

More ICRtoP Resources on Libya...

[Security Council Resolutions on Libya Referencing RtoP](#)

– [ICRtoP Blog: Responsibility While Protecting: The Impact of a New Initiative on RtoP](#)

– [ICRtoP Blog: Debating the Responsibility to Protect in Libya, Syria](#)

– [ICRtoP Blog: Al-Senussi Arrest: Concerns About Justice System in Libya](#)

– [ICRtoP Blog: Three Years On, Libya Still Providing Lessons for RtoP Implementation](#)

The Crisis in Libya

(For details on the Libyan Crisis post-Gaddafi, click [here](#) .)

I. Background to the humanitarian crisis

II. Initial response to the crisis in Libya

- a. Civil Society - Crisis warranted urgent response
- b. Regional response - early but disparate calls
- c. Government response
- d. UN: Special Advisers, Human Rights Commission, General Assembly and Security Council
- e. The International Criminal Court

III. Violence escalates to civil war as NATO enforces no-fly zone

- a. NATO supports rebels, receives criticism
- b. Civilians at risk from mass atrocity crimes
- c. Call for NTC to be held accountable

IV. Lessons learned and looking forward

- a. Military operation spurs debate
- b. Separating RtoP principles from implementation
- c. Continuing to uphold RtoP in Libya
- d. The International Commission of Inquiry

I. Background to the humanitarian crisis The crisis in Libya seized the attention of the international community and has been labeled a clear case for when timely and decisive response to uphold RtoP in the face of an imminent threat of mass atrocities should occur. In February 2011, civilians began to [undertak](#)

[e political protests](#)

demanding an end to Libyan leader Muammar Gaddafi's 41-year reign, wherein protestors found themselves the target of

[mass atrocities](#)

at the hands of government armed forces. In witnessing such violence by the Libyan government, the international community and regional and sub-regional bodies

[acted](#)

to protect the populations through a range of economic, political, and military measures.

Protests that began in the capital of Tripoli [spread](#) within weeks across the country to the city of Benghazi, which became the opposition's stronghold and was soon subject to shocking brutality as Gaddafi [dispatched](#) the national army to crush the unrest. The Libyan leader expressed clear intent to continue

committing massive human rights violations by announcing to Benghazi residents that his forces would show

[“no mercy”](#)

to rebels. Gaddafi’s cruel objective was clear in his potent

[speech](#)

broadcasted on 22 February 2011, when he used language reminiscent of the genocide in Rwanda and stated that he would rather die a martyr than step down. Gaddafi called on his supporters to attack the protesting “

[cockroaches](#)

” and “cleanse Libya house by house” until protestors surrendered.

Faced with Gaddafi’s imminent intention to massacre the city’s population, it was clear that international action in response to the Libyan government’s manifest failure to uphold its Responsibility to Protect was needed to halt ongoing crimes and prevent a bloodbath. Civil society, regional and international actors saw the warning signs of mass atrocities. Rather than stand by and risk failing to act while more civilians had been subject to mass violence, these actors urgently took action to prevent these heinous crimes.

II. Initial Response to the Crisis in Libya

Civil Society: crisis warranted urgent response under RtoP framework The dramatic death toll early on in the crisis was an indicator of the Gaddafi forces’ brutality to come, and drew immediate attention from civil society groups, governments and regional organizations. By 20 February 2011, Human Rights Watch stated that the death toll was at

[least](#)

233 over the course of four days and that government troops were indiscriminately targeting civilians. As early as 16 February 2011, civil society groups began condemning the excessive force used against protestors and calling on the Libyan government to release those arrested in advance of planned protests. Civil society groups from around the world referred to the Responsibility to Protect through articles, calls for action and op-eds. Citing the need to uphold the responsibility to protect populations from mass atrocities, many civil society groups called on the Libyan government to halt the violence and, in the face of its clear reluctance to do so, demanded early action from regional actors, individual states and UN bodies to protect the Libyan people.

See

[key civil society calls](#) for the Libyan government to uphold its Responsibility to Protect

Regional organizations: early but disparate calls for action help stimulate international response Early condemnation and calls for action in response to the crisis by the League of Arab States on [22 February 2011](#), the Organization of the Islamic Conference (OIC) on [22 February 2011](#), and the African Union (AU) on

[23](#)
[February 2011](#)

were crucial for the international community to move forward with stronger measures to protect civilians. Though condemnation was widespread, regional and sub-regional bodies advocated for different measures that the international community should take in response to Gaddafi's threat to his population.

The African Union consistently worked to find a peaceful solution and expressly rejected any external military response. The AU adopted a [Roadmap](#) for peace on 25 March 2011, which called for an immediate ceasefire and for the implementation of political reforms. The AU also clarified its readiness to deploy a monitoring mechanism as called for in the Roadmap. Though the Roadmap was soon [rejected](#) by the National Transitional Council (NTC), as it did not call for Gaddafi's resignation, the AU continued work to implement a [political](#) solution for the duration of the conflict. The NTC called the Roadmap ' [outdated](#) ', saying that it failed to take into account the human rights violations already perpetrated by Gaddafi forces. Steadfast support for a political solution led the AU to not [support](#) the [Security Council-sanctioned](#) NATO air-strikes , and the Union was later [criticized](#) for a slow and weak response to the Libyan crisis. The AU later [rejected](#) the arrest warrants for Gaddafi and others by the International Criminal Court (ICC) as they 'seriously complicated' efforts to find a political solution to the crisis. In fact, by only [recognizing](#) the NTC as Libya's legitimate governing body on 20 September 2011, the AU was one of the last regional bodies to do so.

The African Court on Human and People's Rights, on 31 March 2011, issued its first ruling against a state, [declaring](#) the existence of "a situation of extreme gravity and urgency as well as a risk of irreparable harm to persons" carried out by the Gaddafi regime. The Court [ordered](#) "provisional measures" against Libya requiring it to end all acts that would result in loss of life or violation of the physical integrity of people and summoning the government to appear before the Court. Although a representative from the Libyan government appeared before the court on 8 June 2011, the Court eventually [struck down](#) the case because the Applicant (the African Commission on Human and Peoples' Rights) failed to file a reply to the Libyan government's request to have the case dropped, which led the Court to believe that the Applicant is not going to pursue the case any further. In contrast, both the [Gulf Cooperation Council](#)

and the

[League of Arab States](#)

called on the Security Council to impose a no-fly zone over Libya on 7 March and 12 March 2011 respectively. During the second emergency meeting held on Libya by the Organization of the Islamic Conference on 19 March, the Secretary-General of the OIC

[welcomed](#)

the no fly-zone that was mandated by the Security Council in Resolution 1973, to be passed on 17 March 2011.

By 10 March 2011, the [European Union](#) (EU) had imposed sanctions, an arms embargo and a travel ban on Gaddafi and members of his family, and frozen the assets held by Libya's sovereign wealth fund and central bank.

Member

States: widespread unilateral diplomatic and economic measures

Individual states including the

[United Kingdom](#)

,
[United States](#)

,
[Switzerland](#)

,
[Australia](#)

, and

[Canada](#)

, also reacted quickly to the humanitarian crisis, freezing financial assets and imposing travel bans and sanctions. France and the United Kingdom in particular advocated early on for the recognition of the organized rebel movement in Libya and led calls for a no-fly zone,

[provided](#)

it was supported regionally and legally.

Leaders from 35 governments and NGOs

[met](#)

in London on 29 March 2011 to discuss the deteriorating situation in Libya. Conference participants,

[agreeing](#)

that Gaddafi's government had lost legitimacy and needed to be held accountable for its brutal use of force, established a political contact group to provide "leadership and overall political direction to the international effort in close coordination with the UN, AU, Arab League, OIC and EU to support Libya."

Across Libya, members of the government, military, tribal leaders, and army units

[defected](#)

and joined the opposition, especially after 22 February 2011, the day the Libyan government began targeting civilians in aerial bombardments. An

[interim opposition government](#)

, later named the National Transitional Council (NTC) was established on 26 February 2011 under the leadership of former Justice Minister Mustafa Abdul Jalil, the first government official to break ties with Gaddafi. The NTC was eventually universally accepted as the governing body of Libya, first by the

[Contact Group](#)

on 25 August 2011, then by the

[League of Arab States](#)

on 27 August, the

[UN General Assembly](#)

on 16 September and the

[African Union](#)

on 20 September.

United Nations: early condemnation and non-military measures leads to no-fly zone

Many UN bodies quickly became seized of the crisis and condemned the violent attacks against civilians by Gaddafi's forces. On 22 February 2011, the Special Advisers on the Prevention of Genocide and the Responsibility to Protect issued a

[press release](#)

on the situation in Libya in which they reminded the Libyan government of its responsibility to protect its population and called for an immediate end to the violence. Three days later, the Human Rights Council (HRC) adopted

[Resolution S-15/2](#)

which called for the Libyan government to uphold its responsibility to protect and cease all human rights violations; for an international commission of inquiry to be established; and for the General Assembly suspend Libya from the Council. In response, the General Assembly unanimously

[suspended](#)

Libya's membership to the Council on 1 March. Later, on 1 June 2011, the

[report](#)

submitted to the Human Rights Council (HRC) by the International Commission of Inquiry

[stated](#)

that Libyan government and opposition forces committed crimes against humanity and war crimes since the start of the crisis.

The Security Council responded to concern from the Arab League, African Union, Organization of the Islamic Conference, and Human Rights Council, and adopted

[Resolution 1970](#)

(unanimously) on 26 February 2011. Resolution 1970 affirmed Libya's 'responsibility to protect' and marked the first time the Council had referred to the RtoP framework since a 2006

Resolution on the situation in Darfur. Resolution 1970 imposed an arms embargo and travel ban on the Gaddafi family and key members of government, froze the assets of the Gaddafi family, and referred the situation to the International Criminal Court for investigation into reports of

crimes against humanity.

When the non-military measures authorized in Res. 1970 failed to deter Gaddafi from expressing clear intent to attack the population in Benghazi and halt the mass violence on protesters, the Council adopted

[Resolution 1973](#)

on 17 March 2011. China, Russia, India, Brazil and Germany abstained from the vote. The Resolution sanctioned a no-fly zone to protect Libyan civilians, and authorized Member States, in cooperation with the Security Council, to take “all necessary measures (...) to protect civilians and civilian populated areas under threat.”

[Ban Ki-moon](#)

issued a statement immediately after the meeting highlighting the historic decision achieved by the Council and how Resolution 1973 “affirms, clearly and unequivocally, the international community's determination to fulfill its responsibility to protect civilians from violence perpetrated upon them by their own government”.

ICC: rapid preliminary investigation leads to open case in Libya

Following the UN Security Council's adoption of Resolution 1970 referring the crisis in Libya to the ICC, Prosecutor Luis Moreno-Ocampo

[decided](#)

on 2 March 2011, surprisingly quickly, to launch an investigation after a preliminary examination of available information. The ICC investigations into Libya reported

[evidence](#)

on 6 April 2011 that “civilians were attacked in their homes; demonstrations were repressed using live ammunition, heavy artillery was used against participants in funeral processions, and snipers placed to kill those leaving the mosques after the prayers.” On 8 June 2011 Prosecutor Moreno-Ocampo

[confirmed](#)

that the Libyan government had used rape and sexual violence as tools of war and repression to target people against the government. The Prosecutor then

[issued](#)

three arrest warrants for crimes against humanity for Gaddafi, his son Saif Al-Islam Gaddafi, and Gaddafi's Head of Military Intelligence Abdullah Al-Senussi on 27 June 2011.

III. Violence escalates to civil war as NATO enforces no-fly zone

NATO supports rebels during ensuing armed conflict and receives criticism

A

[Coalition](#)

of States, which ultimately included 15 NATO countries, Sweden, Jordan, Qatar, and the United

Arab Emirates, took part in implementing the no-fly zone over Libya mandated by Resolution 1973. The Coalition successfully provided [support](#) to NTC forces in Benghazi and Misrata and then later in Libya's capital Tripoli, Gaddafi's hometown Sirte, and other loyalist strongholds in Libya. Crimes against humanity committed by pro-Gaddafi forces continued until 24 October 2011 when NTC officials declared the [end of the eight-month conflict in Libya](#) following the death of Gaddafi and his son Mutassim on 20 October. The NATO mission ended on 31 October as the UN Security Council voted unanimously on 26 October 2011 to [end](#) the no-fly zone in Libya.

Following serious concern that NATO aerial bombardments may have caused civilian casualties, think tank NATO Watch issued a [press release](#) calling for an independent inquiry to evaluate the mission. Though no such inquiry has been launched by NATO, the Prosecutor of the International Criminal Court, in his second [report](#), released in November 2011, highlighted consideration of allegations of war crimes committed on all sides and reported that NATO may have used force indiscriminately in civilian occupied areas. Furthermore, an [Amnesty International report](#) from 19 March 2012 found that, even though NATO made significant efforts to minimize civilian damage, the airstrikes resulted in the deaths of scores of civilians and the injuries of many others. In addition, the report explained that NATO had not informed any of the affected families about any investigations carried out into these incidents. In May 2012 [Human Rights Watch](#) also detailed multiple civilian casualties resulting from NATO's air strikes in Libya. However, in its [2 March 2012 report](#), the International Commission of Inquiry on Libya found that the NATO campaign was conducted "with a demonstrable determination to avoid civilian casualties."

NATO also came under [scrutiny](#) from some Member States and civil society over whether the organization had gone beyond its mandate from the Council to protect the population by helping rebel forces in defeating Gaddafi's army, thereby effecting regime change. European nations called for Gaddafi to step down as [early](#) as 12 March 2011, which has invited skepticism that the NATO mission adopted the leader's removal from power as an objective or even that some Security Council members assumed regime change to be a necessary step to protect the population in Libya.

Civilians at risk of mass atrocities amid civil war

The crisis quickly deteriorated into a civil war between rebel forces and the pro-Gaddafi military. NTC ground forces and the Coalition, through aerial bombardments and military advisers, fought to gain control of loyalist territory in Libya. Pro-Gaddafi forces responded to the fortified rebel movement with robust force, and reportedly used

[cluster munitions](#)

and targeted civilian areas. Civilians across Libya suffered from displacement, shortages in supplies and dangers from explosive remnants. According to the UN

[High Commissioner for Refugees](#)

(UNHCR) and the

[Office for the Coordination of Humanitarian Affairs](#)

(OCHA), by mid-June, many civilians fled the conflict, remaining

[displaced](#)

or crossing the border into Tunisia, Egypt or Chad, becoming

[refugees](#)

. Médecins Sans Frontières

[reported](#)

in mid-August and

[later](#)

in October that the delivery of supplies was heavily disrupted by the conflict resulting in shortages in water, fuel, food and medical supplies. Several organizations, including

[UNICEF](#)

in June, the

[Inter-Agency Humanitarian Assessment mission](#)

in July, and the

[International Committee of the Red Cross](#)

in November, reported during the conflict that civilians faced additional risks from explosive remnants in cities and towns across Libya.

After a considerable stalemate, rebel forces took control of most of

[Tripoli](#)

in August, and for the next two months continued to struggle to take the remaining loyalist areas of Libya as atrocity crimes committed against civilians continued. On 26 August 2011, a large number of bodies were found in a Tripoli hospital emptied of staff and

[abandoned](#)

by pro-Gaddafi forces. Later, on 14 September 2011, the International Committee of the Red Cross reported that

[mass graves](#)

had been found containing the bodies of executed rebels. For more on the abuses suffered by civilians at the hands of Gaddafi's forces, see Amnesty International's 13 September 2011 Report,

[The Battle for Libya: Killing, Disappearances and Torture.](#)

Call for NTC to be held accountable for human rights violations

Throughout the conflict, NTC forces and other anti-Gaddafi militias were accused of targeting Sub-Saharan Africans due to perceived loyalty to Gaddafi. Though the NTC repeated its [intentions](#) to investigate human rights violations, secure arms depots, prevent revenge killings and stop ill-treatment of Sub-Saharan Africans, reports alleged that anti-Gaddafi forces repeatedly violated international and humanitarian law during the war. Nonetheless, foreign migrants were [reportedly](#) subject to arbitrary arrest and in some cases torture and execution. The International Organization for Migration [reported](#) that as of 3 November 2011, 768,372 foreign migrants had left Libya. Human Rights Watch reported that the [bodies](#) of 53 apparent Gaddafi supporters had been found on 23 October apparently executed by rebel militias.

On 20 October 2011, Gaddafi was captured and died in custody under questionable circumstances.

[Human Rights Watch](#)

and

[Amnesty International](#)

strongly urged for an investigation into Gaddafi's death, and

[stated](#)

that if Gaddafi had been deliberately killed in captivity, the act could constitute a war crime. The Office of the High Commissioner for Human Rights (OHCHR)

[supported](#)

the announcement of an investigation into Gaddafi's death, and reminded that all detainees should be awarded due process. The NTC heeded the calls of the OHCHR and civil society groups, and announced it would launch an

[investigation](#)

into the circumstances of Gaddafi's death on 20 October 2011.

IV. International Commission of Inquiry and Arrest of Abdullah al-Senussi

International Commission of Inquiry on Libya

Established by the UN Human Rights Council (HRC) in February 2011, the International Commission of Inquiry on Libya issued a [report](#) on 2 March 2012, finding that war crimes and crimes against humanity were committed by both pro and anti-Gaddafi forces. The report called for the establishment of mechanisms to address violations and curb impunity, specifically an independent judiciary. Commissioners also found that the NATO campaign in Libya was

conducted with “demonstrable determination to avoid civilian casualties.”

On 9 March 2012, the HRC held an

[interactive dialogue](#)

with the Commission, during which speakers addressed the remaining challenges in Libya. The Libyan delegation condemned all human rights violations, while most Member States present reiterated the importance of follow-up mechanisms to ensure accountability. Later that day, the Commissioners

[stated](#)

that they would hand an envelope to the UN High Commissioner for Human Rights Navi Pillay, which held the names of human rights violators from both sides of the conflict.

Arrest of Abdullah al-Senussi

Former Libyan Colonel and Chief of Military Intelligence Abdullah al-Senussi was [arrested](#) in Mauritania on 18 March 2011 by Mauritanian and French officials. He was one of three Libyan officials charged with crimes against humanity by the International Criminal Court (ICC) in

[June 2011](#)

and is currently wanted by the ICC for crimes against humanity during the 2011 crisis in Libya, the French government in

[connection](#)

with a 1989 terrorist attack, and

[Libya](#)

for crimes committed during former leader Muammar Gaddafi’s regime. Civil society groups such as

[Human Rights Watch](#)

, [Amnesty International](#)

, members of the

[Coalition for the International Criminal Court](#)

(CICC), and the

[International Federation for Human Rights \(FIDH\)](#)

called for al-Senussi to be transferred to the ICC rather than face trial in Libya. Ultimately, Mauritania

[decided](#)

to extradite al-Senussi to Libya for prosecution. Soon after that the ICC

[determined](#)

that the case of al-Senussi was inadmissible before the Court because Libya was willing and able to carry out a prosecution against him. Libya has been

[criticized](#)

by Human Rights Watch for holding al-Senussi and other ex-Gaddafi officials without due process. On 14 April 2014 the trial of al-Senussi and other former Gaddafi officials

[began](#)

with Libyan officials promising to conduct a fair and open prosecution. At the time of writing, the trial is still ongoing and the fate of al-Senussi remains to be seen.

An analysis of al-Senussi's arrest and extradition can be found in the ICRtoP

[blog post](#)

, 'al-Senussi Arrest: Conflicting Extradition Requests, Concerns About Libya's Justice System'.

V. Lessons learned and looking forward

Unfolding of military operation in Libya spurs debate amongst civil society

The decision among Member States around the situation in Libya was not about whether to act to protect civilians from mass atrocities but how to best protect the Libyan population. That Member States prioritized the protection of civilians from mass crimes reflected a historic embrace of the RtoP principles agreed to at the 2005 World Summit. However, the mission in Libya that resulted from the Council mandating a no-fly zone in Resolution 1973 sparked controversy over whether NATO went beyond the mandate. These concerns spurred significant debate over the following questions:

1. What were the motives of Coalition governments behind the NATO intervention in Libya? Did NATO overstep its mandate by aiding the rebel forces to facilitate regime change?

2.

What backlash has the NATO operation had on the RtoP norm and future possible cases of military intervention to protect civilians, such as Syria?

3.

How effective were the NATO operation and tactics in protecting populations? What was the humanitarian toll of the operations?

Impact of the NATO mission in Libya on the crisis in Syria and the future of RtoP

The above questions sparked a debate over what the NATO mission in Libya has meant for the RtoP norm as a whole. Some have

[argued](#)

that it has dealt a huge blow to the future of RtoP, making it unlikely that the Security Council will respond to the crisis in Syria. They

[point](#)

to the concerns expressed by some UN member states, such as Brazil and Russia, that NATO went beyond its mandate of protecting civilians by effecting regime change.

The evidence, however, provides little reason to believe that the future of RtoP has been

compromised.

[References](#)

to RtoP in Security Council resolutions have grown substantially since the Council's first resolution on Libya in February 2011. In the more than five years between the 2005 World Summit and the Libya crisis in 2011, the Security Council referred to RtoP only four times, and only two times in relation to country situations. In contrast, since Resolution 1973 authorizing the NATO mission in Libya, the Security Council has invoked RtoP in 25 Resolutions and

[6](#)

Presidential Statements.

Alex Bellamy's

[analysis](#)

of Security Council statements and voting patterns suggests that the Council's failure to act in Syria is more likely to stem from geopolitical considerations and not the Libyan mission itself. He points out that states skeptical of the NATO mission in Libya, such as Brazil and India, have at times supported draft resolutions on Syria which were then vetoed by Russia and China. Even Russia and China, the two main opponents of action in Syria, have not emphasized the Libya legacy consistently in explanations for their voting choices.

Another telling sign of the continued relevance of RtoP even after the NATO mission in Libya were the sentiments expressed in subsequent UNGA Interactive Dialogues on the Responsibility to Protect. The year following the NATO-led mission in Libya, the UNGA held its [Interactive Dialogue on the Responsibility to Protect in 2012](#) addressing the "third pillar" of RtoP. Though the 2012 dialogue was held on the most controversial pillar of RtoP, states did not retract from their commitment to the norm.. While some concerns were raised regarding NATO's implementation of Resolution 1973 in Libya, there was a widespread recognition of RtoP's acceptance as it was agreed to at the 2005 World Summit. There was an evident consensus that, should preventive efforts fail, a timely and decisive response is needed to protect populations. The dialogues that followed in

[2013](#)

and

[2014](#)

further demonstrated that states remain committed to upholding the RtoP principle. An increasing number of states participated and the prevailing sentiment was that there was no longer a question of whether RtoP "applies", but how best to implement it in specific situations. Overall, the evidence shows that states have not abandoned their commitment to the RtoP principle despite concerns over the implementation of the NATO-led mission in Libya.

Separating the principles of the norm from its implementation

The situation in Libya revealed the need to distinguish the normative aspirations of RtoP from the way in which it is implemented by any state or group of states acting within the mandate of a Security Council Resolution. Looking at the response to the crisis in Libya through an RtoP lens,

the international community responded to the Libyan government's failure to prevent the threat of mass atrocities against their people by first employing a broad range of non-military measures. These measures included diplomatic efforts, economic sanctions, a travel ban and arms embargo, and the referral of the case to the ICC. As it became obvious that these tools failed to halt the threat of mass atrocities the Security Council considered more robust measures, and adopted a mandate for a no-fly zone. Ongoing debate from civil society and Member States over NATO's objectives and method in carrying out the mandate show that the implementation of RtoP tools, specifically in Libya's case the use of force, is a recurring concern.

Every crisis situation is unique and requires a different response according to the threat of violence and the needs of the populations. There cannot be silence in the face of mass atrocity crimes. The controversy over the response to the crisis in Libya resulted in a prolonged silence in the face of mass atrocities being committed in Syria, particularly in the Security Council from South Africa, India, Brazil, China and

[Russia](#)

, who specifically cited Libya as cause for concern over permitting non-military measures in Syria. The NATO mission in Libya and the challenges faced within the country must not deter Member States and regional organizations from condemning and responding to mass atrocity crimes. Civil society will continue to push for action by the international community in all cases where crimes are occurring or threaten to occur.

For information on the ongoing crisis in Libya post-Gaddafi, please click [here](#) .