03 March 2011

Email: **info@responsibilitytoprotect.org**
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Crisis in Libya and the Responsibility to Protect

Deadly political protests continue in Libya, with no sign that President Muammar Gaddafi will step down and relinquish power. The protests, which began on February 15 in Benghazi, have
 spread
throughout Libya, with several cities now under opposition control. Gaddafi maintains control over Tripoli and Sirte, while the towns of Gharyan and Sabratha in the northwest fell on March 2, 2011 to his opponents. Government forces continue to battle to regain the villages surrounding Tripoli to establish a buffer zone around Gaddafi's main power stronghold, and to control the oil port city of Brega where it with reports of aerial bombardments in Brega. Across Libya, members of the government, military, tribal leaders, and army units have
 defected
and joined the opposition. An
 interim opposition government
was established on February 26, 2011 under the leadership of former Justice Minister Mustafa Abdul Jalil, the first government official to break ties with Gaddafi. Jalil
 stated
that his position is temporary to communicate with foreign governments and to act as a transitional Head of Government after the departure of Gaddafi.

Humanitarian toll

The uprising, which has been reported as the bloodiest yet against a long-term ruler in the Middle East, is causing a humanitarian crisis in the region and threatens to descend into a long civil war. Ban Ki-moon reported on February 25 that more than 1,000 people have been killed and massive waves of refugees are continuously fleeing to neighboring countries. The UNHCR
 stated
on 1 March that 70,000 to 75,000 people have arrived in Tunisia and 69,000 Libyans have sought refuge in Egypt; while tens of thousands of civilians remain trapped at the Tunisian

border. The
UN HCR
has attempted to expand its camp near the border to meet the needs of the growing refugee
population; however water and sanitation continue to remain major issues. According to the UN,
the
security situation
surrounding Tripoli is too dangerous for humanitarian agencies to assess the need for medicine
and supplies. Valerie Amos, the UN humanitarian chief,
told
Al Jazeera that "the major concerns are Tripoli and the west where access is extremely difficult
because of the security situation."

Swift international reaction

While stronger measures may still be needed to ensure the protection of the population,
international response to the Libyan crisis has been firm and swift, with action being taken in a
shorter period of time than ever before in a mass atrocity situation.

The Human Rights Council met on February 25 and opened a Special Session on "the
situation of human rights in the Libyan Arab Jamahiriya." The Council adopted
Resolution S-15/2
which called for the following: 1) the Libyan government to cease all human rights violations; 2)
an international commission of inquiry to be dispatched to Libya; 3) recommendation to the
General Assembly for the suspension of Libya from the Council.

On March 1, the General Assembly unanimously suspended Libya's membership to the
Council. Speaking before the Assembly, Ban Ki-moon declared "the world has spoken with one
voice: we demand an immediate end to the violence against civilians and full respect for their
fundamental human rights, including those of peaceful assembly and free speech." He
continued to warn that "there is no impunity…that those who commit crimes against humanity
will be punished" and informed the General Assembly that "time is of the essence; thousands of
lives are at risk."

The Security Council unanimously adopted Resolution 1970 on February 26 which, in addition
to imposing an embargo and financial sanctions, made reference to Libya's "responsibility to
protect"   and referred the situation

to the International Criminal Court for investigation into reports of crimes against humanity. The Prosecutor of the ICC, Luis Moreno-Ocampo,
 decided
on March 2, 2011 to launch an investigation after a preliminary examination of available information. This
 announcement
was an unexpectedly quick reaction, while prosecutors often take months to announce such a decision.

Regional and unilateral measures

The Peace and Security Council of the African Union, in its February 23 Communiqué , decided to dispatch a mission to Libya to assess the situation. The European Union adopted a
 decision
on February 26 to implement UNSC Resolution 1970 by imposing a travel ban and freezing the financial assets of government members.

States including the United Kingdom, Switzerland, and Canada, have also displayed strong political will to reach quickly to the rising humanitarian crisis in Libya and have taken unilateral actions
against Gaddafi, such as freezing financial assets, and imposing travel bans and sanctions. In addition to freezing $30 billion in the country's assets, the
 US government
has begun moving warships toward Libya to increase pressure on Gaddafi and his inner circle. Conscious that any military intervention would require the approval of the Security Council, governments including France, the UK and the US have started to discuss the possibilities of imposing a "no fly zone" should air attacks continue to threaten the population. On thursday March 3, the
 Arab League
also said it would study and consider imposing a "no fly-zone" on Libya in co-ordination with the African Union, while cautioning against any direct outside military intervention.

Responsibility to Protect: what now?

The Responsibility to Protect has been invoked profusely by civil society, the media and government officials including in the Security Council, the General Assembly and the HRC.

Action taken thus far by the UN and states should be applauded, however the international community must continue to consider measures that will prevent the spread of violence and address the humanitarian needs of the population, especially in the western regions still isolated and under attack from Gaddafi's forces. You will find below analysis and Op-eds exploring some options –As Irwin Cotler, a member of the Canadian Parliament and former minister of justice and attorney general of Canada, stated in his New York Times Op-Ed, Libya and the Responsibility to Protect

, "
The situation in Libya is a test case for the Security Council and its implementation of the RtoP doctrine. Yet it remains the case that, as the U.N. secretary general, Ban Ki-moon, put it, "loss of time means more loss of lives." The Security Council must do more — and fast. It is our collective responsibility to ensure RtoP is an effective approach to protect people and human rights."

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I. International Community responds quickly referring to RtoP in UN, HRC, SC

1. ICC to probe Gaddafi over violence
  AlJazeera
  03 March 2011

Muammar Gaddafi, the Libyan leader, and his key aides will be investigated for alleged crimes against humanity by the International Criminal Court, the chief prosecutor has said.

Speaking at a press conference in The Hague, the Netherlands, on Thursday, Luis Moreno-Ocampo said he would investigate claims that peaceful protesters had been attacked by forces loyal to Gaddafi.

"We have identified some individuals with de facto or formal authority, who have authority over the security forces," that have clamped down on a rebellion that started on February 15, he said.

"They are Muammar Gaddafi, his inner circle, including some of this sons," he said, and vowed there would be "no impunity in Libya".

The prosecutor also listed individuals including the Libyan leader's head of personal security, and the head of the external security forces. He said he expected to ask judges at the court for arrest warrants within " a few months". He added that opposition forces would also be investigated.

Alan Fisher, Al Jazeera's correspondent at The Hague, said Moreno-Ocampo was hoping to apply pressure to Libya over the violence. "He said the reality is that you cannot take tanks and guns and fire them into crowds that are peacefully protesting. As far as he's concerned that's a crime against humanity and has to be investigated."

Moreno-Ocampo's statement comes as government forces in Libya launch fresh assaults in the town of Ajdabiya and the eastern oil port town of Brega.

See **full article**

2. Secretary-General Ban Ki-moon reports on crimes committed in Libya, warns that fundamental issues of peace and security are at stake
Remarks to Security Council Meeting on Peace and Security in Africa
Office of the Secretary-General
25 February 2011

(…) Before we discuss the deeply disturbing situation in Libya, let me quickly update you on developments elsewhere in Africa. We are all gravely concerned about the deteriorating security situation in Côte d'Ivoire, as perhaps you have seen in my statement earlier today.

Clashes between security forces loyal to Mr. Gbagbo and armed groups opposing them have resulted in significant civilian fatalities in several areas of Abidjan. We are also receiving reports of renewed fighting in the west of the country. Once again, I urge the security forces loyal to Mr. Gbagbo to stop the violence.

The government has a clear **responsibility to protect** its civilian population. Its armed forces must carry out those responsibilities professionally and impartially. (…)

(…) Fundamental issues of peace and stability are at stake, most immediately at this moment in Libya.

(…) These accounts -- from the press, from human rights groups and from civilians on the ground - raise grave concerns about the nature and scale of the conflict. They include allegations of indiscriminate killings, arbitrary arrests, shooting of peaceful demonstrators, the detention and torture of the opposition and the use of foreign mercenaries.

We are also hearing reports of women and children being among the victims, as well as reports of indiscriminate attacks on foreigners believed to be mercenaries. We know from the Red Crescent and the ICRC that there are dangerous impediments to medical treatment and access of humanitarian workers.

We do not have conclusive proof, but the reports appear to be credible and consistent. I strongly believe that the first obligation of the international community is to do everything possible to ensure the immediate protection of civilians at demonstrable risk. (…)

(…) I would like to underscore the statement of the High Commissioner to the Human Rights Council Ms. Pillay. As she reminded Member States, when a State is manifestly failing to protect its population from serious international crimes, the international community has the responsibility to step in and take protective action in a collective, timely and decisive manner. (…)

(…) My Special Advisers on the Prevention of Genocide and the Responsibility to protect have reminded the national authorities in Libya, as well as in other countries facing large-scale popular protests, that the heads of State and Government at the 2005 World Summit pledged to protect populations by preventing genocide, war crimes, ethnic cleansing, and crimes against humanity, as well as their incitement. (…)

(…) Some of the proposals being considered by you include: the imposition of trade and financial sanctions, including targeted measures against the leadership such as a ban on travel and the freezing of financial assets.

Some Member States call for a comprehensive arms embargo. Others draw our attention to the clear and egregious violations of human rights taking place in Libya and urge the Security Council to take effective action to ensure real accountability. (…)

See full **speech** .

Summary of Resolution 1970:

Deploring what it called "the gross and systematic violation of human rights" in strife-torn Libya, the Security Council this evening demanded an end to the violence and decided to refer the situation to the International Criminal Court while imposing an arms embargo on the country and a travel ban and assets freeze on the family of Muammar Al-Qadhafi and certain Government officials.

Unanimously adopting resolution 1970 (2011) under Article 41 of the Charter's Chapter VII, the Council authorized all Member States to seize and dispose of military-related materiel banned by the text. It called on all Member States to facilitate and support the return of humanitarian agencies and make available humanitarian and related assistance in Libya and expressed its readiness to consider taking additional appropriate measures as necessary to achieve that.

Through the text, the Council also decided to establish a new committee to monitor sanctions, to liaison with Member States on compliance and to respond to violations and to designate the individuals subject to the targeted measures. Individuals and entities immediately subjected to the targeted sanctions were listed in an Annex to the resolution.

 The Council affirmed it would keep the actions of the Libyan authorities under continuous review and would be prepared to strengthen, modify, suspend or lift the prescribed measures in light of compliance or non-compliance with the resolution.

See full **Press Release**

3. Human Rights Council on Libya; Member States call for commission of inquiry and suspension of Libya from Council
 UN Human Rights Office of the High Commissioner

25 February 2011

(…) Ms. Pillay recalled that under international law, any official at any level ordering or carrying out atrocities and attacks could be held criminally accountable and widespread and systematic attacks against the civilian population could amount to crimes against humanity. (…)

(…) Numerous speakers called on the General Assembly to suspend Libya's membership on the Human Rights Council…Concern for foreign nationals in Libya was also expressed by numerous delegations, as there were reports that foreigners were being blamed for the instability in the country and thus subject to attack. Speakers further called for the establishment of an independent commission of inquiry to hold perpetrators of human rights violations accountable. (…)

See full debate **summary** .

Resolution S-15/2 on Libya in Special Session

(…) 2.*Strongly calls upon* the Government of Libya to meet its **responsibility to protect** its population, to immediately put an end to all human rights violations, to stop any attacks against civilians, and to fully respect all human rights and fundamental freedoms, including freedom of expression and freedom of assembly;

3.*Strongly calls upon* the Government of Libya for the immediate release of all arbitrarily detained persons, including those who were detained before the recent events, as well as for the immediate cessation of intimidation, persecution and arbitrary arrests of individuals including lawyers, human rights defenders and journalists;

4.*Urges* Libyan authorities to ensure the safety of all civilians, including citizens of third countries, to refrain from any reprisals against people who have taken part in the demonstrations, to facilitate the departure of those foreign nationals wishing to leave the country, and to allow the provision of urgent humanitarian assistance to those in need; (…)

(…) 6.*Further urges* Libyan authorities to respect the popular will, aspirations and demands of its people and to do their utmost efforts to prevent further deterioration of the crisis and to promote a peaceful solution ensuring safety for all civilians and stability for the country;

7.*Recalls* the importance of accountability and the need to fight against impunity and in this regard stresses the need to hold to account those responsible for attacks in Libya, including by forces under government control, on civilians; (…)

(…)10. *Calls on* the Libyan authorities to guarantee access to human rights and humanitarian organisations including human rights monitors;

11 *Decides* to urgently dispatch an independent, international commission of inquiry, to be appointed by the President of the Council, to investigate all alleged violations of international human rights law in Libya, to establish the facts and circumstances of such violations and of the crimes perpetrated, and , where possible identify those responsible to make recommendations, in particular, on accountability measures, all with a view to ensuring that those individuals responsible are held accountable, and to report to the Council at its seventeenth session, and calls upon the Libyan authorities to fully cooperate with the Commission;

12. *Requests* the Secretary-General and the High Commissioner to provide all administrative, technical and logistical assistance required to enable the above-mentioned commission of inquiry to fulfil its mandate; (…)

(…)14.*Recommends* to the United Nations General Assembly, in view of the gross and systematic violations of human rights by the Libyan authorities, the consideration of the application of the measures foreseen in OP8 of General Assembly resolution 60/251; (…)

See full **resolution** .

See full Special Session **summary** .

4. Statement by the Group of Friends on Responsibility to Protect on the situation in the Libyan Arab Jamahiriya
 25 February 2010

The Group of Friends is an informal cross regional group of UN member states that share a common interest in the responsibility to protect (R2P) and advancing this norm within the UN-system.

1. The Group of Friends on Responsibility to Protect expresses its grave concern at the recent grave human rights violations committed in Libya, which if wide-spread and systematic, may account to crimes against humanity, in particular the continued violence against civilians, and

the incitement and inflammatory statements.

2. The Group of Friends wishes to reiterate paragraphs 138 and 139 of the World Summit Outcome document (A/RES/60/1), and in particular the responsibility for individual countries and the international community to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, including their incitement.

3. We welcome the press statement issued by the Security Council on 22 February 2011, which calls upon the Government of Libya to meet its responsibility to protect its population, as well as the statement by the Secretary-General's Special Advisers on the Prevention of Genocide and the Responsibility to Protect on the same matter.

4. We also welcome the recent statements and communiqués by the League of Arab States, the Organization of the Islamic Conference, the Peace and Security Council of the African Union and the European Union.

5. We strongly call upon the government of Libya to meet its Responsibility to Protect its population and put an immediate end to all human rights violations and ensure the full respect of human rights and fundamental freedoms.

6. We call upon all the relevant bodies of the United Nations to take urgent and appropriate measures to put into practice the commitment of the international community to the Responsibility to Protect.

See **statement** .

II. Civil society warns of humanitarian crisis; calls for continued action

1. Mass Exodus and the Responsibility to Protect under international law: the case of Libya
  Institute for Security Studies
  Luis Preval

Abstract:

Southern Member States of the EU are currently worried about a potential mass exodus of refugees from Libya arriving on their borders. The Italian Foreign Minister has anticipated its 'biblical' dimensions, which in fact reflects the dimensions of a crisis that is forcing Libyan citizens to leave their own country in order to preserve their life and freedom. Events in Libya have unfolded differently from Tunisia or Egypt, where the regimes were unwilling or reluctant to initiate a wholesale massacre of their own citizens due partly to the determined reaction of the US and some EU Member States. People fleeing from Libya are protected by the non-derogable right of non-refoulement and thus under no circumstances can they be forcibly returned to a territory where their life or physical safety are at risk for (in this case) political reasons. The 1951 Convention on the International Status of Refugees, the European Convention of Human Rights, the Charter of Fundamental Rights of the European Union (EUCFR) and a whole set of EU Directives are unequivocal in establishing the right of individuals not to be forcibly expelled, whether directly or indirectly, back to the place where they may suffer persecution. This right has been widely and consistently interpreted by national and international courts as an absolute right.

See **full analysis**

2. Libya: Africa's rights body should act now
  Human Rights Watch
  25 February 2011

(…) The African Commission on Human and Peoples' Rights should impose immediate measures on the Libyan government to end the massive human rights abuses occurring throughout the country, the Egyptian Initiative for Personal Rights (EIPR), Human Rights Watch, and INTERIGHTS said today. The three human rights organizations submitted a joint request to the commission on February 24, 2011, asking it to act on Libya during its meeting in Banjul, Gambia, which began on February 23. (…)

(…)"Colonel Gaddafi has long claimed a leadership role for Libya in Africa," said Clive Baldwin, senior legal adviser at Human Rights Watch. "Africa's human rights body should act now, when some of the continent's worst atrocities are taking place in Libya."

The organizations' letter sets out human rights violations in Libya since February 16, as documented by Human Rights Watch and others. These include the apparent unjustified killings of hundreds of people who participated in largely peaceful protests by state security forces and mercenaries and efforts to shut down the Internet and exclude foreign journalists, violating freedoms of expression and of information.

The three organizations asked the commission to impose immediate "provisional measures" on Libya to stop the human rights violations, including the unlawful killings, and to ensure that those responsible for crimes are held accountable. (…)

See full **article** .

3. Fear grows for Libya migrants as thousands flee
Amnesty International
2 March 2011

(…) Amnesty International has warned of a growing humanitarian crisis as thousands of migrants flee Libya during continuing unrest. (…)

(…) "All Libya's neighbouring states must keep their borders open and provide assistance to all those fleeing violence. They are obliged to do this under international law," said Michael Bochenek, Amnesty International's Director of Law and Policy.

  "The international community must also do all it can to offer urgent support and assistance to the Tunisian authorities and other states accepting those fleeing the violence, and help migrants return safely to their home countries as quickly as possible if they desire,"

  Amnesty International also said it was concerned by a report from UNHCR that migrants in Libya who originate from countries in sub-Saharan Africa were being turned back at the Tunisian border.

  "All those fleeing the chaos in Libya must be given sanctuary by neighbouring states without discrimination – not refused entry and put at risk of falling victim to further violence." (…)

(…) "The international community must also provide aid to the UNHCR and other bodies struggling to deal with this crisis. They must also act quickly, before the problem gets even worse," said Michael Bochenek.

  Amnesty International is also calling for:

  • Neighbouring countries to allow entry to all arrivals from Libya - of Libyan nationals as well as nationals of other states

   • Receiving countries to address the immediate needs of arrivals (shelter and accommodation, food, medical services) pending their referral to appropriate services and procedures that address their situation more directly
   • The international community should assist countries receiving those fleeing Libya with their immediate needs and should assist with resources necessary to ensure that people can reach a place of safety
   • Allow Libyan nationals temporary protection to allow time for the situation in Libya to be clarified and possible longer-term solutions for them to be identified
   • States to screen, separate, and respond appropriately to those who are implicated in serious criminal acts, notably crimes under international law
   • For the referral of those who have been recognized as refugees or are asylum seekers to national asylum procedures or to UNHCR
   • Provide assistance to those third-country nationals who do not claim international protection with assistance to enable them to return in safety to their homes (…)

Read full **article** .

III. Op-Eds on RtoP in Libya

1. Waterloo Region Record
  Ramesh Thakur
  3 March 2011

Ramesh Thakur is a professor of political science at the University of Waterloo and was an R2P commissioner and a principal author of its report.

In 2005, world leaders unanimously agreed that in situations where governments were manifestly failing in their sovereign duty, the international community, acting through the United Nations, would take "timely and decisive" action to honour the collective **responsibility** to **prote**

ct   pe
ople against atrocity crimes. Libya today is the place and time to redeem that pledge.

The United Nations' record on the Arab world is no less patchy than the West's. Having degenerated into internal security states backed by the U.S. national security state, Arab regimes were politically exhausted and morally bankrupt. It was the UN that, almost a decade ago, provided the moral compass and intellectual leadership with the Arab Human Development Report, written mainly by Arabs themselves. Yet Libya was also elected to the UN's main human rights watchdog.

Both the Rwanda genocide and the Srebrenica massacre happened on Kofi Annan's watch as the top UN official for peacekeeping. After becoming secretary-general, he pushed for a new doctrine to take effective action.

With Canada's help, an international commission formulated the innovative principle of the "**res ponsibility**
to
protect
," known as R2P.

Describing R2P as one of his most precious achievements, Annan used its preventive pillar as a prism to mediate in the post-election violence in Kenya in 2008. The current secretary-general, Ban Ki-moon, has put his full weight behind R2P.

The language of R2P refers to state inability or unwillingness as the catalyst for the international **responsibility** to **protect** being activated. But often the state itself is the perpetrator of atrocity crimes when security forces, meant to protect people, are instead let loose in a killing spree.

That is the situation today in Libya, where many have already been killed and a carnage is feared. After 42 years of autocratic rule, Moammar Gadhafi is using deadly violence to crush and kill his people in open revolt against his dictatorship. He has vowed to fight to the last drop of his blood. The UN should grant him his wish.

R2P provides the normative and political cover to deal robustly, promptly, effectively and, if necessary, militarily with Gadhafi's threat to his people. Action will also help the UN and the West to cleanse their consciences of the stain of being passive spectators in Rwanda and Srebrenica and of complicity in privileging stability over freedom for the Arabs. In effect, the Arab world was declared a democracy - and human rights-free zone.

R2P is narrow - it applies only to the four crimes of ethnic cleansing, genocide, crimes against humanity, and war crimes - but deep: There are no limits to what can be done in responding to these atrocity crimes. Conversely, global support for R2P is broad but shallow. Libya is the perfect opportunity to convert the noble sentiments and words of R2P into deeds.

Over the past week, the UN Security Council, Human Rights Council and Ban Ki-moon have called on Libya to respect its **responsibility** to **protect**and uphold human rights and international humanitarian laws. On Saturday, the Security Council imposed sanctions on Libya and referred Gadhafi to the International Criminal Court. Those who reject the ICC but refer others to it - China, India, Russia, the U.S. - violate natural justice and are guilty of gross hypocrisy.

The crisis has escalated beyond the point of return. Calls for restraint are no longer enough.

When Gadhafi says protestors deserve to die and his son warns of a river of blood, the world must meet the challenge, not duck it yet again. Helped by many Libyan diplomats defecting en masse and joining calls for international intervention, the Security Council must forthwith implement R2P and declare and enforce a no-fly zone - if Libyan pilots fly, they die.

For Gadhafi's trial at the ICC to be morally credible, it must be backed by criminal investigations of the foreign banks that have parked his ill-gotten gains in violation of global anti-corruption agreements, and public shaming of Africans who elected Libya to the Human Rights Council and Westerners who armed his thugs.

See **full article** , and March 1st article in the Toronto Star called " **It's time for the UN to hold Gadhafi responsible and invoke doctrine of 'responsibility to protect'**
"

2. Libya and R2P: What Now?
  Tim Dunne
  The Interpreter
  3 March 2011

Tim Dunne is Professor of International Relations and Director of Research in the Asia-Pacific Centre for the Responsibility to Protect, University of Queensland.

(…) should the international community respond to make sure Benghazi and Zawiyah do not become today's Srebrenica and Kigali — places that the world stood and watched as atrocity crimes were being committed?

Initial signs are hopeful. The UN Security Council Resolution of 26 February called for 'decisive action' and 'tough measures' against the Qadhafi regime. R2P was invoked for the first time in a Security Council resolution against a specific country. This is already being seen by R2P advocates as a pivotal sign of the norm's growing acceptance as a guide to international action.

But the circumstances triggering the Security Council's deliberation are unusual. First, the Libyan Ambassador to the UN denounced the Qadhafi regime, leaving it without a single ally. Second, the measures adopted – travel bans, freezing assets, criminal court investigations – are robust but will do nothing to prevent further atrocities if the army and security forces remain loyal.

(…) Leaders of Western governments are contemplating tough action, including a no-fly zone and securing a humanitarian corridor to ease the passage of refugees.

Unless Qadhafi goes quickly, it is likely that the international community will take tougher action against his regime. But will this be done at the behest of the Security Council? Veto-wielding powers such as Russia and China have intimated they would oppose a resolution permitting force. If they do not shift ground, an alternative possibility is that action could be taken by NATO. This would appeal to many advocates of intervention in the US. A strongly worded letter to the US president, calling for decisive action, has been [posted on the Foreign Policy Initiative website](). It was signed by 40 policy analysts, and included prominent neo-conservatives associated with the George W Bush Administration such as Robert Kagan, William Kristol and Paul Wolfowitz, who was deputy-defence secretary under Bush.

The letter demands that the US and NATO develop operational plans to command Libyan waters and air space. Consistent with the position that the neo-conservatives adopted in relation to Iraq, there is no mention of the need to establish a wider consensus behind this action.

For neo-cons, as well as some internationalists who support the Obama Administration, the UN is too weak and divided to take effective action. They would rather see it replaced by some kind of league of democratic states which has both the power and, in their eyes, the moral authority to taken international action.

The problem with actions outside the UN Security Council is that they are in breach of a rules-based international order, and as Foreign Minister Rudd put it in his recent speech to the UN Human Rights Council
, states such as Australia which aspire to be 'good international citizens' must 'build, sustain, and enhance' global and regional rules.

It is the last part of this quotation that provides an intriguing possibility for coercive action against the Qadhafi regime should the UN Security Council fail to authorize action. NATO forces took action against Yugoslavia in 1999 without authorisation; the process whereby Western states sought legitimacy for their actions outside the Security Council could become an important precedent in the coming weeks.

Back in 2000, former South African President Nelson Mandela criticized the Kosovo intervention not on the grounds that NATO powers had circumvented the Security Council, but because they had failed to act when Africans had been slaughtered.

Should Qadhafi and his army fight to consolidate their power, it is hoped that the Security Council authorizes all necessary coercive measures that are likely to succeed and that meet the test of proportionality. Mandela should be given an answer to his question about double standards.

See **full article**

3. Libya and the Responsibility to Protect
  Irwin Cotler and Jared Genser
  New York Times
  28 February 2011

Irwin Cotler is a member of the Canadian Parliament and a former minister of justice and attorney general of Canada. Jared Genser is a lawyer and teaches a seminar on the Security Council at the University of Pennsylvania Law School. They are co-editors of the forthcoming "The Responsibility to Protect: The Promise of Stopping Mass Atrocities in Our Times."

(…) In its statement condemning the violence, the Security Council included a critical reference to Libya's "responsibility to protect" (RtoP) its own citizens from mass atrocities. (…)

(…) Since then, the doctrine was most notably applied in the case of Kenya's post-election violence in 2007-2008. And this is only the second time it has been explicitly invoked by the Security Council regarding the situation in a specific country, the first being Darfur. (…)

(…) So the Libya resolution is a major step forward, both for the people of Libya and in the international community's stated commitment to end mass atrocities.

But lest we get too excited too early about what is happening in regard to Libya, it is important to understand these developments and how much more needs to be done.

First, the firm response to the situation in Libya has only been possible because of the combination of Qaddafi's horrific actions targeting civilians, his self-destructive comments demonstrating both his intent and disconnection from reality, and the mass defection of his ambassadors, military and civil servants in Libya and around the world.

Collectively, there is just no one left to defend him. Any resistance to tough action in the Security Council was reportedly overcome by a strong and unequivocal letter in support of the proposed resolution by Libya's permanent representative to the United Nations, who later broke down in tears begging the body to save his country.

Second, although the Security Council has taken stronger action in a shorter period of time than it ever has before on any other mass-atrocity situation, travel bans, financial sanctions and international criminal investigations won't have a demonstrable impact on civilians on the ground in the short-term. Qaddafi, his family and his regime are fighting for their lives, and these are far-off consequences that only begin to matter if they survive in power.

Third, while critical steps have been taken, more must be done to complete the transition of power and avoid the chaos and loss of life that would be caused if the world watches Libya descend into a full-blown civil war.

Specifically, by losing control of his territory, Qaddafi can legally be described as no longer being the leader of the country. (…)

(…) The situation in Libya is a test case for the Security Council and its implementation of the RtoP doctrine. Yet it remains the case that, as the U.N. secretary general, Ban Ki-moon, put it, "loss of time means more loss of lives." The Security Council must do more — and fast. It is our collective responsibility to ensure RtoP is an effective approach to protect people and human rights. (…)

See full **article** .

4. No-fly zone will help stop Gaddafi's carnage
 Gareth Evans
 Financial Times
 27 February 2011

The writer is former Australian foreign minister, president emeritus of the International Crisis Group and author of 'The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All'

State sovereignty is not a licence to kill. No state can abdicate the responsibility to protect its people from crimes against humanity, let alone justify perpetrating such crimes itself. When it manifestly fails in that protection, it is the responsibility of the international community to provide it, if necessary – should peaceful means be inadequate – by taking timely and decisive collective action through the United Nations Security Council . (…)

The Security Council, after moving with painful caution the first few days of the crisis, has over the weekend invoked the responsibility to protect principle and – in a historic first – agreed on a substantial package of measures to implement it: an arms embargo, asset freeze, travel bans and, importantly, reference of the situation to the International Criminal Court.

These measures are necessary and important, but they fall short of the threat or use of military force   . Will they be enough to stop the killing? Or is it instead time to apply and enforce a no-fly zone, or to go further still and send in ground forces? This is a horribly difficult call, and not even the most passionate advocate of the responsibility to protect can pretend otherwise.

Declaring a no-fly zone is not the soft option it may seem: it must mean being prepared to shoot down jets and helicopter gunships that breach it, and that will mean a huge risk of hostage-taking or reprisal against any intervener's nationals still in the country. Any invasion force, assuming one could be mustered at short notice, would raise the stakes much higher still.

(…)The second great hope of advocates of responsibility to protect was that consensus in principle would make agreement much easier on what to do in practice. But that has proved harder, as experience in Darfur, the Democratic Republic of Congo, Sri Lanka and elsewhere has unhappily demonstrated. But the lesson of these difficulties is not that the principle is irrelevant but that we have to do better in applying it in the future – and that future, with Libya, is now.

 Sanctions , embargoes and the diplomatic isolation of Mr. Gaddafi are the inescapable minimum of what is now required. But if they do not bite immediately, and the carnage continues, there will be no option but to do more. Military options should always be a last resort, but they cannot be excluded in extreme cases. Libya is as extreme as it gets.

It will be desperately difficult to get agreement on foreign boots on the ground, quickly or at all.

But a strongly enforced no-fly zone is a realistic option, easier to contemplate as the last vulnerable expatriates leave the country and likely to be just as effective in forcing Mr. Gaddafi's capitulation. Planning for it should start immediately. For all that it has done so far, the ball remains in the Security Council's court; not only the credibility of the responsibility to protect principle is at stake, but its own.

See full **article** .

5. How Canada can help Libya

Romeo Dallaire and Hugh Segal
Ottawa Citizen
25 February 2011

Liberal Senator Roméo Dallaire commanded the United Nations Assistance Mission for Rwanda (UNAMIR). Conservative Senator Hugh Segal is former chair and current member of the Senate Committee on Foreign Affairs.

The people-powered revolution that has spread through North Africa and the Middle East since Tunisian citizen Mohamed Bouazizi's self-immolation in December 2010 has hit a crescendo with Libya. The protests against state repression, with the assistance of social media such as Facebook and Twitter, confronted elsewhere largely peacefully, have now turned deadly in Libya.

"I will fight to the last drop of my blood," declared the embattled, delusional and megalomaniacal Libyan leader, Col. Moammar Gadhafi. Calling protesters "cockroaches" and attributing Libya's unrest to the influence of foreigners, Gadhafi threatened to "cleanse Libya house by house" -hearkening dangerously to the mass, door-to-door violence we remember from atrocities elsewhere in history.

In 2005, Canada and the international community declared unanimously its "responsibility to protect" (R2P) populations from genocide, war crimes, ethnic cleansing and crimes against humanity, including their incitement, where sovereign states prove unable or unwilling to do so. Subsequent to this aspirational declaration, R2P has been exercised neither clearly nor consistently when needed most. And, as a doctrine, it is hollow if it is not backed up with the will to engage or the actual capacity to deploy. Its application is now required, through multilateral initiative and the UN, desperately in Libya. (…)

We appreciate our government's concern for Canadian citizens in Libya and its deep regret for the loss of Libyan life. But we agree that Canada, with a loud and clear moral voice, must abhor what U.S. Senators John McCain and Joe Lieberman have described as "crimes against humanity" and demonstrate its responsibility to protect Libyans by endorsing and recommending the following proposals:

An international arms and military technology embargo to prevent the sale and further delivery of equipment or support to Libyan security forces must be imposed, while refraining from commercial sanctions that would affect civilians more adversely.

The UN Security Council must impose sweeping sanctions on Gadhafi, his family and regime retainers responsible for the repression. Their assets should be frozen immediately and an explicit travel ban should be enforced. While the U.S. and European Union consider these steps, Canada should initiate its own sanctions to encourage similar action.

As Libya is not a party to the International Criminal Court (ICC), its leaders should be referred by the Security Council to the ICC for an immediate investigation into possible war crimes and crimes against humanity.

Echoing calls by courageous Libyan diplomats, American lawmakers, UN officials and advocacy groups, a no-fly zone should be established under Chapter VII of the UN Charter and enforced, perhaps by NATO, over Libya to prevent air attacks against civilians.

Support from the international community, and Canada especially, should be offered for building Libyan civil society and the national institutions neglected and denied during Gadhafi's four-decade, one-man rule.

Although the Security Council has expressed "grave concern" and called on Libya "to meet its responsibility to protect its population," its issuance of a press statement is insufficient to communicate the gravity of the situation that Libyans face -namely, the threat of mass atrocities. Time is literally of the essence.

The Arab League's suspension of Libya from participating in its meetings was a positive first step. The cascade of Libyan diplomats and high-level aides who have resigned and continue to defect -including the country's interior and justice ministers and diplomats at embassies in Canada, the U.S., the UN, and elsewhere -should be lauded for their courage.

But strong words must be paired with strong action. Canada and the international community must stand by the people of Libya who, like so many others throughout the Arab world, seek the basic human rights that should be enjoyed by all who desire them. Whereas the protests elsewhere have led to relatively peaceful transitions or to dialogues for reform, Libya's rulers have chosen repression and slaughter.

Our response may very well determine whether the next authoritarian government threatened follows Gadhafi's lead. This is not about picking winners; it's about being on the right side of

history by saving human lives.

We have seen the cost of inaction, delay and obfuscation on innocent populations elsewhere. The Responsibility to Protect is about the world engaging when a civilian population is under attack -either from its own government or because its government lacks the means or will to protect it. Libya is one of the clearest examples yet of just such a circumstance.

Canada has an opportunity to help build a coalition at the UN for rapid engagement. This needs to be a matter of hours and days, not weeks and months.

See full **article** .

IV. Violent Clashes in Cote d'Ivoire; Fears of Resurgence of Civil War

Since the refusal of Gbagbo to leave office after being defeated by Alazzane Ouatara in last November's presidential election, tension and violence have continue to rise in Cote d'Ivoire, demanding increased attention and pressure from the international community. This week, the deteriorating security situation has resulted in some of the worst fightging since the election, with now over 30,000 Ivorians fleeing to Liberia and significant civilian fatalities, as well as fear of the resurgence of civil war. The UNHCR has expressed concern *on 1 March as civilians remained isolated in the northern Abodo region where heavy gunfire has been reported for several days. Secretary-General*
Ban Ki-moon
, when speaking before the Security Council on February 25, 2011, reminded the government of Côte d'Ivoire of its clear
responsibility to protect
its civilian population and called for its armed forces to carry out those responsibilities professionally and impartially.

1. Côte d'Ivoire: Is War the Only Option?
International Crisis Group
3 March 2011

Côte d'Ivoire is on the verge of a new civil war. This tragedy can only be avoided if Africans and the wider international community stand firm behind the democratically elected president, Alassane Ouattara, and he launches an initiative for reconciliation and a transitional government of national unity.

Côte d'Ivoire: Is War the Only Option, the latest International Crisis Group report, examines the escalation of political violence and armed confrontations since Laurent Gbagbo refused to accept defeat in the November presidential election and has sought to retain office by manipulating institutions and violence. The report says war is imminent, with Gbagbo's army and militias already beginning to clash with the former insurgent Forces Nouvelles in Abidjan and the west of the country, close to the border with Liberia.

The requirements to avoid a disastrous new conflict include Gbagbo stepping down; Ouattara offering to negotiate, with civil society help, an agreement for unity, national reconciliation and an interim transitional government with him at its head (but without the irreconcilable former president); the UN peace-keeping mission standing firm to carry out its civilian protection mandate; and the international community unequivocally supporting any decisions of the Economic Community of West African States (ECOWAS), including deployment of a military mission.

"The Gbagbo regime is a serious threat to peace, security and stability in the whole West African region", says Rinaldo Depagne, Crisis Group's West Africa Senior Analyst. "Any proposal to end the crisis that endorses or extends the Gbagbo presidency would only prolong the chaos and increase the risks".

The election was part of a peace process that began after the September 2002 rebellion and was endorsed by several accords, the latest the 2007 Ouagadougou Political Agreement that all candidates, including Gbagbo, accepted and that set out compromises on organisation and security for the balloting. Ouattara won the run-off with a margin of more than 350,000 votes over Gbagbo.

The UN certified that result, but Gbagbo used the country's highest court to throw out votes arbitrarily so he could stage a constitutional coup. Since then, he has relied on violence and ultra-nationalist rhetoric to cling to power. Over 300 people have been killed, dozens raped and many more abducted and disappeared by security forces. ECOWAS and the African Union (AU) have recognised Ouattara as president-elect and asked Gbagbo to step down, but he is apparently prepared to resist to the end, even if it means throwing Côte d'Ivoire into anarchy, war and economic disaster with terrible consequences for the entire region.

The international community has an important role to play in assuring a peaceful outcome. The UN Security Counsel must support the UN Operation in Côte d'Ivoire (UNOCI) and encourage it to use all necessary means to accomplish its mandate. A new list of Ivorians subject to targeted sanctions should be developed, and the illegitimate Gbagbo regime's sources of finance should be examined. African states in particular need to show unity, and in particular South Africa should support ECOWAS efforts to remove Gbagbo and install Ouattara rather than pursue dangerously mistaken power sharing notions.

"The most likely scenario is an armed conflict involving massive violence against civilians that could provoke unilateral military intervention by neighbours", says Crisis Group West Africa Project Director Gilles Yabi. "To prevent this, ECOWAS must reclaim responsibility for political and military management of the crisis, with the unequivocal support of the AU and the UN".

See full report

2. Cote d'Ivoire: Leaders Should Prevent Abuses by their Forces

Human Rights Watch

24 February 2011

(…) Leaders from both sides of the worsening political crisis in Côte d'Ivoire should take all necessary steps to prevent abuses by their forces, Human Rights Watch said today. (…)

(…) Human Rights Watch has documented massive recruitment by both sides in recent weeks in the financial capital, Abidjan, and in the area where the new clashes occurred. Witnesses have described Gbagbo's forces training youth militias in Abidjan and Duékoué, a town in the far west, while other witnesses have described troop movements by *Forces Nouvelles* in the west and an expansion of the group into several Abidjan neighborhoods.

Human Rights Watch has also documented the recruitment and deployment of Liberian mercenaries in recent weeks, and credible sources indicate that some Liberian mercenaries fought alongside Gbagbo's forces during the February 24 clash. The possible use of former fighters from Liberia's civil war, in which widespread atrocities were committed, raises further concerns about the security of the civilian population, Human Rights Watch said. (…)

(…) Clashes have also erupted in recent days in the Abidjan neighborhood of Abobo, with heavy fighting between Gbagbo's forces and fighters believed to be linked to the *Forces Nouvelles* who call themselves the Movement for the Liberation of the Peoples of Abobo-Anyama (MLP-2A). At least 17 people have been reported killed since February 21, with sources inside both camps indicating that the toll could be much higher. Scores of residents in Abobo, particularly an area known as PK-18, are fleeing the area, as continued fighting appeared likely.

During the civil war and its aftermath, Human Rights Watch, the United Nations, and others documented serious violations of international humanitarian law by security forces and militia loyal to Gbagbo as well as the *Forces Nouvelles*. These included summary executions, torture, attacks on the UN, and the recruitment of child soldiers. There has been virtually no accountability for these crimes.

In the event of an armed conflict, both sides are obligated to respect international humanitarian law, or the laws of war. The laws of war prohibit deliberate or indiscriminate attacks on civilians and civilian property; require the humane treatment of all prisoners, wounded, and civilians in custody; and oblige parties to facilitate access to humanitarian aid. Individuals who deliberately or recklessly commit serious violations of the laws of war are responsible for war crimes.

"Civilians have long borne the brunt of armed conflict in Côte d'Ivoire," Bekele said. "Commanders from both sides need to ensure that their fighters do not commit abuses, or they risk prosecution for war crimes." (…)

See full **article** .