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(...) Security Council Resolution 1970 was remarkable for a number of reasons. First, it reflected a rapid response by the Council to the growing Libyan crisis, which was all the more notable because it was unanimously adopted. Second, the Council agreed to refer the situation in Libya to the prosecutor of the International Criminal Court for investigation as to whether international crimes had been committed by the Gaddafi regime.

This was only the second time such a referral had occurred and on March 3 the Court's prosecutor confirmed that an investigation had commenced. The final upshot of this development is that members of the Libyan regime may in the future find themselves before the court on charges of international crimes including crimes against humanity. Third, the Council agreed to a number of sanctions against the Libyan regime, including the imposition of an arms embargo, travel constraints on Colonel Gaddafi's family and some of his key officials, and the freezing of Libyan overseas assets. (...)

(...) However, Resolution 1970 has clearly not been enough as the violence has only escalated and Gaddafi's regime has not in any way felt constrained from its continuing attacks upon the civilian population.

While there may have been some early doubts as to the status of the conflict, the International Committee of the Red Cross has now conceded that the level of violence is that of a non-international armed conflict which carries significant implications under international humanitarian law for protection that should be afforded to the civilian population. In other words, Libya has now descended into a bloody civil war.

What more can the international community do? Debate has been ranging in various European capitals and in Washington over the merits of a NATO imposed no-fly zone over Libya. Could such a zone be imposed by NATO alone, or would a UN mandate be required? Resolution 1970 uses the language of the responsibility to protect, recalling the Libyan authorities' responsibility to protect their population. Australia's former Foreign Minister Gareth Evans has been a leading advocate of the "Responsibility to Protect" concept in the last decade; an idea that received unanimous support from world leaders in 2005. The basic tenet of the concept is that when national authorities are manifestly failing to protect their populations, the responsibility to protect them will shift to the international community.

In light of the widespread international support for responsibility to protect, why is it so difficult for world leaders to come to an agreement on a no-fly zone? What appears to be an underlying cause of this stalemate lies with the fundamental question about the Security Council's legitimacy and capacity to act on behalf of the international community. (...)

(...) The Arab League's recent decision to call for a no-fly zone might remove some of the political obstacles to the lawful military intervention as an exercise of the international community's responsibility to protect. However, the situation in Libya has been an evolving one, and is now not simply that the Libyan authorities are failing to protect their population from mass killings. (...)

(...) Should the international community take sides with one of the warring parties relying on their claim that thousands of people will be massacred if the pro-government forces were to eventually win back control of the whole country? Would a no-fly zone be only the first military phase that would need to be quickly backed up by a full-scale military intervention? Would international military intervention against the Gaddafi regime contribute to restoring regional peace and security or escalate the conflict causing more civilian casualties?

In light of these variables other options should be kept on the table. A more traditional peacekeeping operation might better suit the situation, concentrating international efforts on halting the violence and paving the way forward for political processes resolving the conflict. (...)

(...) If responsibility to protect is to have any future then decisive international action must be taken to bring about a resolution of the ongoing violence in Libya. Legalising intervention will go that step. (...) See [full article](#) .