Impact of Action in Libya on the Responsibility to Protect

1. What is the Responsibility to Protect?
The Responsibility to Protect ("RtoP" or "R2P") is an international security and human rights norm to prevent and stop genocide, war crimes, ethnic cleansing and crimes against humanity. The Responsibility to Protect rests on three pillars:

1. **The State carries the primary responsibility for the protection of populations** from genocide, war crimes, crimes against humanity and ethnic cleansing.
2. The international community has a **responsibility to assist States** in fulfilling this responsibility.
3. The international community should use **appropriate diplomatic, humanitarian and other peaceful means** to protect populations from these crimes. If a State fails to protect its populations or is in fact the perpetrator of crimes, the international community must be prepared to take stronger measures, **including the collective use of force through the United Nations Security Council**.

2. Why was Libya an RtoP case?
Every state has a responsibility to prevent and protect populations within their borders from genocide, war crimes, crimes against humanity or ethnic cleansing that is occurring or threatens to occur. These crimes can be perpetrated by the government itself or by non-state actors. In the case of Libya, Muammar Gaddafi’s government allegedly committed war crimes and crimes against humanity in response to peaceful civilian protests, crimes which fall under the RtoP framework. Muammar Gaddafi called on his supporters to go out and attack protestors, which he labeled “rats” and “cockroaches”, and to “cleanse Libya house by house”. Gaddafi expressed clear intent to continue committing massive human rights violations by announcing to Benghazi residents that his forces would show “no mercy” to rebels. He stated on 17 March that he would search every house that night, indicating an imminent intention to massacre the city’s population. It became clear that tough 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.

Mass atrocity crimes persisted as Gaddafi’s military continued to indiscriminately target civilians. Forces loyal to the government reportedly used cluster munitions to target residential areas. Furthermore, evidence gathered by the International Criminal Court (ICC) as of 16 May showed 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.” Gross human rights violations were also reportedly committed by opposition forces supporting the National Transitional Council (NTC), including the arbitrary detention and torture of suspected Gaddafi loyalists and mercenaries employed by pro-Gaddafi forces.

3. How did the international community initially respond and why is their response consistent with RtoP?
Beginning in mid-February, a **range of peaceful and coercive measures** (diplomatic incentives, asset freezes, travel bans, arms embargo, expulsion from intergovernmental bodies, ICC referral) were adopted by an array of **international and regional actors**, including the Human Rights Council, General Assembly, Security Council, Arab League, African Union, Gulf Cooperation Council, NATO and European Union, and with unprecedented speed and decisiveness. The Security Council prioritized the protection of civilians from mass atrocities and...
reminded the government of Libya of its responsibility to protect its citizens with the adoption of Resolution 1970, which was unanimously agreed upon, and Resolution 1973. And while the ultimate adoption of a no-fly zone on March 17 authorized a military response to protect populations from mass atrocity crimes, this was likely due to the influence that regional organizations had in supporting stronger measures. Raising alarm bells are a responsibility shouldered by regional organizations on behalf of populations and, in the case of Libya, were crucial in mobilizing international action. See this page on our website for a full overview of the responses taken in the case of Libya.

4. Why is Libya not the “first RtoP case”? The case of Libya has certainly garnered significant media attention following the revolutions in Tunisia and Egypt, with much debate on the need for the use of force for protection purposes. There are several other cases however, where the international community has worked to prevent atrocities from occurring and escalating through a range of peaceful measures. The UN and AU’s role in facilitating post-election mediation efforts in Kenya in 2007, strong voices from the Economic Community of West African States (ECOWAS) and the UN Security Council following election violence in Guinea in 2010, and the world-wide efforts by a range of actors to prevent bloodshed during the Sudan referendum in 2011 are just a few examples.

5. Were NATO operations to oversee a no-fly zone consistent with the language of Resolution 1973? Security Council Resolution 1973 centered on the protection of populations from the imminent threat of mass atrocities by the Gaddafi government, and called for Member States to use “all necessary measures” to prevent such crimes. Although the speed with which the international community responded to the crisis in Libya must be applauded, there have been differing opinions on NATO’s interpretation and implementation of the Resolution. NATO assumed overall responsibility for the UN-mandated mission on 27 March, and a coalition of fourteen NATO member governments as well as Qatar, the UAE, Jordan and Sweden participated in enforcing the mandate established by Resolution 1973. Coalition governments declared Gaddafi’s removal of power to be a precondition for a ceasefire, which led to calls that NATO was not acting to protect civilians but rather was pursuing regime change. Some commentators questioned the motives of the government coalition, pointing to the deliberate attacks on Gaddafi’s compound as evidence of measures to implement regime change. Additional questions about NATO’s loyalty to the Security Council civilian protection mandate arose when French forces supplied the Libyan rebels with weapons and when reports found that civilians were being killed in NATO airstrikes. The actions of the NATO mission were also called into question by bodies such as the African Union (AU) in its Decision on the Peaceful Resolution of the Libya Crisis released on 25 May 2011, which expressed “concern at the dangerous precedence being set by one-sided interpretations of these resolutions (UN Security Council Resolutions 1970, 1973), in an attempt to provide a legal authority for military and other actions on the ground that are clearly outside the scope of these resolutions.” Civil society organizations voiced concern over NATO operations in Libya, and urged the coalition to implement an immediate ceasefire as well as a civilian casualty monitor to protect civilians.

6. What are Libya’s implications on other crises, such as in Syria, where atrocities are occurring? Every crisis situation is unique and requires a different response according to the threat of violence and the needs of the populations. This does not mean, however, that there can be silence in the face of mass atrocity crimes. Clearly, Syria is a clear case where mass atrocity crimes are being committed by the government against civilians, and thus falls within the scope of RtoP. Regardless, a number of Member States, including Brazil, China and Russia, expressed concern over the use of force in Libya, particularly with NATO’s objectives and how the mission was carried out. This backlash resulted in prolonged silence in the face of mass atrocities being committed in Syria, particularly in the Security Council. European and American officials drafted and circulated a resolution as early as 26 April; however no action was taken by the Council except a Presidential Statement released on 3 August, with no plan of action to respond to the crisis, nor language including RtoP. This silence culminated on 4 October, in a double veto by China and Russia of a resolution condemning the violence perpetrated by both Syrian security forces and the opposition. Though China and Russia cited ‘abuse’ of the Resolution 1973 mandate and the wording of the draft Resolution on Syria as reasons behind their veto, their pre-existing relations with Syrian President Bashar Al-Assad should not be underestimated. Regional bodies, such as the Arab League and Gulf
Cooperation Council, also failed to respond immediately to the deteriorating situation in Syria partly due to political relationships with Assad’s government and out of fear of an additional military response in the Middle East and North African region.

That carnage was initially contained in Libya should be seen as a positive outcome of the international community’s response; however, the challenges faced, such as the prolonged nature of the conflict and inability to reach a political solution, resulted in the reluctance of Member States to act to protect populations, such as 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.

7. What is the impact of Libya on RtoP?
The debate 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, actions by NATO led to misconceptions that the Responsibility to Protect was synonymous with military intervention and regime change, which is untrue according to the norm’s definition. 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. RtoP is about protecting civilians from genocide, war crimes, crimes against humanity and ethnic cleansing with a range of measures, not just military. In the case of Libya, Member States cannot now express ulterior motives (such as regime change, oil grabs) without undermining the Responsibility to Protect.

8. Following Gaddafi’s death, what role does RtoP play in Libya’s transition period and beyond?
As the NTC begins drafting a constitution and organizing elections for the new Libyan government, work to prevent further atrocities and uphold the Responsibility to Protect continues. There is an urgent need to reform the security sector and criminal justice system, prevent arms proliferation, and work to stop ill-treatment of Gaddafi’s supporters, including arbitrary detention, torture, revenge attacks and discrimination. Among other tasks at the feet of the NTC may be an investigation into the death of Gaddafi on 20 October. It is imperative that the Libyan government look at the long-term effects of conflict, and promote reconciliation and prevent impunity to protect Libyan civilians from mass atrocities in the future. The Libyan people will need consistent support from the international and regional community and civil society.