develop a logic of power rather than norms and international laws.

Particularly in Libya's relations with the United States, Britain, France, find that they know many phases of tension and discord here and there. Moreover, exit out of context that drawn by a superpower, especially the United States, and the case came to a warning to every country in defiance of the West. Moreover, provided to Libya under Gaddafi certainly terrorist attacks stationed all over the world and provide moral support to a large number of incredible Terrorist groups.

Having abandoned the internationally banned weapons. Libya is now seeking to work with Western countries in the war on terrorism.

Libya is It is clear that can give information about terrorist individuals and communities for the benefit of the authorities to combat terrorism. It should be compelled to detect all the facilities to the activities of terrorism is that it is likely to reveal a lot of important regulatory and ideological ties that feed on over the years. Similarly, the Libyan leadership, its Continued Approach from under the sanctions imposed by the settlement of the Lockerbie case. In first of 2004 Tripoli, accepted to provide compensation for victims of the bombing of UTA in 1989. On Nineteenth of September 1989, Utah exploded 772 in the air over sky Niger, killing the crew, and 171 passengers.

Wife of an American ambassador to Chad she was among the victims. In March 1999 and tried in absentia six Libyans convicted by the competent French court. Western media reports confirmed that Abdullah al-Senussi and head of the Libyan intelligence service was one of the six accused persons. Similarly, in 1999, Libya admitted after waiting a long time, the killing of British police officer Yvonne Fletcher in 1983. The issue seems no longer to raise the attention of the British authorities

Yvonne killed while at duty shot came from inside the Libyan consulate in London. At that time, letters assert that the culprit was the holiday out of the country, and regardless of the fact that this not recorded. It also noted reports in the British media. He said he was paid an undisclosed amount to the family of Fletcher by the Libyan leadership according to "settlement".

The issue seems no longer to raise the attention of the British authorities.

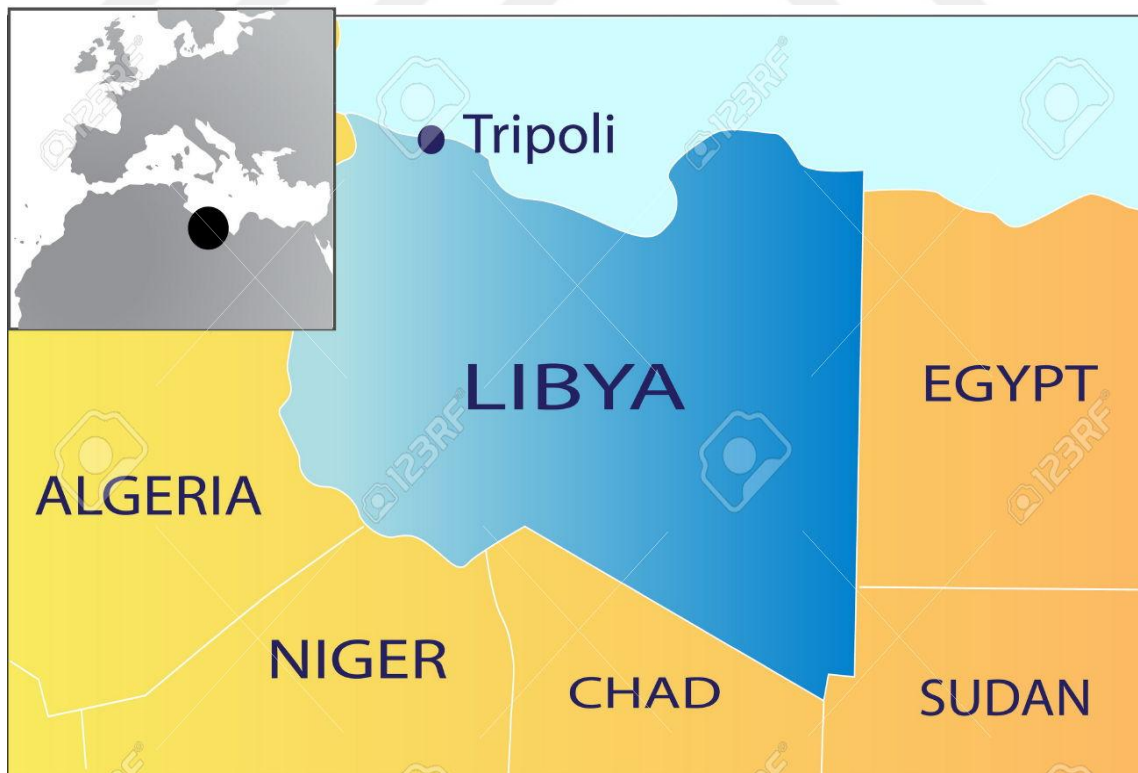
CHAPTER ONE

TERRORISM AND DEFINITIONAL ISSUES

1.1 BACKGROUND

Libya located in the northwest of the African continent. Mediterranean, Egypt and the Mediterranean Sea to the east, towards the south of Sudan, Niger, and finally, Algeria and Tunisia to the western edge. Libya is a big country and extends for about 1.8 million square kilometers, the fourth largest one in Africa. As in Images 1

Libya has Biggest petroleum reserves in the tenth world. It is the largest Libyan cities of Tripoli, the Libyan capital, which lies to the east of the region, with a total population of Libya's population of an estimated six million people.² Nearly a million people in Tripoli. Libya's second largest city of Benghazi, which lies on the coastal strip in the east of the country, about a thousand kilometers to the east of the capital Tripoli.



² A B "Libya The demographic Profile 2014 ", indexmundi.com. 2015/6/30. Retrieved 04-01-2016.

Images.1

Since that overthrew Gaddafi overthrew King Idris by a military coup during 1969. It administered to Libya by the tyrant's management, and it was ruled Libya with no constitutions when it canceled Gaddafi constitution and legitimacy, laws and administrative, in a speech in 1973, known as the five points.

Gaddafi has shown no respect for Global Human Rights or legal principles. Political Violence and Terrorism as a tool of favorite adopted policy instruments are illegal. The Green Book (1976) Gadhafi's particular answers for political, monetary.

Gaddafi has shown no respect for Global Human Rights or legal principles. Political Violence and Terror as a means of personal adopted policies instruments are illegal. Through the Green Book (1976) Gadhafi's particular answers for political, monetary. In addition to social problems of all humanity should contain in that book³. It is the use of criminal Political violence and terrorism as a preferred policy instrument in both arenas.⁴

***PROBLEM STATEMENT**

- 1.** Former Libyan regime adopted several strategies and policies that serve the global issues and terrorism issues when trained, funded and hosted terrorist groups. Under the name of liberation issues and the fight against imperialism International.
- 2.** In the second decade of his ruling, the Gadhafi regime reprioritized their exercise and support for international terrorism to the following: Attempted assassinations against diplomats, political officials, and dissident groups and establishing a strong international reputation for executing and sponsoring terrorist. In these ways of conduct, Libya built the domestic and international structure necessary for making international terrorism and related illegal uses of force.
- 3.** Hostage-takings and Hijackings. Further, the regime increases its sophistication In its international interventions and in establishing a strong international reputation for sponsoring and executing the terrorism.

³ Cherif Bassiouni Chair, UNHRC committee of Inquiry on Human Rights Violations In Libya, Institute For National Security And Counterterrorism, Syracuse University, NY. 2010..

⁴ Previous reference.

4. In these ways of conduct, Libya built the international and domestic structure necessary for making international terrorism and related illegal uses of force, the focus of Libyan foreign affairs and national.

5. This paper Will probe of history From the attempts to deliver or make otherwise for the prosecution two Libyan nationals who suspected of carrying out and blow up the of Pan Am 103 above the Scotland hamlet of Lockerbie in 1988. Due to the punishments and diplomatic pressure on Libya, the former regime, in the end, agreed to "deliver" for accused of a trial in Holland.⁵

Between January 1989 and November 1991, and the impact of a joint team among the UK and the US, it has sent 14,000 people to look at the wreckage site some 845 square miles of wide open about Lockerbie. In search of any evidence For the benefit of the investigation.

The results of their research: a pottery of circuit board smaller than the nail, which is part of the timing of the bomb is a small part and parcel of the clothes hanger paid three blocks from the physical evidence the investigators to accuse Libyan nationals of involvement in the incident.

* **RESEARCH SCOPE**

This thesis is to study the regional and international relations Libyan leadership previous, a series of involvement in Various acts of terrorism, international. Add to that; there is the case of Lockerbie. Blow up and blow up a plane bound for the United States in the high sky Scottish of Lockerbie on December 21, 1988, and Libyan nationals accused, with during investigations.

Libya has sought help from the (ICJ), but the Security Council to impose Penalties on Government of Libya in 1993. The failing In cooperation with the delivery by the America and Britain. Libya has asked the Court of Justice for help, since they are not obliged to extradite its citizens to the USA or the UK, according to the Montreal Convention of 1971. Libya also has also asked the court to speak to America and Britain against the threat or using force against the Libyan state.

In 1998 that the Court has found that it has jurisdiction to consider the eligibility of the lawsuit that brought about the inconsistency of competence between Security

⁵ The Lockerbie Case, Michael Plachta, p. 1, 2001.

Council and (ICJ). The investigates how the U.N. framework handles its internal pressures. To what extent can reach a fair review under the international system work?⁶

*** RESEARCH GOALS**

To look at Libyan history of involvement, funding, support sponsoring and hosting terrorist groups. To shed light on related legal Issues and how to treat. To fully explore the legal and mediation of The UN Security Council on this issue and how can deprive them of the provisions of the (ICJ), Legislation Libya, and opposed to this intervention.

*** RESEARCH QUESTIONS**

Initial investigations showed the involvement of Libya in the Lockerbie affair. The Libyan regime has a long history, and track record of supporting international terrorism issues Does this would be influential on the conduct of the case. Did that long tradition influence the trial? Then again, did that trial depend on globally perceived principles? Alternatively, did that trial rely on internationally recognized rules? Are there any contradictions between the rules The (ICJ) and Security Council judgments.

*** IMPORTANCE OF THE RESEARCH**

This research would be specifically relevant for highlighting, in more details, Former history Libyan regime involvement, support and supporting terrorist acts International. It would also be important as it goes through more information on Lockerbie case, the rule the Montreal Treaty, the (ICJ), and the extent of the intervention and the legitimacy of the intervention of the UN Security Council.

*** RESEARCH LIMITATIONS**

This will not achieve the right of access to many documents which can determine as “confidential” which are related to the methodology adopted for the investigations the discretion to the accusation of two Libyan intelligence agents Administration agents. There will be more restrictions over the potential pressure we and UK may exercise it over the UN Security Council intervened and to bring the defendant in front of-of the Scottish Court of Justice in the Netherlands.

⁶ The Lockerbie Controversy, Eric ZUBEL, 1999.

*** METHODOLOGY**

This particular method will help to understand how the legal action progressed and how it was eventually dealt with by Scottish court sitting in the Netherlands

*** SIGNIFICANCE OF THE RESEARCH**

This exploration will be massive in various courses, in any case, the examination will fill the holes that have left in regards to the point under review, it will be useful to understudies will's identity anxious to know more about the theme of study so they can see and get pertinent data.

*** LITERATURE REVIEW**

The following important portion of the literature In Libya between terrorism and Lockerbie. In the middle of 1980s, Gaddafi in Libya, apparently including the many terrorist the attacks including the Explosion the Western Rome. On airports in the Vienna in 1986. Moreover, detonate the USA two killed in Berlin a disco, of hosts. In contrast, the United States launched air strikes on Libya killed 70 people in military installations and was among the dead Gaddafi's adopted daughter.

That Followed by the proceedings of the 1988 Pan Am Flight 103 over Lockerbie, Scotland, the Killed in Scotland, including 189 people from the American citizenship. As a French airliner, UTA dropped over the sky of Niger in the same year and charged with six Libyan nationals. Libyan And terror frequently exacerbated by an aggressive Gaddafi's conduct including occupation, the neighboring countries. Gaddafi is creating a wide variety of enemies in the inside and outside. Moreover, the international society to Claim Libya to the end of supporting terrorism and political violence in particular, at the UN Security Council resolutions (731,748 and 883) against Libya, to demand a halt all acts of terrorism.

Submissions of natural law as permitted in the same barbaric acts against innocent civilians. Therefore, we emphasize the condemning from the toolbox used by terrorists no matter what the This followed the ways to achieve their goals.

How come We must reflect on acts terror offense. It should adapt. Namely, the Penal Code, all components, all of these elements and the A modern processions of civilization and progress rules does not have to for the penal a crime. So, the first step

for the establishment of what is the mental components of terrorist offenses that create an act of terror. Two types of possible rationales or more excuses Last for Libyan terrorism even longer than two decades under the guidance of Libyan leader, Libya holds testimony, supporting and sponsoring terrorism globally, although it may accept. To determine the presence of terrorism,⁷ to achieve statistical data on international terrorism.

Know the State Department terrorism. Also, perpetrated acts of political violence against noncombatant targets by sub-national groups all over the world are working against the civilian non-combatants from the impact on the public and can include any act of violence. There have been many books and articles on issues terrorism and the Lockerbie case. The few facts of the situation are almost impossible. The case is also somewhat ambiguous, as well as a significant amount of the uncertainty of the real leading events.

This research can also describe a lesson in international law for the many and varied legal opinions a press statement from the Libyan government on the actions of Libya in the Lockerbie case, Libya Embassy, Copenhagen 01/09/1992. Virginia The The magazine the International Law 33: pp. 899-925, 1993, R.F.Kennedy: (ICJ), and the judiciary.

1.2 THE CONCEPT OF TERRORISM

The terrorism has become one of the largest critical phenomena that threaten stability and security in the society At the international and local levels, and the consensus is barely holding on to this phenomenon cannot be justified by any social, economic, religious, political or other considerations.

Vocabulary most exchanged terrorism and free to the media around the clock at present, the whole world and observers from this period a variety of formations and real terrorist waves, however, The whole world has been stung by the fire of the epidemic, with varying shapes. What is more, the terrorist attacks, groups and gangs members began.

⁷ Murphy, Supra note 3. To get a list of definitions for terrorism, Jay M. Shafritz others, modern terrorism evaluating 263 (1991).

Terrorism has no color or religion or language, and It is a global issue that is causing concern for many individuals and communities.⁸ Whatever the motives the political nature racial, philosophical, ideological, ideological or religious or sectarian or other nature may legitimize them.⁹

Although Which even though have made efforts order to reduce this phenomenon, is not for effective. It was clear that this phenomenon is now on the rise and the seriousness of the rise and a great scale, and seriously to develop not limitless.

Differences to the researchers? Contributed mainly to the efforts for the various procedures were trying to Get closer to the notion of this phenomenon. The lack of a precise definition of definition and meaning of terrorism makes each country is trying to employ them to their advantage by claiming that enemies, is a terrorist, the political interests determine who is a terrorist, and who is fighting terrorism. It is a terrorist from the perspective of another. Men of the Palestinian resistance, for example, are veterans according to the views of their people and the rest of the Arab peoples, but from the viewpoint of Israel and the US as terrorists, and that made the Western policy capricious. Moreover, the different phenomenon of terrorism cursed when it becomes "Osama bin Laden," and with the support of amid intelligence agency(FBI) against the USSR, and the first terrorist in the world "Meacham Begin" he Get to a Nobel Peace Prize.¹⁰ Where the views are different and diverse, influenced by political interests or social considerations, has been confused with the case of the so-called (terrorism), and in every culture and different languages.

Also, the specific definition is the overlap of the phenomenon of terrorism with the legitimate rights of peoples to defense and the struggle for national freedom, a struggle that approved by all international laws against foreign occupation and colonial regimes and racism through various means. Including armed struggle for emancipation to its territory and get the right to self, and independence. Shown by the standards of universal law and the Charter of the UN. What's more, the fact that there were two the main factors a significant at active a role in the phenomenon of terrorism at a global scale.

The first is evolution the phenomenon use of advanced technology with the development of the international community where the terrorists are taking advantage In terrorist operations that have spread worldwide and has gained an international

⁸ Platform Liberty 0.13 November / November 2010.

⁹ Antonio Cassese (2002), International Law (Oxford: Oxford University Press).

¹⁰ 2222008 – 220 العلاقات العربية الغربية خليفة عبد السلام خليفة الشاوش، الإرهاب، دار جرير للنشر والتوزيع، عمان، ص 220 – 2222008

dimension. Also, international community knew the phenomenon of terrorist organizations manifold and scattered in numerous nations.

The second is that terrorist acts are not limited to the preserve of individuals and groups, but he turned into a weapon to be used by States among them an alternative to traditional wars, either directly or implicitly. At a time when other countries seek to exploit this phenomenon under the guise of combating terrorism to interference in countries Affairs and other violations of its sovereignty Based on the anti-terrorism.

Was and still is to determine the type of offenses that fall under the jurisdiction of one court of the biggest outstanding issues during the drafting of the Statute of the Court, and it is unreasonable to exclude international terrorism crimes the competence of the Court. Moreover, it was the glare of the international community, through its nature, but opposition behind the court burdening according to believe these terrorist crimes can lead to the failure of the Court, in particular, In the area of agreed upon concept of terrorism.

The collapse of the Soviet Union, and control of the US in the world, where the issuance of wrong decisions on behalf UN, which destroy the future of entire countries, as happened in Iraq, Afghanistan and other. It was one of the reasons for the aggravation of acts of international terrorism.

The Sep. the events of 9/11 in 2001, and the events are the most dangerous in the world does not know of any other time the history of global terrorism has reached the world's superpower, which has all the means of security and protection, and the precession of the danger to anything. They are The use of civil aircraft as guided missiles. One of an example of terrorists gets to take advantage of modern technology.

It represents a benchmark history of contemporary international relations, which involves even though the issue is far-reaching from the private sector in the USA to raise the banner of "international war against terrorism" and the imposition of the terrorism concept and the how to deal with other countries of the world. Moreover, then to launch aggression - against Afghanistan under the guise that the system of government, which is responsible for the Sept.

9/11 his support and protection to the events of al-Qaeda, which U.S accuses of responsibility for these developments. It was one of the main efforts U.S to amend the rules of global law and stable in line with the interests and objectives. Moreover, The resolutions of the Security Council on Terrorism in the aftermath of 9/11. Incidents 9/11 (1368 - 1373 - 1390) numbers, a dangerous international precedent give way "to the end of the global law," where it came. Inter procedures and practices based on which

It represents a serious challenge the provisions of the international humanity law and a flagrant violation of the principle of international legitimacy, “which is about to create a new legal reality, through the appearance of customs and practices contrary to this legitimacy in all areas of international relations.¹¹ The definition of terrorism as "procedures Accompanied by acts of violence and causing danger to the people and a violation of the laws. At the USA, or any country, Perhaps the Lockerbie case famous in the last century was one of the most prominent international terrorism cases,¹² and that will be in the chapters of this research.

1.3 CHRONOLOGY ORDER OF LIBYAN INVOLVEMENT IN INTERNATIONAL TERRORIST ACTS.

in this chapter, the scope, and variety of events and details of violations of Libya in international terrorism and He challenged Libya system of legislation and international laws.

That is going it will not be an easy task to track down all incidents .that link Libya to the sponsor, funding, planning, supporting and hosting terrorist groups given the Quality of acts of terrorism. As we also used a range of diverse but credible sources and the have cross-checked them against each other where possible.¹³ There two of categories of acts selected here in this thesis: The ones that show a comprehensive picture of how Gadhafi sponsored terrorism, often as Libya’s effective foreign policy approach. Those that could verify at least one (but are often more) Trusted Sources and the and that It can link to terrorism or terrorism-related activity.

1.3.1 SUMMARY OF THE 1970S:

In the first decade of Gadhafi ruling, the following incidents took place for which Libya was responsible: Libyan military involvement in regional non-international conflicts, particularly in Africa (i.e., Chad, Sudan, Egypt).

¹¹ “Measures To Eliminate International Terrorism”, 9 Dec 1994 (A/Res/60/49). Antonio Cassese (2002), *International Law* (Oxford: Oxford University Press).

¹² Text And Status Of The UN Conventions On Terrorism, U.N. General Assembly, 60th Session, Resolution 60/288 [On UN Global Counter-Terrorism Strategy] A/RES/60/288 (20 Sep. 2006).

¹³ Reports From Human Rights, Humanitarian, And Aid Advocacy Organizations (I.E., Amnesty International) And Think Tanks, Reputable News Media Reports And Analysis, Among Others.

*Black Power movement, guerrilla movements based in the Philippines, Ethiopia, Somalia, Yemen, Chad, Morocco, Tunisia, Thailand, and Panama. By the finished of the decade, 29 December 1979.¹⁴

* Brazil objection Libyan was falsely called consignment of for more than 80 tons of weapons and explosive was heading to Managua, Nicaragua in April.

* The Government of the US declares Libya, a state sponsor of terrorism. Libya was considered as the state supporter of terrorism, according to the law on December 29 1979.1983. Implicated in Again plot to topple of Sudanese President Nimeiri. Nearly 1984 30 terrorist attacks linked directly to The Libyan agents in the Libyan exiled Europe and the Middle East targeted.¹⁵

* April 17 Yvonne Fletcher event - launch automatic fire from the Libyan Embassy in in the middle of London, in the death of a British policeman Fletcher and ten others wounded.¹⁶ In 1999, Tripoli Compensation paid for the deaths of Fletcher.

* Egypt is supposed aimed of mines the world.¹⁷ of the Red Sea close to the mouth the Suez Canal Most likely by Libyan ship which, that resulted in the 18 damaged ship registered in several countries in July.¹⁸

* Peru's Revolutionary Movement, Túpac Amaru (MRTA), with Libyan assistance, bombs the where he lives, US Ambassador in Lima.¹⁹

*By the French authorities had objected a cargo ship off the coast of France Eklund and seize 150 tons of weapons and explosives from Beira flying to Libya

¹⁴ Jimmy Carter 2290, 2294 (Dec. 29, 1979); Revisions To Reflect Identification And Continuation Of Foreign Policy Export Controls, 45 Fed. Reg. 1595, 1596 (Jan. 8, 1980) (Codified At 15 C.F.R. §385.4(D) (1980).

¹⁵ Mark S. Steinitz, *Middle East Terrorist Activity In Latin America*, Center For Strategic And International Studies (CSIS), Policy Papers On The Americas Volume XIV, Study 7 (July 2003): 4

¹⁶ U.S. Department Of State, *Patterns Of Global Terrorism 1983* (Sept. 1984): 12, <http://www.higginsctc.org/patternsofglobalterrorism/1983PoGT.pdf>.

¹⁷ U.S. Department of State, *Patterns of Global Terrorism 1984* (Nov. 1985): 11, <http://www.higginsctc.org/patternsofglobalterrorism/1984PoGT.pdf>.

¹⁸ "1984: Libyan Embassy Shots Kill Policewoman," *BBC*, 17 April, http://news.bbc.co.uk/onthisday/hi/dates/stories/april/17/newsid_2488000/2488369.stm.

¹⁹ U.S. Department of State (2001), *Patterns of Global Terrorism-2000*, 30 April 2011: 69, <http://www.higginsctc.org/patternsofglobalterrorism/2000pogt.pdf>.

6. Embassy. March 18 Attack at the café -"L'History" in Djibouti – Libya reportedly ordered a Palestinian group, of Struggle Front, to conduct the attack, kills 11 and wounding 50.

*1989 September 19 UTA Flight 772, bound from Brazzaville, Congo, to Paris – explodes over the desert in South East Niger, killed off all 171 the passenger and crew members. Reports indicate Libyan planning, authorization, and support behind the bombing.

* Imam the disappearance Musa al-Sadr in Libya: Imam Sadr came to Libya on 25 Aug. 1978, accompanied by Sheikh Mohammed Yacoub.²⁰

Moreover, journalist Abbas Badr al-Din, on an official visit, and Solved guests of the Libyan authority in the "beach hotel" in Tripoli West. The Imam Al-Sadr announced before leaving Lebanon; it is a traveler to Libya to meet with Moammar Gadhafi. Overlooked the news media Libyan and the arrival of Imam al-Sadr to Libya and facts days of his visit did not mention any meeting between him and Colonel Gaddafi or any of the others between Libyan officials.

Found his bags with bags Sheikh Mohammed Yacoub in "Holiday Inn" hotel in Rome and held the Italian judiciary investigation range in the case ended with a decision by the Prosecutor Appeal in Rome on 12 August 1979 for the case after it turned out that Sadr and two companions did not enter Italian territory. Included viewed Italian Deputy Prosecutor says for sure that they did not leave a Libya.

1.3.2 SUMMARY OF THE 1980S:

Assassination Libyans of the 1980s of opponents who live in Europe and terrorist attacks on strategic campaigns in the Middle East. It is the biggest example of that state-sponsored terrorism. Moreover, increased assassinations and attempted steadily since 1975, and until 1980, which led to many accidents.

This increase is and the in part due to a deliberate campaign by the Libyan officials aimed at expatriates in Europe a result of the stated policy of silencing Libyan students suspected of resistance activities. Evidence also suggests that these attacks were partly attributable to the increased utilization military and intelligence services to

²⁰ Samii, Abbas, William (1997). "of Lebanon the Shah policy: the role of of SAVAK." For Middle Eastern Studies 33 (1): from 66 to 91.

implement terrorist activities against foreigners and exiles Libyan diplomats. One successful attempt even includes the students Libyans in the US.

Libya steps up a high-level role in global terrorism by sponsoring and implementing high or terrorist acts and amazing by maximizing the kidnap victims large aircraft passenger operations and hostage-taking, among other tactics. Libya's reputation has grown as the main state Patron terrorist during in this decade.

During the 1980s, the USSR and the sale of large quantities of arms to Libya, with the flag of Libya, a major supporter of the armed organizations. Libya supported and hosted various terrorist groups: the Republican Provisional IRA (PIRA). Front Popular the Liberation The Abu Nidal Organization (ANO). A new movement of Palestine (PFLP) for the revolutionary Tupac Amaru (Tupac Movement Amaru Revolutionary). The Armenian of the Secret Army for Liberation America (originality). Moreover, the Japanese Red Army (Jira), the Democratic (DFLP), and 19th of April Movement (M-19).

Libya built a sophisticated international architecture for its terrorist support: from financing Terrorist activities, arms purchases, and use the Libyan Diplomacy facilities are abroad to backing bases for terrorist activities, shelters horrible, in Libyan training camps.

Gaddafi paid for (PLO) at Haiti \$ 20 thousand for attacking American Embassy at Port Au Prince.

A retired Libyan diplomat who had been expelled from Ethiopia in March after a bomb blast at the Hilton Hotel in Addis Ababa to kill the Israeli ambassador, who was staying there.

President Czechoslovak Havel reveals that the previous government had released 1,000 tons of Semtex plastic explosive to Libya.

December 27, 1985, in Vienna, Rome airport on Abu Nidal Organization attacks (ANO) to carry out simultaneous attacks at the box office, in Schwechat Airport, Vienna. Libya has provided passports, as well as support and funding.

April 18 attempt to attack the American officers' club in Ankara, Turkey, and arrested two Libyans as they tried to attack the officers of the United States "where got the grenade from the Libyan Embassy. The defendants admit that they had ordered to cause maximum loss.

1.3.3 SUMMARY OF THE 1990S:

1991 hideout of Provisional IRA guns and ammunition supplied by Libya and hidden on a farm north of Dublin figured out. During running 150 tons of Libyan weapons and explosives for the PIRA.

1992 Libyan-orchestrated mob attacks on Venezuelan and Russian embassies in Tripoli. Moreover, international community's isolation of Libya, particularly after American Flight 772, Pan American Flight 103 bombings. This political and economic and seclusion much of the. The 1990s deteriorates the economic power of Libya.

The facts indicate that in 1993 Libya behind the Libyan opposition and the disappearance of Mansour Kikhia, from his room at the hotel in Egypt.

Libyan government refuses to hand over to Libyan officials in April 1988 for the Blow up of Pan American Airlines Flight 103 after a joint investigation by The UK and the USA authority a Scottish court in Holland for trial in 1998. He refuses Libya for the seventh year to full compliance with the demands of the Security Council resolutions (Security Council resolution) 731 748 and 883 developed because of Libyan Implicated in Blow-up of Pan American Airlines flight 103 and a plane Utah 772.

The Libyan regime it takes nearly a decade after the initial accusations of in the case of Pan American Airlines Flight 103 provides for Libyan officials to deliver the accused, and even accept responsibility for these acts (2003) and to compensate the victims' families While Libya's participation dropped in support of acts of terrorism.

Despite to international pressure, Libya continued, particularly in the first one-half of the decade, in support of radical groups. Libya also continued to support (NPA), the Movement Revolutionaries Tupac Amaru (MRTA) in Peru, (PIRA), and Kurdish Workers Party of (PKK) in Turkey, and others.

Libya invades Chad and occupies the Ouzo Strip in June-Gaddafi only withdraws troops (June 1994) due to a judgment by International Court of Justice (ICJ), issued on February 3rd, 1994, at Chad's sovereignty.²¹

²¹ ICJ relating to case territorial of disputes (Libya / Chad), Judgment of February 3rd 1994. [<http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=cd&case=83&code=dt&p3=4>]. See also U.N.

On 29 June 1996 at Abu Saleem prison of the capital, Tripoli, and fired on prisoners to objection and rebellion within the prison which is the most heavily protected and guarded in Libya.” then buried the bodies in the courtyard of the detention and mass graves scattered near Tripoli. More than former prisoners and belongs to the multi-stripes and trends Islamist groups, although mostly Libyans, including the Palestinians and other Arabs.

It has officially notified the hundreds of families about the deaths of their relatives. Who imprisoned for several years in Gaddafi's prisons? Without giving any information about the history and the deaths of these brothers who ask God to accept them as martyrs, and without providing information on the causes of their deaths, not even place their graves. Moreover, even an increase in the abuse of those bereaved and aggrieved families .they did not explain in advance the news of deaths they loved even preparing these families psychologically to contend with the ugly incident. However, told a little bit of the families that he would be for their kids. Moreover, their families, and prepared those families for a reception which rejoices parents, neighbors, a buddy and domestic departure of their son from prison alive. However, they were surprised by the detonator matter where they told that their son had died. The sympathy of Gaddafi and his ilk with those families reluctantly and allowed them to establish a funeral mourner that come in from family, relatives and without the friends.

Erected tents in many Libyan cities and opened homes for the establishment of funerals and greeted mourners to rise without sound legal or judicial one demanding an investigation regarding this fast massacre. Estimates and information available report The death of many people as in the “Abu Salim” Prison in Tripoli about (1300) citizens. This humanitarian catastrophe reveals the depth of the threat. That threatens the whole Libyan people, everyone threatened with death without any legal rights. Alternatively, religious or humanitarian, and human in Libya imprisoned without any charge, Moreover, relatives to visit him. Nor allow any international humanitarian organization or a local visit. These prisons or knowledge of prisoners and detainees, conditions, and when they die or killed, nobody knows how he or she died, and nobody knows where he or where buried. The whole world should be aware that the massacre, “Abu Salim” is one of great slaughters of the age. Moreover, the victims were innocent civilians he or she are similar in ruthlessness and heinous at massacres Shatila, Sabra Qana, and Jenin. This heinous crime was a major reason for the outbreak of the seventeenth revolution in February 2011, In which killed Gaddafi, and ended his regime.

1.3.4 SUMMARY OF THE 2000S:

* In 2000 Libya played a prominent role in the negotiation of the group release of aliens of hostages busted in the Philippines by the Abu Sayyaf group. occurred in exchange for a ransom payment.

* Facilitate Libyan officials assassination plot - Saudi Crown Prince Abdullah. In August 2004. By Libyan intelligence officer to Abdul Rahman Al Amoudi, according to a request from Libyan officials.

CHAPTER TWO

HISTORY OF LOCKERBIE

2.1 BACKGROUND

It blew up Pan Am passenger plane 103 in the air over the town of Lockerbie on December 21, 1988, that the investigation southern Scotland.²² That Libyan nationals were responsible, at this issue, decides the UN Security Council to impose penalties on the Libyan Government 1993 for not being able to cooperate with the United States, Britain.

Libya made the request to (ICJ) to help him. Moreover, asked Libya (ICJ) to declare that Libyan would not be obliged to hand over Libyan citizens to the UK or the USA and not the threat or use of force against Libya.

In 1998, the International Court of Justice found that had the opportunity to Consider the case, which has put the two formations of the UN on a collision course path. Moreover, to how to deal with the UN and in the US. Moreover, to what extent it can be up to judicial review in the global system? This investigation is one of the most extensive investigations ever to achieve the result of a terrorist act. On a collision course.

²² Verbatim UK scored 11, Libya v. UK, 1992 ICJ for a period of 3 onwards the UK short.

2.2 LEGAL ACTION AND LIBYA'S RESPONSE

Due to the relationship of Libya with the West, as is the case there is no official relations or bilateral between Libya and America and Britain at the other end, it was the Belgium Embassy in Tripoli through Those bids were sent formal extradition requests. The governments of the UK and USA, issued in two weeks of joint Declaration, which called for Libya.²³ Capitulation to prosecute each one of accused of having committed violations and recognize a duty to about Libyan leadership practices. Moreover, Disclose all it is aware of the sin, and permit Investigation and access to witnesses all, records, and other substances proof, and payment of adequately compensated.



Images.2

It was the first reaction by the Libyan leadership to expect:²⁴

They also have refused to agree to extradition requests, arguing that this application affects the sovereignty of Libya and is considered an interference in internal affairs. Later, Libya began a proper examination. Accordingly, experts who have started criminal proceedings and investigations in Libya and asked the judge to deposit the suspects in prison.

²³ Jeremy Matam Farul "UN punishment and the rule of law" 0.2007

²⁴ Statement Issued By a US government on November 27, 1991, concerning the bombing of a Pan Am 103, United Nations document. S / 23308 (1991).

Libya provided a step easier by offering to waive all the way to the USA and the UK. Pointing to send an international commission of investigators to Libya to assess the trial before Libyan courts. Alternatively, refer the case to the jurisdiction of the (ICJ) in this case. Since the issue is no longer, which threatens peace and global security, on the grounds, it was years ago. On the basis that the case has for the past three years Also, the Libyan laws do not allow extradition of its citizens.

The Libyan government showed addition, under different circumstances, that it may hand over the accused to trial in a country "neutral." However, in the end, the government proposed that the question not is whether the defendants have surrendered to the Justice of Scotland (after an interview with the Scotland public prosecutor, it is clear that the defendants Chose not to surrender) option. Since forensic examination by specialists, and the urgency of this situation is not suitable for the main option for (the judiciary in exchange for delivery) under the Montreal Convention of 1971, and more than a speech at this requires clarification.

November 18, 1991, issued a statement by the Libyan investigators to the UK and the US where he explained. We are ready To provide full cooperation with the UK and US, according to the presentation of evidence that appears in the public prosecution records, according to the principles agreed upon, and was one of the judges of the Libyan Supreme Court assigned to investigate the case.

After few days. The Libyan government issued a statement. Where expressed that an application submitted by the US and the UK. It is, by the Libyan experts. Who has managed in a way respects standards of universal of law, including, from the point of view, the sovereign rights of Libya and on the other hand the need to maintain to ensure the application of Justice to the victims and the defendants?

A Libyan judge in charge of the investigation took further steps that require the help of specialists in the UK and the US, show to go to these States directory clear and in collaboration with partners (the US and the UK). Either of these commands immediately rejects or condoned by the (discussions. Parliamentary level). Handed over two letters both In June 1992 to the Minister of Foreign Affairs State, and British Foreign Minister by the Libyans partners who recently drew attention to the fact that Libya and the UK and the US all parties to the Montreal Convention of 1971.²⁵

²⁵ Convention on the Suppression of Unlawful Acts against the civil aviation safety, Sep 23 1971, 974 UNTS 177..

2.3 SEQUENCE OF REACTIONS

Classically, under the circumstances, it is habitual most cases of extradition ends at this point .

Opportunities of the issue are being, put plans by them in the interest of all parties. , in fact, without the benefit of this makes some countries to reconsider and think twice before agreeing about handing the suspects to another country.

That once a formal extradition procedure, it will take its course, which is often the troubled marriage between law and policy issues.

Thus, a small number of countries that are trying to find a way to use the formal handover, while the other nations to ignore. Lockerbie case is remarkable. Because he never ceases where should stop, and the two sides on a collision course. Libya refused to hand over, by Article 7 of the Montreal Convention, Particularly in light of the absence of extradition Convention. While the UK and the USA. Order the immediate extradition for trial. Libya called on both the US and UK under its official's lawyers travel to Libya to monitor the trial, and to fulfill their obligations under the Montreal Treaty.

Libyan laws do not allow extradition of its citizens. America and Britain announced this argument for the non-extradition of suspects. that. Finally, the Legislative Council recommended that there not be a protest if the defendant deliberately and voluntarily surrendered to justice in Scotland (However, after a discussion with the Scottish advice, two of the accused chose not to surrender). Libya led to the vital importance in this situation as the other delivery option for under the Montreal Convention of 1971 setting calls for more dialogue.

On November 18th, 1991, has issued the Libyan government an announcement archives show that the public prosecutor had gotten from America, Britain, and so, by the relevant principles of where he judges the Libyan Supreme Court judge as of now paid to research on the charges against him. Similarly, statement Confirmed by the Libyan Foreign Ministry cooperate with all legitimate forces in the US and the UK prepared. The initial compliance by the Libyan leadership unexpected: they refused to compromise, saying that the event is an obstruction directly on projects in Libya. Later, Libya began a proper examination.²⁶

²⁶ G. Zemcov·John Hynes Farrar, *Gorbachev: The Man and the System*, 2009

Accordingly, it began votes dominant in criminal proceedings agents Libya and asked the judge that he should be on these suspects to arrest them. Libya made a move encouraged by presenting a proposal for delivery, to be the International Court of Justice on knowing any state has the right discipline.

Since the examination of forensic by Libyan government led his high importance to this situation is the main other option is reasonable (legal instead of delivery), according to the Treaty of Montreal in 1971.

On November 18, 1991, the Libyan government prepared a report stating that the appointment of a judge, he was a judge in the Supreme Court in Libya, and is now paying to find these accusations. By the principles of the material. Also, it announced on the legal status to help Libya. Moreover, cooperation with all the legitimacy of power in the United States, the United Kingdom, and after ten days. Libyan authorities released the report. Thus it confirmed after the submission of the application. The US and the UK. Can the Libyan authorities considerable to be in the way the international examination standards in the world of law? Including, and the sovereign rights of Libya, on the other hand, the need to ensure the rights of defendants and victims.

Making the Libyan judge charged with studying further steps to seek the help of governments in the UK, and the USA, initiate to go to these states to preview the evidence and to participate with its partners in the UK and the USA. Moreover, these requests either categorically reject. (Arguments parliamentary civil) Instead, he sent two letters in January 1992 to the Minister of Foreign Affairs of the America and the British Foreign Secretary, by calling for pointing out that Libya and The UK, and the US, where all parties to Montreal Convention of 1971.

2.4 THE(ICJ) AND THE SECURITY COUNCIL.

Determined not provide all the evidence that had gathered Due to Condenser investigation of three years, the US and the UK (acceded France) display case in front the Security Council of the United Nations and General Assembly. A January-May. 1992, the Security Council, Two resolutions on this matter, Resolution 731 was adopted, Libya urging to reply adequately And effective manner to the demands the US, the UK, and France. While the second and settlement 748 and the sanctions against Libya.²⁷ The penalties have been sought by in 1993²⁸

²⁷ SC Res. 748 (1992), 31 March 1992

²⁸ SC Res. 883 (1993), 11 November 1993.

Libya then brings the issue before seeking the International Court of Justice Temporary Measures for the prevention the United States and the United Kingdom from taking any steps for force Libya to hand of suspects and others to affect its rights of demanded by Libya.

On 14 April 1992, and the International Court of Justice rejected by a majority of 11-5 to order interim measures, and this confirms the seriousness and force in resolution 748.

There offered possible explanations of US involvement of the Security Council in Lockerbie case:

1. The Libyan Failure To prove that it is the capable fulfillment of the obligation which claimed to be according to the Montreal treaty This makes for significant efforts to pursue and prosecute crimes.
2. It is a significant loss of confidence in the strength of the Montreal Convention and the ineffectiveness of the judicial rulings, in bringing criminals to international justice.
3. It gave the Security Council necessary remedies Which While preserving the extradition regime, Completed at one time with the recourse to that organ.

2.5 THE JURISDICTIONAL LEVEL

It will become possible to create Hierarchical terms of reference for identity, which provides for shall have the right the competence to practice namely give the situation where the over A single country that alleged to the right. Nevertheless, this option of some central issues.

Of any hierarchy intended to be perceived as an arbitrary unless agreed in an international instrument. This a device it aims to lay the authority Will need to contain in the order of clear criteria order to avoid no opacity Explanation. However, the rules permissible then proof of to be a very rigid inflexible and thus be able to grasp unforeseen circumstances.

2.6 AT THE PROSECUTORIAL AND TRIAL LEVELS

There are many other options for the delivery, which may reflect the rapidly:

1. Asked about the state may agree to hand over the condition²⁹. Instead, it may do for extradition with the consent of the defendant.³⁰

²⁹ Article 4(2) Of The Dutch Extradition Law (As Amended In 1988).

³⁰, Article 7(1) Of The Swiss Law On Extradition And International Assistance In Criminal Matters Of 1981. The Consent Must Be In Writing.

2. The defendant extradites a forum to "neutral," for example, a third country, the International Criminal Court or a special regulation, such as "the Secretary-General of incubation," as proposed in Lockerbie issue.³¹
3. The assignment of Criminal Procedure, along with the provision of legal aid.
4. Kidnapping or other illegal means or different from the fear of the defendant.
5. According to the level of performance, in addition to foreign criminal sentences option execution.³²

2.7 SECURITY COUNCIL RESOLUTION 1192

The first step brought The accused brought to justice stated at a meeting in Tripoli, Libya, on Apr. 1998 among lawyers and state British officials deputies families of the victims.

At The meeting, Libya affirmed that it would accept the plan set by the Robert Black, Professor of the Law University of Edinburgh. He suggested that, Instead of a jury, there would be International Commission of Jurist's presidency for more than High-level magistrate Scott. When initially accepted the Court of neutral He refused to Robin Cook, British Foreign Minister, International suggestions commission and each committee chosen Scots. Even with The present agreement on the venue of the Tribunal.

Moreover, there were some the other cases compelled to address them and dissolved before the defendants would accept to leave Libya. These. These matters included guarantees about their safe transfer from Libya and their safe return to Libya in the case of their release.

How will the detention conditions of arrival? They Should the legal team that represent them to know? Do you stay in jail for the trial session? Moreover, it provides the defense, of incriminating evidence? Moreover, How long they would defend with Them in preparation for their issue. To make a prosecute In Scotland. (or by spending Scots at the Neutral third state) Moreover, below With Scottish law even more attractive for Libya. Permanent Representative of the Britain to the United Nations addressed the

³¹ Libya and proposed that Secretary-General should try to create some "a mechanism" under which the resolution 731 can be executed.

³² See Michael Plachta and the transfer of prisoners obligations under international instruments to domestic legislation. A comparative study (1993) 191.

message to Chairman Security Council at Oct. 31 1997³³, in which he is calling delegates The United Nations for visiting of Scotland and for preview Scotland Judiciary. After consultations with the Security Council, Stadhuis, and Secretary-General Annan accepted the invitation and requested two scholars to commence this study. At the report on Scotland judicial system, they concluded that the Libyans the suspects will get to ensure a fair trial in of Scotland. Their actions and their Law before proceeding to trial will protect by the levels of and international standards.

The existence of the United Nations and some Can fully and international monitors and comfortably accommodate Over time, the decision in this regard, and began helping to lift the economic embargo imposed on Libya, according to the proposals Libya and regional organizations. In a wrote to the Secretary General of the UN dated 24 August 1998, the Acting Permanent delegates of the USA and the UK offered an order for a prosecution of In Holland by Scottish judges.³⁴

In which he invited delegates to travel to Scotland well preview Scotland judicial system. After coordination and negotiation with the Security Council by Secretary-General Annan's call, in addition to two scientists requested that the study begin.

At their report on of Scotland of the judicial system, They found that the Libyans Suspects receive a fair trial in Scotland.³⁵

Of their redress Through the pretrial proceedings, During the trial and after the trial would protect by International norms. The existence of the UN international monitors can completely readily accommodate. Together with Over time without solution this issue, support for imposing economic sanctions on Libya started.

Arrangements are made to international observers attend the trial respectively of a trial in Holland by Scottish judges.³⁶

. The defendants Would be securely from Libya to Holland passageway, while they in Holland For the purpose of the trial, and we are not trying to transfer them to any other country is Scottish court sitting in Holland. If convicted, the defendants should spend their sentences outbound in the United Kingdom.

³³ UN Doc. S/1997/845

³⁴ Letter Dated 24 August 1998 From The Acting Permanent Representatives Of The United Kingdom Of Great Britain And Northern Ireland And The United States Of America To The United Nations Addressed To The Secretary-General, Un Doc. S/1998/795 (1998).

³⁵ Un Doc. S/1997/991, Annex.

³⁶ Abid- UN Doc. S/1998/795 (1998).

In the wake of taking note of past confirmations. That had given on the reasonableness of a trial in their jurisdictions. Additionally, their "significant worry" at Libya's negligence of the Security Council's. Requests, the two governments expressed: "In any case, in light of a legitimate concern for settling this circumstance in a way which will permit accused to done, our Governments are readied, as an extraordinary measure, to the two defendants to attempted under the watchful eye of a Scottish court in the Netherlands.

If were acquitted, or in the case of alleged unstoppable by any operation of law prevent any other trial according to Scots law and there, the suspect have a secure arcade back to the Libya. Should other offenses committed before Arriving in Holland comes to light during Trial, either of suspected or anyone else to attend Tribunal, including witnesses, shall be responsible for the capture of such offenses Whereas in Holland to trial.

Defendants would enjoy protected by Scot law. Lawyers, writers Scots as it pleases to its jurisdiction in all actions. Actions Will be construed as of Arabic Language the same manner Also at the trial in Scotland. Will of the defendant give Appropriate medical attention.

If they wish, they could Detainees visited by international observers. That the trial, of course, which took place in providing a public, represented adequately to the media. Moreover, We are the little readiness for go ahead this a particular way according to the provisions outlined in this letter (and its annexes) and on condition that Libya is fully cooperating assurance emergence of in a timely fashion of the defendants in Holland for Trial in front of the by a Scottish court.

Ensure the provision directories, complete the existence of witnesses before the tribunal. Comply perfectly with all necessities of the Security Council resolutions. Attached to the letter was a proposed agreement between the Netherlands and the UK, and additionally, legislation in the United Kingdom related. In the same day, it issued Madeleine Albright The Secretary of State announced a statement:³⁷

" We observe the fact that Libya has stated again and again for willingness to provide The defendants to Trial in front of by a Scottish court in a third country.

Let maybe Scan of the United Kingdom and the United States plant because they put old is an "I consider it or leave it." Proposal. They are do not be negotiated or later, and must not are subject to the further reluctance of or delaying. Moreover, we stand ready to start prosecution for expeditiously.

³⁷ Secretary Of State Madeleine K. Albright, (24 August 1998),.

The next day in a letter to the Security Council, According to Libya: Libya is keen to reach a settlement to this conflict, and open a new page in its relations with the states relevant. Require the judiciary in Libya to have sufficient time for consider suggestion and ask for international help expert are more knowledgeable about state laws listed in the documentation.

Moreover, given our conviction that the Secretary-General of the United Nations, Mr. Annan should have enough time for achieving requests it by the Security Council as it can not resolve any issue or difficult and it may delay the settlement.³⁸ However, Council adopted Resolution No. 1192 on the case on Aug 27- 1998, which has the full support of the proposed by the UK plan.

In 1998, Libya reacted Of the proposal from the Welcome "development of" At stands the US and the UK hand while on the other side it expressed Anxiety about the suggested court site in Holland, a former US airbase, approved by the Netherlands and UK governments. The Libyan authorities announced that they would need to lose the place pre-trial.³⁹

In debate blasted before United Nations General Assembly the Libyan Ambassador to the United Nations and other merits of the motion and insisted that The accused's should spend their sentence in Libya or Holland, not Scotland, in the event of a conviction. Also, three officials in the Libyan intelligence reports tried, convicted and imprisoned in Libya in this issue, perhaps as a way to prevent his certificate at the trial of in the Netherlands. In Dec. 1998. He said. Libya's parliament approved delivered the two suspects.

Colonel Muammar Gaddafi told Dutch media on occasion of The tenth anniversary the bombing. The solution would be to the existence of "Tribunal" Consisting of " the judges, the England, America, and Libya, elsewhere."⁴⁰

On September 30, 1998, President Clinton issued orders to use nearly the US \$ 8million support of the establishment and operation Tribunal in the Netherlands.⁴¹

³⁸ Letter Dated 25 August 1998 From The Charge d'Affaires AI Of The Permanent Mission Of The Libya To The United Nations Addressed To The President Of The Security Council, UN Doc. S/1998/803 (1998).

³⁹ UN Doc. S/1998/808 (1998); See Also UN Doc. S/PV.3920 (1998), At 4.

⁴⁰ Crossette, "10 Years after Lockerbie, Still No Trial", *New York Times*, 22 December 1998, A14.

⁴¹ Memorandum on Funding for the Court to Try Accused Perpetrators of the Pan Am 103 Bombing, 34, *Weekly Comp. Pres. Doc.* (30 September 1998) 1939.

2.8 EXTRADITION ACCORDING to NEWLY EMERGING NORM OF INTERNATIONAL LAW

Moreover, in the summer of 1998, members of the organization's fifty-three voted for the Organization of the African Union commitment to put an end to the sanctions. Whereas, through the rejection of all the Libyan proposal, the UK, and the USA. It found itself in the case to be seen because they were stubborn, and slow down the negative persuade the League of the Arab States and the Organization of African Unity and other countries, and states that the Libyans accused could not ensure their appearance before a court in the fair, America, and Britain.

Of Chad, Niger, and Gambia, among other African countries, which makes a mockery of the UN sanctions by the airlines.

Thus, a took the aircraft Italian the Libyans, to the Netherlands military air base both accompanied by a family member of the accused and a lawyer appointed by the Dutch government at the beginning of the Libyan taken to prison after they arrived in the afternoon helicopters. The Dutch brought Libyans accused the military base prepared for the trial at Camp Zeist in the vicinity of the city of Recht. A few buildings have been converted off the camp to encompass unit the suspect and the chamber for the Scottish court. Are retained camp that was used by the US military and seized by Dutch people, closely guarded by Scottish police officers. From now to the end of prosecution, Camp Zeist from a legal point "Scottish soil."

Scottish courtroom. It kept the camp, which used by the US military seized By the Dutch authorities by heavy keeper by an of Scots police officers. Among now until the end of a trial in Scotland in legal terms. The defendants tried by judges three under Scottish law, and the Scottish public prosecutor, and lawyer Scottish. Moreover, see more of the work of more than 100 police officers and officers of the Scottish prison. The trial will open itself to Will be open to the public. The cost of regulating and the preparation to convert The trial near to \$ 200M, which will engage by The US and the UK.

Are Some of the action until the government held out of Of Scottish were sure it reasonable the two men will be handed over. As well This number, the cost appreciates of the prosecution is more than £ 10M. By a Legally, the prosecution will probably be distinctive and exceptionally good such cases of war crimes. Prosecutions, But merely it held by international law. The question that poses itself for whether the Lockerbie issue and the amendment of the law which governs the agreement and international cooperation in criminal cases. Precisely because it has a "triple alternative" be added to conventional extradite -or- principle court transfer? Under this principle, the country required to two choices: either refer the matter to the relevant authorities of the

prosecuting or extradition requesting state authorities. Moreover, the discretion of the needed for this country In Now to Contact an increase and expanding by also include a "central way": No delivery, no prosecute, but the "extradition" the defendant to the third country? Alternatively maybe can be argued that the "extradition" Extradition be so indeed, especially from the point of view desired the country and their national law.⁴²

However, if we assumed, from this treatise, which the "Extradition" is largely the new feature than one be obliged to recognize that Security Council is currently Play the new role on the grounds "port "the principle of extradition or trial. If so, this highlights the many questions.

It is to Security Council assumes interference in the area of extradition of criminals. May be justified, to the extent that the, and the mode poses a threat to international security and peace, and thus Legitimacy work of the Security Council. .according to Chapter VII of the Charter of the United Nations of the according Nations, but, Then again, the question that presents itself if such interference which would confine to terrorists.

The secret process related to the transfer of the accused. No one except Hans Corell, Legal Counsel of the UN headquarters, No one until the Secretary-General Annan ranked knows the details of the surrender Monday of Libyans defendants, all then solve all the logistical and legal problems in during November.

Mr.: Corel request from Italy to the United Nations, provided a plane, that the paint signs the United Nations. He also requested an interview pilots and briefed by them on the character in the flight plan for the transfer of the accused to the Netherlands, also, to brief him on the doctors and nurses accompanying arrangements and other necessary provisions for the trip and agreed.

So he ordered the delivery of proper food - no pork or alcohol, in the light of respect for food taboo for Muslims. - Measures were also taken to ensure that the food will not poison. On April 5, 1999, after more than a decade after the bombing. Then the arrival of Libyans accused to the Netherlands for trial on charges of planting the bomb in the plane and blow them up the crime. After the extradition, the United Nations lifted sanctions against Libya as soon as the completion of the delivery process. The lifting of the sanctions and then release the money to the Libyan assets that frozen around the

⁴² Gerhard von Glahn·James Larry Taulbee, *"Law Among Nations: An Introduction to Public International Law"*, 2007/2010

world, and the removal of the air embargo air traffic to and from Libya as well as the sale and purchase of equipment including industrial and military.

CHAPTER THREE

TENSION AMONG INTERNATIONAL TRIBUNAL OF JUSTICE AND THE REAR OF THE SECURITY COUNCIL

3.1BACKRUND

UN Charter provides in Article 92. The International Court of Justice is the principal judicial member of the UN and does its job with the law outlined in this Charter, and Article 33 of Chapter six of the Charter of the UN and the peaceful resolution of private disputes to arbitration using resolving conflicts between the parties. Moreover, Article 36 that in the case of a dispute between two or more cannot settle referred to arbitration at the request of those countries that the dispute referred to the (ICJ) under Article 14.1 of the Montreal Convention of 1971.

It seems that the case against Libya has strengthened due to the achievement of a French-Libyan involvement in the bombing of the French Utah in 1989. It became apparent that the "forensic statements picture was the link among the explosions the Pan Am and UTA.

In any case, the transfer material, William Webster, recently resigned from his post as head of the FBI, who said that "a few countries" covered by the investigation. It went to the evidence to note that "has been settled, such as mosaics. Here and there with information and new perspectives are changing, in particular, how he does it, although all the evidence listed in the indictment is still unclear.

Analysts of the story in Newsday article it seems, two days after the fact, however, that the Iranians accused of being the mastermind of the operation with the potential to be in coordination with Libby. On November 25. He quoted by Time magazine. In 1991 in the Church of J George. of the article entitled. "Addressing the Lockerbie case." revealed confirm a link between the bombing of Libya, and in the light of the CIA's efforts to find bombs unexploded in the past similar to those used to blow up. The plane and found at the African Togo, and there is no support anywhere in the Libyan armed terrorists Togo African. That denies the accusation against Libya.

Likewise, confirmed the bomb planning tool, “one of the twentieth transferred to Libyan power in 1985 and 1986. Moreover, it provides further evidence of a link between the individual users of the Libyan Airlines is one of the initial system planning to put a bomb on board the Air from Malta flight to Frankfurt, where the exchange of flight 103.⁴³

While this guide on everything anyone could need to get the indictment, was to build much pressure across the Western press that Libya should be contrary to punish, although, In fact, Commission has not yet led to a trial. George J. The church that has raised at the time asked a report in the journal, "How can that Gaddafi and punish his regime? With the show results, the forensic evidence produced criminal investigation, and the British government, the United States, from Libya has demanded extradition of the accused, while there was no satisfactory response from the Libyan government.⁴⁴ Both the USA & the UK, and Libya refused. It took to the UN Security Council. In the Jan. 21 1992, adopted by the Security Council decision to 731.748 this decision condemned relevant authorities of the Libyan leadership in the attack on A Pan American airliner 103.



Images.3

The Libyan government "has not yet given enough" to full cooperation in determining to Take responsibility for terrorist acts and orders mentioned above, he

⁴³ This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the European Convention on Human Rights.

⁴⁴ U.S. Brief, Supra Note 13, at 22.

ended with the Libyan authorities request her painting for agree to the demands of the UK and the USA for cooperation with the prosecution of the accused. Three days of a request for Libya before the debate brokered with the UK and the US.

Under Of the Montreal Convention for the Suppression of Unlawful Acts against the civil aviation safety of 1971. On March 3, 1992, Libya requested assistance from the (ICJ). Libya spoke to the court for interim measures against the United States. Moreover, the United Kingdom as well.

Including confirmation from the court. Libya has accepted the agreed commitments according to the Montreal treaty. (b) The United States thwarted a legal liability to Libya under Articles 5 (2) (5) (3) of the Montreal Convention: (deliberations of the Court declared that it must immediately. That the US stop, and the use of any force or threat aghast Libya, especially the threat and the threat to use force against all violations and Libya, sovereignty and And political independence territorial integrity of Libya.

Libya informed the Tribunal on Mar 3rd, 1992 that the required interim arrangements and procedures are to be taken quickly to preserve the rights of Libya because of Libya educated. The court on March 3, 1992, that temporary measures should have been taken speedily to safeguard Libya's rights of the way that the US had shown It might look for or the imposition of sanctions economic, force sanctions and other, against Libya.

If Libya agrees to the requests of the United States, indicated that it would seek economic to impose. Moreover, other penalties Finally. Libya announced that "exclusively by allowing temporary measures urge the United States to take such activities against Libya, That would be a reason not to use Montreal Treaty for the for the Suppression of Unlawful Acts against the civil aviation safety on Sept. 23, 1971. Report for the Court of Justice: System on a request for an interim Measurement in the event of interpreting and applying Montreal Coinvention of In 1971 stemming from the incident in the Lockerbie case problems (Libya against the US.) on 14 April, 311.LM 662, 667. Rights prejudiced irreparable whether in fact or law.⁴⁵

In a communication dated March 6th, 1992, to the US in response to by the court saying: rush out with the mind in the current actions taken by the Secretary-General and Security Council and in this regard. During April 14th, 1992, the Tribunal has voted 11-5 against temporary procedures.

⁴⁵ 12 April 2005; Avcisi v. the UK, decision (strike out) of 19 February 2002; Basayev v. Spain, decision of 17 February 2009.

The Security Council said he was concerned that the Libyan authorities has not adequately have responded to the resolution (731) and said confirmation.

In this context. The Libyan authorities to cooperate. Through real actions, confirm renunciation of terrorism, and in particular the continued inability to respond adequately. Moreover, Fully and efficiently to the demands and the decision (731) for the year 1992, and this poses a Threat to international peace and security under Chapter VII of the Charter UN and the necessity of to obey and comply immediately with the resolution 731.

Moreover, the issuance of several resolutions to impose some sanctions against Libya, in particular on the entry and exit of planes to and from Libya. Moreover, the supply of aircraft spare parts or service as well as the banning of the transfer of military and arms convoys in addition to reducing the number of diplomatic staff in embassies and consulates Jamahiriya.

During November 11, 1993, the UN Security Council issued Resolution No. 88,316 not to Libya's ability to Implementation Resolutions No. 731 and 748.

This time around, the Security Council its stance evident that Libya should the accused delivered to the UK and the US.

During February 1998 27, the (ICJ) ruled in its purview to pursue arbitration in this case, according to the Treaty of Montreal, voting 13-2 to proceed in this case. Currently the (ICJ) on the intensive meetings with the Security Council on this issue, and to identify the competent authority.

3.2 THE INITIAL REQUEST BY LIBYA FOR THE INDICATION OF PROVISIONAL MEASURES

Assuming that the accused is innocent is a Basic principle of Anglo-American law and the charge. , in any case In the criminal law of the US of America, the accused is innocent until proven guilty.

It is worth mentioning that the (ICJ), in the beginning. Asked Libya, on March 1992, on the subject of the conflict between the US and Libya to do the research and discuss the crime to see the possibility of Libya to take advantage of the Montreal Convention of 1971, and this is what want to Libya.⁴⁶

⁴⁶ IJC Provisional Measure In The Case Concerning Questions of Interpretation and Application of the 1971 Montreal Convention Arising From The Aerial Incident at Lockerbie, Apr. 14, 1992,31 LL.M. 662, 665-666.

The absence of a treaty accord among the UK and the US, with Libya and there is no hypothesis of paragraph 2 of Article 8, according to the Montreal Convention. As follows:

" First State will make the delivery restrictive on the presence of something that happens in demand for delivery from another state a party to the treaty with which it has to submit the agreement; this agreement may not be a legitimate reason for delivery. It must be the provision of the likely alternative to the conditions outlined in the law. In the search for interim measures and requested Libya to the International Court of Justice declares that must have control of the Montreal Treaty, a way to resolve the dispute, and must resort to other steps. In support of this argument, and indicated that The UK and the US had rejected efforts to work around this conflict by resorting the procedures outlined in the Montreal Treaty.

The ultimate goal of both the UK and the US to persuade Libya to hand over suspects or it will be subject to the imposition of international sanctions against it.

3.3 THE DILEMMA FACED BY THE ICJ IN CONSIDERATION OF PROVISIONAL MEASURES

Charter is the force that the State may submit a petition to the Security Council on any discussion among the Member States, to review by the Security Council.⁴⁷

By Article 34 of the Charter. It allows the Security Council of the United Nations to discuss any discussion urges any circumstances, which may lead to global conflict, bearing in mind that the ultimate goal to see whether the continuation of this situation It will be a threat to international peace.

The request to the Security Council to take interim measures, it was not until January 1992 was not a robust and noticeable adoption, especially after the quality of evidence presented to the Security Council within three days of sessions, and one wonders whether it can be enough in the US the Tribunal to condemn the defendant. As mentioned up the accusations list is not acceptable as proof of conviction. Assuming that the accused is innocent is a fundamental principle in Anglo-American law.

According to the current proceedings in the court that it was not surprising because he chose a prudent path to avoid a Direct collision on the issue of Security Council of interim measures without, however, abstaining from exercising competence to hear the dispute.

⁴⁷ See Vera Gowlland-Debbas, *The Relationship Between The International Court Of Justice And The Security Council In The Light Of The Lockerbie Case*, 80 AM. J. INTL'L. L. 643 (1994).

3.4 JURIDICAL BASIS FOR THE DENIAL OF PROVISIONAL MEASURES

The demand for temporary measures was much the same as that which was uttered gathering looking for injunctive alleviation in an American court.

Must be submitted holder of demand regarding temporary measures for the lack of quick and easy enough therapy in the natural course of law and order of this court is to prove the value of the damage cannot be repaired to avoid some of these good care is evident from the evidence presented by the parties. In this regard, the reason for the denial of temporary legal measures is reasonable, as can be seen from the conditions of the Montreal Convention. In this respect, that the Convention provides sufficient redress in the ordinary course of the law.

Rushing The rush into the adoption of Security Council Resolution No. 748 dated March 31, 1992, has insisted undoubtedly to pre-empt the court granted a request for Libya to take temporary measures that have been pending since March 3. That is clearly under pressure from the UK and the US on the Security Council.

The Security Council recognized the real motive when the pressure on Libya, and was at the time in Libya to seek assistance from the court. Maybe. Judge Shahab Uddin admitted in an awkward position before the Tribunal. Moreover, developed under Resolution 748 observed when in the detached audit opinion to support the denial of the interim measures: Now is the test of the legitimacy of the decision and the issue of 748 (1992). Whether the selection of canceling the legal privileges of the States. of course, obviously under pressure from the UK and the USA at the Security Council to him, including not achieve the required international justice.

If there are any restrictions on the power of the Council to describe the circumstances. Involving such results. What are the and the limits of the competence of the Security Council of the UN in the balance in the UN evaluated? In the development of the international regime, is there any point unimaginable outside the legal issue that may arise properly on the competence of the Council, what are those limits ? That the replies to these sensitive and complex queries in all that is negative, the situation is perhaps curious.⁴⁸ .We may not get clear answers on these questions.

⁴⁸ Sezer c. Turquie (n° 35119/08), the Court rejected a request for the adoption of an interim measure to prevent the Turkish Constitutional Court from ordering the dissolution of the AKP (Adalet ve Kalkınma Partisi – Justice and Development Party) (see press release of 28 July 2008).

Moreover, the extent to which the court may enter in consideration of this matter is another issue. These fundamental issues, regardless of the fact that they cannot analyze at this stage.

The judge Shahab noted earlier that a significant Earth deprivation the temporary measures Libya are, in fact, that while the sanctions are carried out through of resolution 748, and it was no use of force. Because of United Countries have searched these penalties, could not are legitimate Asylum to compel the without authorization from the Security Council, and at this foundation, the judge wrote Shahabuddin "so this Indicates of Security Council resolution standing in the way, both law and fact.

In this regard, it reflected the same order in which the Tribunal found that "by Article 103 of Charter of the United Nations and the obligations of the Parties in this regard, and the dish commitments by other international agreements including of the Montreal Treaty. As such, it became apparent to the Court: for the purpose of research in the demand for provisional measures, and the Tribuna does not seem to locate any other questions previously raised in the present proceedings including on competence for considering this case in any way that would prejudice those inquiries. In other tags, the court left the all options are open.

The is not invoked the Tribunal to take a decision on any of the alternative queries submitted to it even in the present proceedings, including issue the jurisdiction of for consideration the details of the case.⁴⁹

3.5 THE JURIDICAL BASIS FOR THE ALLOWANCE OF PROVISIONAL MEASURES

In a different perspective, Judge Bedjaoui Bring to a Clear emphasis should be to recognize the different roles in the Security Council and the (ICJ) and watched it here, while two separate UN is exercising functions similar problem, and the Security Council to use. For the most part, political power while the court should exercise jurisdiction, it can and should do like this without worry of policy outcomes that involve the Security Council resolutions. The central question relates to two Libyan citizens delivery and management legitimately, by the Tribunal following a request from Libya, although concerns in the event is a disagreement among the Member States of the UN obligations.

⁴⁹ C.M.Chenken, "Third-Party Intervention before the International Court of Justice" 80 Am. J. Int'l L. 495 (1986)

According to The present Charter and other international commitments understanding, it should be the requirements outlined in the Charter of the UN and appropriate to maintain the status quo, all by specific terms of reference. The demand for damages to the victims' families and the imposition of a concrete commitment to abandon terrorism.” However, where the opposition majority do not take the case and that the Security Council does not only choose to take some political measures against the country also requested extradition of two citizens.

Bedjaoui described this as a “cover” on the Security Council infringing on the legitimate court's authority choose what is merely a lawful matter “by 1971 Montreal treaty and international law. These opponents magistrates to support the interim measures request measures believed it should be Court exercised its authority to prevail on both sides order to avoid using force Due to the imperative for the worsening of conflict Which could lead to otherwise.

3.6 ASSUMPTION BY THE ICJ OF JURISDICTION TO HEAR THE MERITS OF THE CONTROVERSY

On February 27th, 1998, the International Court of Justice announced verdict despite the initial objections from the United Kingdom, the United States Presumably the jurisdiction of the of this debate. The rating was 13-2 with the Chief and Judge Schwebel the opposition. The primary focus of the rule of the Montreal is Accord treaty. That binds both sides before the Tribunal and which expressly provide competence of the (ICJ) to solve the disputes under the agreement. Article 14.1⁵⁰

The arbitration provisions of the treaty were necessary to the justice take custody of jurisdiction over this of conflict the Tribuna also noted out in paragraph 20 of the referee. Moreover, as a result, from the viewpoint of the court.Can not resolve the conflict, between the two sides. Through negotiations or submitted to arbitration obligations according to the Montreal Treaty. .the accused declined to enter into the arbitration to settle this of conflict Libya.shall be exempt from all requirements by paragraph 1 of Article 14 of the Treaty and surveillance for six months of the date of application for arbitration grab earlier in the court.

⁵⁰William S. Hein & Co., Inc. & Hein Online, The Nuclear Weapons Opinions: Reflections on the Advisory Procedure of the International Court of Justice 28 Stetson L. Rev. 133 (1998-1999).

Of Article 14.1 of the Montreal Convention the following: Any conflict among at least two of the Contracting States to clarify or take advantage of this agreement and that cannot settle by negotiating, may, following a request from one of them, to confirm. Forwarded to the arbitration within six months of submission of the application to make sure that Without reaching agreement of the parties, permissible for either party Refer the dispute to Court according to its statute

(ICJ Reports 1995, page 100). Only the Montreal treaty It should establish a framework for settling this conflict. As a sovereign state, Libya enjoys the right according to the Montreal Treaty and international law to the competence of practice on two alleged offenders, by the Libyan Penal Code, free of any interference from the United States or the United Kingdom.

A more complicated and The Dark Side of the somewhat verdict found in the debate below the paras 48 and 49 in that attempts to court to get rid of the demand from the US. That the tribunal determines and he does not have with his grounds of continuing to rule by objective facts that and the Security Council .748 decisions (1992) and 883 (1993) made Libya demands. It approved this will require by the court to do so both sides advantages which would result in “a further prolong costly and time-consuming procedure.

The interception raised by the USA at this point their mark of defense on the merits. From the standpoint court, and this rejection is not much more than the "touch upon themes affiliated substance of the matter added. We could have the perception that the tribunal felt like that he led to falling into the trap of before Procedural Order USA.

The outcome of which either cause to chapter summary of the case or customized decisions on the merits in the course of getting rid of the initial objections.

3.7 THE ARGUMENT AGAINST THE ASSUMPTION OF JURISDICTION

The followers are prevailing with regards to inducing just three judges of the accuracy. Of attitudes, those are being Chief Schwebel, Judge ODA, and the judge Sir Robert about this subject of jurisdiction, President Schwebel expressed . That no genuine debate between both sides as per the arrangements of the Montreal Treaty because of the USA a casualty. Therefore avoiding the creation of conflict among Parties that may be liable In the Convention. (As opposed to those circumstances in which they think that they a purely acts of terrorism by the members of more them

nations might exert Criminal jurisdiction established)⁵¹.

Chief Schwebel trusted that Libya's inability to acquire a judging on the benefits from the court before the issuance of UN Security Council resolutions 748 and 883 necessarily implies that the Resolutions "are authoritative and oversee Montreal treaty. Moreover, under Article 103 of the Charter of the UN. For the tribunal to take up the mandate of this case would oblige it to go up against the power to "topple the Council's determination according to Chapter (7) of the presence threat to international The Peace well selection of measures to manage the risk. As needs are, and at the expense of the Security Council has acted, and they have determined the parties have decided, there is nothing for the court to choose but to recognize its commitment to acknowledge and complete the choices of the Security Council. Libya could have maintained a strategic distance from the need of applying to the court for temporary measures if Libya had quite recently arraigned the defendants in detention to Libya.

The subject of extradition of criminals and ODA, the judge, recommended that the rule non-political extradition criminals it prevailed for a long time had since a long time ago. However, to this rule does not apply to the issue to some international the crimes as acts of terrorism and genocide. Judge, Then noticed that an agreement formal Libyan development assistance can take charge of the trial of the accused does not extradite him Libya has chosen to do so or delivered to the state "politically neutral" For any reason a problem in the context of the Montreal

Judge ODA mentioned the somewhat remarkable objective fact that no legitimate debate existed amongst Libya and the US which was secured by the Montreal treaty. Moreover, in remained introducing that according to the Of the Montreal Convention, in the absence of extradition of criminals, the State party have been defendant located is bound to start prosecution. The choice to indict itself is a practice of sway or, as Judge ODA put it, "separate arrangements towards criminal equity "which don't" located within the limits of the Montreal Convention.

Judge Oda presumed that no question existed between both sides according to the Convention And it could not exist reasons to the court to exert Pavilion to hearing this case. Although of the astuteness of the contentions of the disagreeing judges against the presumption of skill, the standard dialect of Article 14 places jurisdiction of this

⁵¹Mancur Olson, Jr. "The American Economic Review" Vol. 59, No. 2, Papers and Proceedings of the Eighty-first Annual Meeting of the American Economic Association (May, 1969), pp. 479-487.

dispute squarely with the ICJ.⁵²

There has been a colossal allurement between US observers. The similarities among the "legal audit" Council resolutions by the International Court of Justice. With a force that John Marshall expected for the USA. Of the Supreme Court in the case of *Marbury v. Madison* 0.51 which created the Federation the judicial authority for review of the constitutionality the actions of executive and legislative authorities.

However, there are significant differences to be made both the Constitutional relation both Those three separate sections of relationship and government the that existing among the International Court, the Security Council, and the General Assembly in the UN according to the UN Charter. While honestly the Supreme Court of the United States much of the time refused practicing jurisdiction over debates that it feels "political inquiries," it, whatever the case, has power emerging specifically from the Constitution to bolster the exercise of the jurisdiction.

Such a resolution is naturally the much different from the identify the procedure given Congress does not violate the Constitution. This assertion is an option on the benefits that reflect the practice of the legal survey, rather than refrain from reviewing the Clean accounts that would be appropriate because of the real organizing a political issue before high Court in The US in the next year, a political issue. All things considered and guided by a committee of senators by the "managers."

The court sided with the process of impeachment of certain signals in the Constitution for access to a legal survey of the set for the conference individual work having to do with conviction and subsequent reports of actual laws. M.C.W. Pinto mentioned the objective fact that interestingly, the UN. The contract allows no special power to the ICJ to audit. The lawfulness of Acts of the Security Council or General Assembly, In this manner, there is no grant of power ".the constitutional" to the court can act. In Not, all would concur that the Court may, without particular literary approval from the Charter, make a report of the legality of Security Council actions. In this regard, often to the Belgian proposal at the peace conference in San Francisco give the court Agency public to settle disputes concerning the interpretation of the Charter could not be adopted.

In any case, have watched Pinto, and various critics tribunal can give advisory opinions. To consulting in other cases, under Article 96 of the sanction of the UN, which explicitly recognizes the ability of the Security Council or General Assembly provide an application for assuming a consultant from the court on any legitimate question. The question is presented differently in that issue where an ongoing dispute

⁵² ICJ: Case Concerning Questions Of Interpretation And Application Of The 1971 Montreal Convention Arising From The Aerial Incident At Lockerbie , February 27, 1998, 37 I.L.M. 587, 598..

exists between states and once of the requests an advisory opinion. That happened in the Western desert Cases. In those cases, legality the Security Council resolutions and is not on this issue, only for disputes between Spain, Morocco, and Mauritania.

In the Namibia Case, the ICJ had the issue to consider its powers of legal audit on the conflict by the legislatures of France and South Africa that General Assembly Resolution 2145 XXI was ultra vires. The court offered the last perception in Paragraph 89 of its judgment: Undoubtedly, the Court did not have forces of the legal audit or appeal in respect of the decisions taken by the U.N organs concerned.

The topic of the legitimacy or similarity with the Charter on General Assembly 2145 (XXI) or of related Security Council resolutions does not shape the subject of the demand for a consultative conclusion. All things considered, in the practice of its legal capacity and since complaints have been propelled the Court, over the span of its thinking, will find these. By the method for complexity, the USA Supreme Court will never render a counseling conclusion; without a genuine case or debate under the controlling gate of the court. When Judge Weeramantry wrote his agonist opinion after the court is forswearing of Libya's application for temporary measures on April 14, he provided a Hinge the historical and the legal analysis of the legal adequacy review the International Court of Justice for a resolution of the Security Council, the legality of a Security Council resolution.⁵³

As he would see it, Judge Jennings watched that the Court is obliged "to act dependably as the primary legal organ of the United Nations. In this manner, it should just apply relevant United Nations law. In any case, once the Security Council, practicing its discretion under Article 39 of the Charter discovers that there exists a "danger to peace," the Court should not be another its design for that of the Security Council. In his thought of the Namibia Case, Judge Jennings composed: That there is no force of legal audit of Security Council decisions according to Chapter seventh of the Charter is not only in light of the decree of the Court in the Namibia case. The position built up by the arrangements of the Charter itself. Additionally, it is apparent from the records of San Francisco that a force of clean audit He suggested and was rejected by the wording conference.

Article 7 also stipulates that "those authorities shall decision-making, as in the case of regular serious crime according to the law of that state. Unquestionably, Libya did not succeed in doing so arguing that the US not cooperate according to the

⁵³David Dorsey, "kansas supreme court hears arguments regarding k-12 funding adequacy pursuant to gannon case" October 18, 2016

agreement by providing the necessary evidence to support the trial of the accused. A larger question emerges in the case of sanctions. If the cases off the Penalties prescribed in Security Council resolutions after the verdict According to the Treaty, matters of judicial review that should be faced.

3.8 THE LEGAL CONCLUSIONS OF THE LOCKERBIE CASE⁵⁴

That extradition as judicial proceedings it is part of the political process among Nations involving of External Relations.

The question of receive is in its essential on the legal and political prosecution in Libya. The starting of the Lockerbie issue became apparent as a legitimate dispute this is exactly the problem. Moreover, the Montreal Treaty in its context has foreseen that some member states sooner or later would disagree on the issue of extradition vs. political prosecution and other difficulties of analysis or statement.

Article 14 of the Convention deals with these materials, and so far Libya has accepted to explain the problem by referring to the measures of Article 14, i.e. arbitration and in the case of refusal or disagreement of Arbitration, the International Court of Justice. However, the central problem Of Lockerbie affair from the United States and the United Kingdom provided at a subsequent stage of the legal action taken is whether the Montreal treaty should use at all. They do not look in Lockerbie affair as a case for treaty utilization of the Montreal Convention.

Instead, they have chosen to do And Lockerbie trial issue Of the Charter the United Nations. The United States and the United Kingdom. Do not regard the Montreal Convention. As the only way to combat aircraft sabotage. The issue of whether the Montreal treaty causes some justice. In its article (7) regarding the issue. Moreover, Should, therefore, be used in Lockerbie issue. Thus becoming some basis for the international legal community, or whether the Montreal Convention is voluntary can substitute for other law such as the UN Charter (Article 103) is imperative.

As claimed Libya is creating any universal legal sameness with a standard based legislation concerning the international criminal law. Which in the future might cancel any legal differences amid common law and public law countries. Should at degree at judiciary become a peremptory norm. We still do not know, wrongly what kind of facultative, form it ought to be to be. The solution according to international

⁵⁴ Safia Aoude, Copenhagen University, Denmark, June 1996.
<http://plane-truth.com/Aoude/geocities/academic.html>.

conventions. Alternatively, in an image a UN Extradition agreement or an international court. No solution to the political problems in the United Nations Security Council and his involvement in international criminal law.

Libyan suggestions based on the specified situation of (Lockerbie case) and extradition case only is linked to the case since apparently right difficulty Composed of political demands and is not legal. Analysis of Lockerbie case has demonstrated, that the international criminal law in some way today is active to some extent.

3.9 THE POLITICALLY MOTIVATED INTERFERENCE OF UN SECURITY COUNCIL

Uniform rules could not present in the definition and procedures of the crime under study, inability to protect the individuals who are subjects to international criminal laws shown.⁵⁵ As much as the issue of Lockerbie and similar cases, the international criminal law set function actually, As long as is present these problems. To resolve political cause for the Security Council of the United Nations and its involvement, mostly law open. Every effort to remove the legal difficulties of global criminal law without first solving the political problems of international criminal law will be a fruitless energy. Legality is born out of politics, but politics can affect validity. As much as the issue of Lockerbie and similar cases, the international criminal law set function actually, as long as these problems are present. In solving the political issue of the UN Security Council and its interference, mostly legal are open. Any effort to resolving the legal difficulties of global criminal law without first solving the political problems of international criminal law will be a fruitless energy. Legality is born out of politics, but politics can affect validity. To have the international criminal law as a better legal instrument, we should abolition some of the older of international law political opinions in general. An adjusted of the Charter of the UN could step in the right a legal way.

⁵⁵ Vesselin Popovski, "Trudy Fraser The Security Council as Global Legislator" 2014.

CONCLUSION

Thus, Case Libya of supporting terrorism in the Lockerbie bombing, the disclosure of the suspects through being a Libyan intelligence officer, has led to direct intervention in the incident.

Moreover, later inaction toward the matter, acceptance with regard to surrendering the two charged, in addition to shuffling. About the trial, made the Libyan government facing the sanctions eight years which consumed the country by their effects on Libya's economic life, until Libya complied to the demands of US, UK, and France governments. While it did not change or make lots of difference to the UK economic exchanges with Libya.

Furthermore, the sanctions in the Lockerbie case provided a unique example in dealing with no responses cases with international demands and justice but still questioning the human part of sanctions that leaves its shadow that caused unnecessary loss of life among civilians and innocents finding a Track by that legal labyrinth is not easy. There is no doubt, which the Court the option to accept the jurisdiction of the dispute requested by Libya.

However, It had not requested the advisory opinion, and instead, must settle the constant conflict. According to Article 14 (1) of the Treaty, this must separate by Article 38 of Basic Law of Court of the dispute. Nothing in Article 38, the Case where the court should give legal privacy effect which to the A decision of the Security Council, to the extent that the decision valid supposedly according to the UN Charter.

Might have the (ICJ) to rule on the matter of-of evidence submitted, and In the end, it will conclude whether the penalties Established by the Security Council in Libya justified. One can envisage the following scenarios:
The Tribunal It insists on its right in Libya. Initiative against Libya under the Montreal treaty to drop the extradition of Accused, while found one at a time that Libya had violated Article 7 of the Treaty on the Non "to refer the case to the responsible authorities for the confidence of prosecution.

*The court was not convinced the tribunal that Libya needs to Directories from the US to justify thread Go forward with trials could be that this force will hold Libya to provide a violation of the treaty. Can, therefore, be construed to be followed by possible further sanctions include restrictions on the export of oil.

*The court finds The United States acted in bad faith by Non-acceptance to provide the

necessary justification to try suspects of directories, in this issue of Libya, had found justified in losing to induce the accused to trial in Libya. In that case, the justification for the sanctions would call into question, and international support for Resolutions 731, 748 and 883 would undermine. An agreement What has been done to allow for the trial of suspects at Dutch, but, but, by Scottish law. If this leads to lifting the sanctions, and it must refer the matter to the tribunal of to anything to make the decision. In short, the political settlement of this dispute might help a real resolve in this issue without requiring for more proceedings before the Court.

*However, a precedent has already set. In the future, from the lengthy Opinions had written that distinguished Fuqua, there is far significant power to the state. Willing to challenge the lawfulness of the decision of the Security Council, to indicate the instances and Luckraby as the foundation the International Court of Justice to involved in an international policy dispute, which already accelerated the action by the Security Council.

* The court can be convinced to exercise jurisdiction by a treaty and can get involved in a breach of the peace. If there is will still ultimately determine to judicial review by the court of the competence of the Security Council case of an open cut. Moreover, the fact that tribunal had accepted the State and opted for the settlement of disputes under the Montreal Convention, which meaning that these situations are likely to be the date of future applications of the states would like to avoid the impact of Security Council resolutions.

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ABSTRACT

This document is a historical review of several incidents that highlight the Libyan former regime involvement, support, and funding of different acts of international terrorism. It mainly covers, in more details, the Lockerbie story and the subsequent UN Security Council Sanctions during this era.

At Dec. 21, 1988, a civilian plane, Pan Am 103 blew away over the town of Lockerbie in Scotland. So this was a terrorist act outrageously against airliners. This message will be discussed the Lockerbie issue in the political and Legal Dimension of first. Moreover, it discusses the notion of terrorism and the problems basic definition. Then, it focuses on catastrophe repercussions. The thesis is nearing many issues this complex situation that had raised for years ago. In particular, it depicts the diplomatic wrangling and political long ago between the USA and the UK on the one hand in Libya at the other end. The paper consists of three main parts. A brief historical background on the former Libyan regime. Then, the involvement of Libya in the sponsor of international terrorism

Finally, the history of the Lockerbie terrorist attack, the UN Security Council and the International Court of Justice to consider in this case.

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ÖZET

Bu tez, eski Libya rejiminin çeşitli uluslararası terror eylemlerine katılımını, desteğini ve finansmanını inceleyen çeşitli olayların tarihsel bir derlemesidir. Ayrıntılı olarak, Lockerbie öyküsünü ve sonraki dönemdeki BM Güvenlik Konseyi yaptırımlarını kapsamaktadır. 21 Aralık 1988'de Pan Am 103 adlı bir sivil uçak İskoçya'daki Lockerbie kasabası üzerinde düşürüldü. Yani bu, sivil uçaklara karşı terorist bir hareketti. Bu mesaj ilk Lockerbie meselesindeki siyasi ve hukuksal boyutta ele alınmıştır. Ayrıca, terörizm kavramını ve temel tanım problemlerini tartışmaktadır. Sonra, felaketin etkilerine odaklanmaktadır. Tez, yıllar önce ortaya çıkmış bu karmaşık durumun pekçok sorununa yaklaşıyor. Özellikle, ABD ve İngiltere arasındaki diplomatik tartışmayı ve politik görüşmeleri tasvir ediyor. Tez, üç ana bölümden oluşmaktadır. Eski Libya rejimine ilişkin kısa bir tarihsel arka plan. Ardından, Libya'nın uluslararası terörizme desteğinin anlatıldığı ikinci bölüm ve son olarak, Lockerbie terorist saldırısının tarihi, BM Güvenlik Konseyi ve Uluslararası Adalet Divanı'nun bu davayı değerlendirmesi.

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RESUME

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