

R2P: Perceptions and Misperceptions

- Is R2P really new?
- Under what circumstances would military action be considered?
- Who are the subjects of protection under R2P? What is the status of the people to whom R2P applies?
- How decisive is the role of Libya in the evolution of R2P?
- To what extent have values or interests dictated the response to Libya?
- Was there an alternative to resolution 1973?
- Does the resort to the use of force mean that we are back in the business of humanitarian intervention?
- Are the coalition forces overstepping their protection mandate?
- What are the main challenges facing a military strategy to protect civilians in Libya?
- What factors explain why there was robust Security Council action on Libya but little to no action on Syria?
- Why a no fly-zone in Libya and not Sudan?
- What do Côte d'Ivoire and Libya tell us about the relationship between R2P and regime change?
- What more could have been done to prevent atrocities in Côte d'Ivoire?
- What, if any role are regional organizations expected to play in implementing R2P? What do recent experiences in Libya and Côte d'Ivoire suggest about the R2P responsibilities of regional organizations?
- Has the implementation of R2P in Côte d'Ivoire and Libya undermined the credibility of R2P?

Is R2P really new?

Response: No. The core underlying idea that states have an obligation to protect men and women from the worst atrocities is well established. Basic human rights principles were adopted in the UN Charter and the Universal Declaration of Human Rights, and there is a substantial body of international human rights law. The United Nations adopted the Convention on Genocide in 1948. The protection of civilians during armed conflict is well established in international humanitarian law. But with the advent of R2P, the international community accepted for the first time the collective responsibility to act should states fail to protect citizens from genocide, ethnic cleansing, war crimes, or crimes against humanity. R2P thus imposes two obligations—the first upon each state individually, the second on the international community of states collectively. With the embrace of the responsibility to protect, a long and unresolved debate over whether to act became, instead, a discussion about how and when to act.

Under what circumstances would military action be considered?

Response: Military action offers both a threat to deter actors and, ultimately, a means to prevent or stop atrocities, but even then the failure of non-military measures would not automatically trigger a military response. There are a number of criteria that have to be

satisfied, quite apart from the issue of legal authority, before such intervention could be considered legitimate.

The ICISS report proposed five “precautionary principles,” drawn from centuries of theory and practice in many different cultural contexts, to help guide such decisions. The first is paramount: the violence in question must be of such a serious nature, encompassing large-scale actual or threatened loss of life or ethnic cleansing, that the grave risks associated with any use of force should be contemplated. Second, the primary purpose of the intervention must be to prevent or halt such suffering. Third, military force must be the last resort. Fourth, the means must be proportional to the ends sought. Lastly, the intervention must have a reasonable prospect of success, with the consequences of the action not being worse than the consequences of inaction. Kofi Annan’s 2005 reform proposal, *In Larger Freedom*, suggested similar language.

Such principles are important in guiding the use of force as well as when it would be ineffective or improperly used. But it was impossible to reach consensus on them at the World Summit and debate continues. While the responsibility to protect contemplates the possibility of coercive military intervention only in the most extreme cases no formally accepted principles, not even voluntary ones, exist to guide Security Council decision making. These standards can, however, continue to inform public debate and deliberations among governments.

Who are the subjects of protection under R2P? What is the status of the people to whom R2P applies?

Response: The responsibility to protect norm as adopted by the UN General Assembly in 2005 commits member states to protect “their populations” and to come to the assistance of populations at the risk of mass atrocities in other states.

R2P has been predicated on the basis of an imperative: the urgent need to protect populations at the risk of heinous crimes. When populations resist do they forfeit their entitlement for protection? R2P cannot turn its back and refuse protection to resisting victims.

How decisive is the role of Libya in the evolution of R2P?

Response: R2P, like other emerging norms, is bound to see its capacity to deliver on its intended goals tested by experiences in real time. Ever since the R2P norm was endorsed by member states at the UN General Assembly in 2005, a number of cases have helped define the bounds of its application. Well before Libya, in a discreet way, R2P had already made a difference in a number of cases: from the most cited example of the political and diplomatic response that brought Kenya back from the brink of mass atrocities in early 2008, to the patchy response to signs of ethnic cleansing in Kyrgyzstan in the summer of 2010, to the more forceful regional and international efforts in Guinea at the end of that year.

As with Côte d’Ivoire, the challenge faced by R2P in Libya was of a high order of magnitude; both crises escalated to a point where the Security Council had to consider the use of military force to halt mass atrocities. In Côte d’Ivoire, electoral contestation and the incumbent’s obstinacy escalated the risks of mass atrocities. In Libya, atrocities were the immediate result of the decisions taken by the Gaddafi regime. Guided by R2P the international community responded to this latter challenge in a gradual, but decisive manner.

The steps taken by the international community leading to resolution 1973 were gradual, but were premised on the expectation that faced with overwhelming, unanimous and unqualified international condemnation the Gaddafi regime would come to its senses. The swift international response included simultaneous expressions of condemnation and calls to the Libyan authorities for restraint by numerous international and regional actors.

On 22 February 2011, Navi Pillay’s bold call for an immediate cessation of the “grave human rights violations committed by the Libyan authorities” and for a “swift independent international investigation into the violent

suppression of the protests” was immediately echoed by a joint statement issued by Special Advisers on the Prevention of Genocide and the Responsibility to Protect. They expressed their alarm at the reports of “mass violence coming from the Socialist People’s Libyan Arab Jamahiriya,” and reminded Libya and other countries “facing large scale protests” of their pledge to protect populations “by preventing genocide, war crimes, ethnic cleansing and crimes against humanity, as well as their incitement.”

Other statements flowed out on 22 February 2011. The Arab League banned Libya from attending its meetings. Ekmeleddin Ihsanoglu, Secretary-General of the Organization of the Islamic Conference, condemned the Libyan government’s use of excessive force against civilians. The Informal Group of Friends of R2P joined. The Security Council condemned the “violence and the use of force against civilians, deploring the repression against peaceful demonstrators” and expressed “grave concern at the situation in Libya.” The condemnation by the African Union followed suit with Jean Ping, head of the AU Commission, denouncing the “disproportionate use of force” in Libya and calling for an immediate end to “repression and violence.”

By 25 February, the Secretary-General voiced his concerns to the Security Council about the continuous reports of violence and the indiscriminate use of force coming from the media, human rights groups and civilians on the ground in Libya. Meanwhile, in Geneva Navi Pillay reminded members of the Human Rights Council about their individual responsibility to protect their populations and about their collective responsibility to act in a timely and decisive manner when a state is manifestly failing to protect its population.¹

Soon after the concerted action by the Human Rights Council in Geneva and the General Assembly in New York would pave the way to Libya’s suspension from the Council.²

Not only did R2P inspire the internationally unanimous response to the brutal and violent crackdown on protesters in Libya, it also kept it focused. Thus, resolution 1970, unanimously adopted by the Security Council on 26 February 2011, explicitly invoked the “Libyan authorities’ responsibility to protect its population.” It included an ambitious package of coercive measures – arms embargos, asset freezes, travel bans, and referral to the situation to the ICC – aimed at persuading the Gaddafi regime to stop shooting and to refrain from brutalizing its own people.

In the two long weeks that lay between UN Security Council resolution 1970, and the adoption of resolution 1973 on 17 March 2011, mounting violence and the risk

of an uncontrollable cycle of violence again prompted regional and international organizations to urge the Gaddafi regime to stop its fierce retaliation against protesters and to resolve the crisis through "peaceful means and serious dialogue." A chain of communiqués ensued. On 8 March 2011 the Organization of the Islamic Conference joined in the condemnations. On 10 March 2011 the Peace and Security Council of the African Union established an ad hoc High Level Committee on Libya. On 12 March the Arab League called for the imposition of a no-fly zone over Libyan military aviation. On 16 March the Secretary-General called for an immediate cease-fire.

All of this was to no avail. The brutal actions and vicious rhetoric of the Gaddafi regime and the limited impact of the measures adopted by resolution 1970 on its behavior ruled out the options of bargaining and accommodation. The Council was pushed to revisit the situation. On the one hand, the potential impact of the package of measures adopted by resolution 1970 was curtailed by the regime's prior experience with sanctions, and its related ability to build liquid financial reserves and military capacities. On the other, Gaddafi's inclination to play the end-game dramatically reduced the number of available policy options and left the international community of states with little choice but to consider all necessary measures, including the use of force. Prompted by the strong call by the Arab League in favor of a no-fly zone, and with the support of 10 members and 5 abstentions - from Brazil, China, Germany, Russia and South Africa - the Security Council authorized resolution 1973.

This authorization made the case of Libya stand apart from a wide range of others. These include a chain of unilateral interventions that range from India's in East Pakistan in 1971, Vietnam's in Cambodia in 1978, France's involvement in the overthrow of Jean-Bédél Bokassa of the Central African Empire in 1979, and Tanzania's decision to topple the murderous Idi Amin regime in Uganda in that same year, or multilateral interventions including in Northern Iraq in 1991, Liberia and Sierra Leone between 1988 and 1999, or NATO's multilateral intervention in Kosovo in 1999. The Security Council's authorization of action over Libya represents "coercion by the united authority" of the international community.³

In addition to reiterating the responsibility of the Libyan authorities to protect its population, and deploring their failure to comply with resolution 1970, resolution 1973 called for an immediate "cease-fire and a complete end to violence and all attacks against, and abuses of, civilians." It stressed the need "to intensify efforts to find a solution to the crisis which responds to the legitimate demands of the Libyan people."

All necessary measures including coercive military action but short of a "foreign occupation force" were authorized by paragraphs 4, 6 and 8 under two scenarios: the protection of "civilians and civilian populated areas under threat of attack," and the imposition of a "ban on all flights in the airspace of the Libyan Arab Jamahiriya in order to help protect civilians."

The ultimate outcome of the military intervention in Libya to halt mass atrocities is still uncertain. It is worth bearing in mind, however, that the decision to embark upon a military enterprise was only taken after other attempts at dissuasion had failed.

To what extent have values or interests dictated the response to Libya?

Response: The immediate context leading to the adoption of both resolutions 1970 and 1973 was one in which the risk and the commission of mass atrocities rapidly escalated. The decision to impose a no-fly zone and to resort to "all necessary measures" met a number of tests. The regime had responded brutally to peaceful and by and large unarmed protesters; its vicious rhetoric was an open incitement to violence; Libyan military and civilian officials had defected in open disapproval of the regime's behavior; and Gaddafi's determination to hold onto power at all cost clearly implied the risk of atrocities. All of this had already created a situation of "extreme necessity."

Then, the imminent risk of a bloodbath as the regime's forces advanced to Benghazi galvanized the need for collective coercive action, including of a military kind. As such the authorization of both resolutions 1970 and 1973 was above all motivated by humanitarian objectives. While it is true that the prospects of a massive wave of refugees and migrants heading to Europe provided strategic additional incentives, there is nothing to suggest that the states participating in the coalition were moved by territorial designs or oil interests.

Was there an alternative to resolution 1973?

Response: Given the perceived risk of a large-scale massacre in Benghazi, available options were limited and entailed clear costs.

The mandated airstrikes against Gaddafi's forces did not at once stop atrocities, but as had been in the case in Bosnia, impacted on the regime's aerial capacity to inflict civilian casualties.

There were of course other alternatives. First, a handful of commentators advised to follow a policy of no-intrusion whatsoever in the affairs of the state of Libya. At the other end of the spectrum, some argued that the full weight of

the international community, including troops on the ground, should be brought to bear on Gaddafi to clear the way for regime change.

Some continue to argue in favor of compromise and negotiation. From an R2P perspective, the campaign of incitement to hatred and violence against dissenters, the language used to dehumanize sectors of the population, the resort to mercenaries, and the history and nature of the regime made this a tall order.

Although resolution 1973 called on the regime to resolve the crisis through "peaceful means and serious dialogue," there is no evidence to indicate that the Gaddafi regime has intended to move in this direction. Efforts at mediation, mostly in the hand of the African Union, have failed to materialize, and the prospects for a united mediation front by the African Union and the Arab League are not close in sight.

Such attempts at mediation have not been sufficient to persuade Gaddafi to halt his offensive. If anything he has escalated it. In light of this, critics of the decision to intervene militarily in Libya must face a difficult question: was the prospect, let alone the spectacle, of tens of thousands of people being massacred by the Gaddafi regime worth overlooking for the sake of giving mediation an opportunity?

Does the resort to the use of force mean that we are back in the business of humanitarian intervention?

Response: No. Security Council resolutions 1975, in the case of Côte d'Ivoire, and 1973, in the case of Libya, mentioned R2P, not humanitarian intervention, as the principle that ultimately guided both interventions. Unlike humanitarian intervention, R2P aspires to ground national and international action in law and institutions. Rather than compromising sovereignty, it aspires to harness responsible sovereignty.

The doctrine of humanitarian intervention may be summed up as, "military intervention in a state, without the approval of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants."⁴ This differs from R2P on at least three grounds.

First, the remit of "humanitarian intervention" which aims at preventing large scale suffering or death, whether man-made or not, is far broader than that of R2P which focuses on the prevention of four crimes: genocide, war crimes, crimes against humanity and ethnic cleansing.

Second, humanitarian intervention automatically focuses on the use of military force, by a state or a group of states,

against another state, without its consent. As such it overlooks the panoply of preventive and non-coercive measures that are essential for R2P.

Last but not least, to the extent that the doctrine of "humanitarian intervention" is predicated on the basis of the "right to intervene," it assumes that it can proceed without the need to secure legal authorization.

Although Security Council action in Libya led to the use of force sooner than expected, this was clearly preceded by a cluster of robust but non-military measures, including diplomatic measures, seeking to persuade the Gaddafi regime to stop shooting and start talking. Not one of these measures bore fruit. All the steps considered in resolution 1970—the referral of the matter to the International Criminal Court, the imposition of an arms embargo, enforcement of a travel ban for certain individuals, the order of freezing the assets of some individuals associated with the regime—while coercive, were peaceful in nature.

It was only when this chain of preventive measures failed to forestall the Gaddafi regime from brutally repressing its people, that the use of force was finally considered. The idea that there will always be channels of external influence or effective levers for pressure over states like Libya may simply prove misleading.

Are the coalition forces overstepping their Protection of Civilians mandate in Libya?

Response: The actions of the coalition in Libya appear generally to be in accordance with resolution 1973. Prior to its approval by the Security Council, it was made clear by military strategists, including US Secretary of Defense Robert Gates that any no-fly zone would have to include aerial bombardment of Gaddafi's air defenses. The major issue here is whether the military support that the coalition is giving to protesters, who have by now become outright rebels, can be considered to be part of an operation authorized to protect civilians. This is a political question.

R2P does not operate in a vacuum. Questions regarding protection of civilians cannot possibly neglect political and military realities. In a situation in which the civilian population is confronted with a ruthlessly unrelenting regime, the use of force may not only be legitimate, but clearly needed to stop rapidly unfolding atrocities.

Given the well-founded fear that if Gaddafi were to regain control of rebel-held territory he could perpetrate crimes, assisting the rebels in preventing him from regaining such control *is* a part of protecting populations.

What are the main challenges facing a military strategy to protect civilians in Libya?

Response: The decision to resort to military means to protect civilians is not without hazards and requires wisdom, sound judgment and respect. The decision to use military force is never embraced lightly. The inherent difficulties and implications of resorting to military means to protect civilians need to be candidly addressed.

First the efforts of member states to develop a standing UN military force and rapid response capabilities have so far failed. As a result, the UN simply lacks the means to exercise the responsibility to protect in emergency situations where military instruments are necessary on short notice. Although finding a formula that works and enjoys legitimacy has not been an easy matter, the reality is that states and alliances remain better equipped to react to rapidly unfolding emergencies. The actions accompanying the use of force in Libya were properly authorized by the Security Council, but the division of labor regarding the military operation was left open. In Libya, as in previous crises, the challenge to organize prompt and effective military action was thus entrusted to a coalition, in this case led by NATO.

Secondly, as had been the case in Kosovo, the coalition of states leading the actions authorized by the Council proceeded on the assumption that a few air-strikes would rapidly lead the Gaddafi regime to abandon its brutal tactics. The momentum leading to the air campaign came with baggage: the decision to resort to air power emerged as the default option due to its perceived low risk to the coalition and the political sensitivities surrounding the presence of a foreign occupation force. Although improvements in accuracy and discrimination in the use of air power have significantly lowered the risk of civilian deaths, civilian casualties and damage remain intrinsic to air combat. As previous experiences have demonstrated, the ability of airpower to provide effective protection is not only limited but is bound to come at a price. This is particularly the case in densely populated urban areas, with their associated risk of accidental killing of civilians and of alienating the very population it was intended to protect.

Third, although the course advocated by resolution 1973 was clearly motivated by the need to protect civilians this was not without problems. In contrast to resolution 1970, the call for all necessary measures and to enforce a no-fly-zone in resolution 1973 soon proved controversial. Although widely discussed in the media, the mere fact that the imposition of a no-fly zone starts with an air attack heightened the perception that it was an act of war.

Fourth, although the immediate objective of stopping an assault on Benghazi was successful, the operational directive narrowly confining the use of military force solely to protecting civilians, proved challenging on a number of fronts. On the one hand, such a tight mandate inexorably puts a premium on expectations about neutrality and impartiality. On the other hand, initial confidence about the prospects of effectively limiting the military operation to civilian protection was questioned by developments on the ground and by diverging perspectives about legitimate targets and the nature of the civilian resistance. To the extent that it raised hopes not only among those whose lives remain under threat, but also within the opposition it easily became the target of suspicion of promoting regime change.

Military action was expected to be strictly limited to the protection of civilians from the threat of armed attack from any of the parties to the conflict. Under the agreed terms airborne action to neutralize the regime's advancing tanks and troop columns would be permitted provided it was not designed to serve the aims of the armed rebellion. But the idea that tight military action could be strictly limited to the protection of civilians was soon challenged by the inherent difficulties of managing military force and changing dynamics on the ground. Experts pointed to the increased technological capacity to command airborne surveillance and action on individual targets, and highlighted the advantages to be drawn from the use of drones and manned aircraft. Sooner than expected, however, through tactical maneuvering Gaddafi made the already difficult distinction between civilians, opposition and combatants ever more challenging. Similarly the already vexing question of exercising discrimination in targeting was further compounded by the regime's deliberate practice of conflating military and civilian targets, including the location of command and control centers in civilian residences. Thus, what started as a seemingly successful air strike campaign soon mutated into a mission showing diminishing returns.

The decision to launch a military operation framed by the narrow goal of protecting civilians proved problematic on both logistic and moral grounds. Before long, disagreements both within the coalition and the broader UN membership regarding strategy, operations and tactics complicated the effective use of military force. Perhaps more importantly, the decision to launch a military operation under such restrictive terms raised doubts about its capacity to meet one of the key criteria of legitimacy in the use of force: "balance of consequences."

The lack of attention to such thorny and longer-term considerations has haunted the issuing of resolution 1973 from the start. Not surprisingly, the international military action has been simultaneously attacked by those who

have maintained that more ambitious actions will be required and by those demanding a full and continued adherence to its tight mandate. Clearly, the risk of mass atrocities was only superficially dealt with at the point of responding to what was perceived as an imminent threat of mass killings. If the international community of states and the UN Security Council are serious about stopping atrocities more flexibility will be needed to see their actions through to a successful outcome.

What factors explain why there was robust Security Council action on Libya but little to no action on Syria?

Response: There are at least six factors that explain the different manner in which the Security Council responded to Libya as opposed to Syria.

- 1) Key actors in the region played a different role in both crises. The Arab League's early condemnation of Gaddafi's actions followed by its calls for a no-fly zone in Libya contrasted with its silence on the situation in Syria. Lebanon, currently the only Arab League member on the Security Council, pushed the Council to take action on Libya (with which it had a longstanding feud), but defended the Syrian government (Lebanon's much more powerful neighbor).
- 2) Whereas a sizable number of key government officials (including the PR and DPR of the Libyan mission, who subsequently made compelling statements during UNSC discussions of resolutions on Libya) defected from the regime, in Syria the regime has kept most of its government officials under control.
- 3) Libya plays a role as something of a pariah state without close, powerful allies in contrast with Syria, which maintains a close relationship with Russia.
- 4) Statements by Gaddafi that he would go "house to house" to cleanse the nation of "cockroaches" and "rats" were viewed as incitement to commit crimes against humanity whereas Assad took actions, including lifting the emergency law, that, while mostly window-dressing, were viewed as conciliatory.
- 5) Clear imminent threat on the scale of Benghazi has not as yet been replicated in Syria, although signs are worrying.
- 6) The strong reaction and military intervention in Libya made China, Russia, and others nervous

about the Council becoming in any way involved in a similar conflict due to a fear that this could again result in a broad military operation.

Why a no-fly zone in Libya and not Sudan?

Response: Darfur has long been seen as a test case for R2P, yet regional and logistical considerations prevented serious consideration of a no-fly zone. Just as in the case of Syria, the contrast between the Arab League's support for a no-fly zone in Libya as opposed to its lack of support for such a no-fly zone in Sudan was apparent. Equally important is the vast difference in the logistical requirements for a no-fly zone in Libya - on the coast, within reasonable flying distance of EU air bases, with no need to fly over hostile territory - and those for Darfur, especially given Sudan's large landmass.

What do Côte d'Ivoire and Libya tell us about the relationship between R2P and regime change?

Response: Any military operation that is aimed primarily at regime change, even if that regime is guilty of gross human rights violations, cannot accurately be said to be in accordance with R2P.

Military operations are only in accordance with R2P if they are authorized by the Security Council and designed to prevent or halt the four crimes. Overthrow of a regime is not, in and of itself, a legitimate objective. However, disabling the capacity of Gbagbo's and Gaddafi's regimes to harm their own people was seen by many as essential to discharging the mandate of protection.

In some cases, curtailing a regime's ability to commit these crimes may not prove sufficient, and regime reform or regime change may be needed. Thus in Nicaragua, one of the early cases picked up by the Inter-American Commission on Human Rights, mass atrocities and massive violations of the laws of war led the Commission to conclude that such violations were chronic, institutional and integral to the regime and its national guard. Likewise, few would quarrel with the view that the prevention and halting of mass atrocities in Cambodia during the brutal rule of Khmer Rouge or Idi Amin's Uganda was inseparable from the goal of ending these regimes.

Indeed, in some cases, regime change may be a part of an operation that is aimed at preventing or halting the four crimes. Where the regime is the primary perpetrator of the crimes, changing the leadership is the most effective way to end the commission of the crimes, as in Rwanda.

In sum, when a regime persists in threatening its population the frontiers between R2P and regime change fade away.

What more could have been done to prevent atrocities in Côte d'Ivoire?

Response: The international community should have anticipated the possibility of a hotly contested election in which Gbagbo would lose the election and refuse to cede power. It should have come up with a viable plan, prior to the election, either to consider an additional round of elections or to entice Gbagbo to leave peacefully.

Such contingency planning should have identified populations in the western part of the country, notably in the town of Duekoue, as being at grave risk of atrocities. In fulfilling the protection of civilians mandate the UN should have deployed more troops to this area, perhaps preventing the massacre of up to 800 people in a 48-hour period.

As peacekeepers got more confident in their roles, and received stronger guidance from UNOCI headquarters, they began breaking through barricades and demanding access. This resulted in their coming under fire. France's *Licorne* force could have provided more logistical and military support at an earlier stage. Moreover, there needed to be better coordination of messaging, as well as action, between ECOWAS, the AU, the UN, and member states. ECOWAS's empty threat of a regional intervention force was likely more harmful than helpful.

What, if any role are regional organizations expected to play in implementing R2P? What do recent experiences in Libya and Côte D'Ivoire suggest about the R2P responsibilities of regional organizations?

Response: For a variety of reasons regional arrangements and regionally based security systems are bound to play a key role in implementing R2P.

First, such institutions tend to have greater understanding of the causes and nature of the problems affecting the region.

Second, from Africa to the Americas, existing regional understandings of security and human rights have already harnessed sovereignty and made it conditional to human rights standards and norms. Regional human rights regimes, with varying degrees of institutionalization, have already made significant inroads into the domestic structures and organizations of regional states and are thus seen as obvious platforms for the promotion and implementations of R2P. In this light, regions are

perceived as offering unique arenas for greater consensus around the R2P principle and its implementation.

Third, the incentives for containing crises and managing conflict are likely to be higher in the immediate neighborhood than in more distant quarters.

The idea that the practical implementation of R2P will prove more effective if entrusted to the regional level is not entirely unproblematic. As the recent experiences in Côte d'Ivoire and Libya have made clear, the belief in neat partnerships and interlocking systems between the regional and the global may not always hold. To the contrary, regional frameworks can at times be activated to promote *alternative* courses of action to those advocated by global actors.

While in both Libya and Côte d'Ivoire the Council's decision to act was preceded by regional initiatives, the long and tortuous process between ECOWAS, and the African Union leading to the confirmation of Alassane Ouattara as legitimate president significantly increased the risk of mass atrocities in the latter. Similarly, the sluggish response of the African Union to the crisis in Libya contrasted with the more assertive role played by the Arab League. Last but not least, lack of Security Council action in the context of systematic and persistent atrocities in Syria has been partly linked to the paralysis of regional organizations.

Has the implementation of R2P in Côte d'Ivoire and Libya undermined the credibility of R2P?

Response: While the actions authorized by the Security Council in Côte d'Ivoire and Libya have not discredited R2P, important lessons are to be drawn from these crises. R2P's operational challenges in both Côte d'Ivoire and Libya suggest to three main lessons.

First, the actions authorized by resolutions 1970 and 1973 on Libya and 1975 on Côte d'Ivoire were a function of the risk of mass atrocities. The brutal actions and vicious rhetoric of the Gaddafi regime, as well as the remorseless use of mortars, rocket-propelled grenades and heavy weapons against civilians by the forces associated with Laurent Gbagbo in Côte d'Ivoire, left the international community of states with little choice. It compelled it to act to halt the crimes. Critically, in both Côte d'Ivoire and Libya, the Council's decisions were preceded by regional initiatives. Security Council resolution 1973 followed the request by the Arab League while resolution 1975 on Côte d'Ivoire, jointly tabled by France and Nigeria, followed the lead taken by ECOWAS.

The breath of condemnation against the specter of mass atrocities in both Côte d'Ivoire and Libya echoed the spirit

of R2P and provided the political context for the decision to resort to military force to protect civilians. Such swift and unanimous adoption of Security Council resolutions 1970 and 1975 sharply contrast with the fatal paralysis that took over the UN during the Rwandan genocide and the painful dithering of both the UN and regional actors over the sequence of tragedies in the Balkans. Notwithstanding the vote and the five abstentions accompanying the adoption of resolution 1973, it should not be overlooked that no Council member, whether permanent or elected, openly resisted more forceful action. None, that is, was prepared to be seen as countenancing mass atrocities.⁵

Second, in each case the decision of regional organizations and the Security Council to respond robustly to R2P crimes was preceded by efforts at persuasion. To be sure, in neither case was the call to action reduced to military means. It was the clear inclination of both Gbagbo and Gaddafi to play to the endgame that reduced the number of available policy options. Indeed, in both crises the decision to take action and to intervene to protect lives took place in contexts already dominated by the occurrence of war crimes and crimes against humanity and by the unleashing of massive waves of refugees. In both cases the ability of the international community to offer credible responses short of the use of military force was clearly challenged by the reckless behavior of two leaders and by the rapidity with which mass atrocities unfolded on the ground.

Third, while both resolutions 1973 and 1975 activated emergency measures to protect civilians, the prospects for resolution were clearer in the latter. The unanimous re-confirmation of Alassane Ouattara as legitimate president by regional and international organizations allowed the Security Council to clearly determine the *aim* to be achieved by various means, including the use of force. By contrast, both resolutions 1970 and 1973 were predicated on the immediate but challenging mandate to protect civilians. They stopped short of outlining a desired political outcome to the crisis. In sum while the political process and the use of force were in harmony in Côte d'Ivoire the synergies between these forces remain inadequate in Libya.

Should the fact that forceful implementation in one situation may not be easily exported to other situations mortally discredit R2P? It would be highly questionable on moral and political grounds to conclude that "because the international community cannot act everywhere, it should therefore act nowhere." As with other norms, the journey of R2P's implementation will be paved with disappointments and unevenness, but our task should be to pursue a united path so that when terrible atrocities occur we should all be compelled to act in whatever way we can.

¹ Secretary-General's remarks to Security Council Meeting on Peace and Security in Africa, New York, 25 February 2011. Available at <http://www.un.org/apps/sg/prints/gstats.asp?mid=5109> (accessed 14 March, 2011). In her remarks Ms Pillay highlighted the fact that the current "shocking and brutal situation" in Libya was the direct outcome of a "callous disregard for the rights and freedom of Libyans that has marked the almost four-decade long grip on power by the current leader." See Statement by Navi Pillay, UN High Commissioner for Human Rights, Human Rights Council, 15th Special Session, Geneva P5 February 2011, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10760&Langl...> (accessed 14 March 2011).

² On 1st March 2011, following the unprecedented request made by the Human Rights Council on 25th February, the General Assembly expressed deep concern about the situation in Libya and by consensus suspended this country's membership in the Geneva-based Council (A/RES/65/266).

³ The phrase was coined by W.E. Gladstone in the context of the brutal Turkish repression of Bulgarian minorities in 1876 and his consideration of a European multilateral intervention.

⁴ Adam Roberts, "Humanitarian war: military intervention and human rights," *International Affairs* 69:3, 1993, p. 429.

⁵ Those abstaining included: Brazil, China, Germany, India and Russia. Resolution 1973 adopted by the Security Council on 17th March 2011 deplored Libya's failure to comply with the terms of its previous resolution and reaffirmed its determination to consider all necessary measures to ensure the protection of civilians.