

**A chink in the armour of sovereignty** Trinidad Express Newspaper Hans Geiser 27 March 2011

*Hans Geiser is a former UN diplomat*

(...) Not surprisingly, the events in Libya have become controversial. For some, in the majority, the UN Security Council Resolution is a historic event, since it applies for the first time in practice the novel concept of "the responsibility to protect" against a government who is committing grave human rights violations against its own people.

For some others, in the minority, what is happening in Libya is a serious violation of the principles of sovereignty and non-intervention, a disguised effort at recolonisation, a fig leaf for "regime change", and a hardly veiled attempt at grabbing Libya's oil by a new breed of "western crusaders". As for me, I place myself firmly among the group in support of the UN Resolution on the grounds that the international community has the responsibility to protect—and if necessary to intervene in situations of grave violations of human rights and crimes against humanity. (...)

What, then, is the meaning of "the responsibility to protect"? A quick look at the evolution of the concept is in itself quite interesting. The idea goes back to the period of the 90s when the international community witnessed a number of atrocious human rights violations, first and foremost among them the genocide in Rwanda. One of the strongest advocates of the concept was Kofi Annan who, deeply traumatised by the events in Rwanda, tirelessly promoted and lobbied for acceptance by the international community the responsibility, indeed the obligation, to protect civilian populations who are subject to human rights atrocities by their own governments.

This novel concept was initially opposed by a number of states, but it found its way, eventually, into the final document adopted by the UN Summit in 2005, on the occasion of the 60th anniversary of the UN. The concept has subsequently been endorsed by the Security Council and its implementation further defined unanimously by the UN General Assembly in its Resolution of 14 September 2009. Incidentally, Trinidad and Tobago was a co-sponsor of the Resolution.

(...) What is clear is that the Security Council more often than not is guided selectively by considerations of "realpolitik" rather than by novel principles of international law. However, in the case of Libya, it is my argument that the Security Council has taken legitimate enforcement measures specifically in line with and in support of the principle to protect innocent civilians. In so doing, the council has created a significant test case, a precedent which at the same time softens that traditional belief in absolute sovereignty. Hence, at least a chink in the armour! (...)

At first sight, this could be interpreted as contrary to the Charter provision and therefore render

the resolution null and void. However, some research into the state praxis in the Security Council indicates that the council from early on, and increasingly so in the more recent past, has taken numerous decisions without having the concurrence of all five permanent members. Instead, they have quite frequently and conveniently used abstention rather than their veto power, thus indicating somehow tacit acquiescence and letting the resolutions pass. Indeed, none of the five Members of the Council who have abstained on the Libyan vote have contested the validity of the Resolution.

The overall objective of the military intervention as authorised by the Security Council is to stop the indiscriminate persecution and killings of innocent civilians. If achieving this objective will lead eventually to regime change, so be it. It will be within international law and mark a chink in the armour of Libya's sovereignty.

See  
[full article](#)