

R2P MONITOR

10 JANUARY 2012
ISSUE 1

A bimonthly bulletin by
the Global Centre for the
Responsibility to Protect

The **Responsibility to Protect** (R2P) is a global norm, unanimously adopted by heads of state and government at the 2005 UN World Summit, aimed at preventing and halting *Genocide*, *War Crimes*, *Ethnic Cleansing* and *Crimes Against Humanity*. R2P stipulates that:

- » Every State has the Responsibility to Protect its populations from the four mass atrocity crimes (Pillar I).
- » The wider international community has the responsibility to encourage and assist individual States in meeting that responsibility (Pillar II).
- » If a State is manifestly failing to protect its populations, the international community must be prepared to take appropriate collective action, in a timely and decisive manner and in accordance with the UN Charter (Pillar III).

R2P Monitor applies the Responsibility to Protect lens to the following situations of concern:

CURRENT CRISIS

Mass atrocity crimes are occurring and urgent action is needed.

IMMINENT RISK

The situation is reaching a critical threshold and the risk of atrocity crimes occurring in the immediate future is very high if effective preventive action is not taken.

SERIOUS CONCERN

There is a significant risk of occurrence, or recurrence, of mass atrocity crimes within the foreseeable future if effective action is not taken.

R2P Monitor:

- » Provides *background* on the populations at risk, with particular emphasis on key events and actors and their connection to the threat, or commission, of mass atrocity crimes.
- » Offers *analysis* of the country's past history in relation to mass atrocity crimes; the factors that have enabled their possible commission, or that prevent their resolution; and the receptivity of the situation to positive influences that would assist in preventing further crimes.
- » Tracks the *international response* to the situation with a particular emphasis upon the actions of the United Nations (UN), key regional actors and the International Criminal Court (ICC).
- » Suggests *necessary action* to prevent or halt the commission of mass atrocity crimes.

Syria {p. 2}

Sudan/South Sudan {p. 4}

DR Congo {p. 7}

Libya {p. 9}

Côte d'Ivoire {p. 10}

Kenya {p. 11}

Somalia *

Myanmar *

Yemen *

* Not covered in this issue

CURRENT CRISIS

Mass atrocity crimes are occurring and urgent action is needed.



SYRIA

*State violence against civilians in Syria constitutes ongoing **crimes against humanity** by the Syrian Arab Republic.*

BACKGROUND

Inspired by democratic uprisings elsewhere in the region, during March 2011 a mass protest movement developed in Syria. In resisting pressure for political reform, the Syrian government has resorted to extreme military force to suppress dissent.

Syrian security forces have used tanks, warships and heavy weapons against centers of protest. The security forces have also indiscriminately fired live ammunition to disperse and terrorize civilian protesters. Since March massacres have been perpetrated against civilians in Damascus, Daraa, Hama, Rastan, Jisr al-Shughour, Latakia and Homs. The UN estimates that more than 5,000 people have been killed, including at least 253 children.

A UN Office of the High Commissioner for Human Rights fact finding mission report found “a pattern of human rights violations that constitutes widespread or systematic attacks against the civilian population,” thus meeting the criteria for *crimes against humanity*. The risk of further mass atrocity crimes is significant. Security forces continue to disperse protests by violent means, including through the use of snipers and the mass deployment of troops.

Despite the al-Assad regime’s agreement to an Arab League peace plan at the start of November, the

Syrian armed forces launched a renewed military offensive (including artillery and tanks) against the towns of Homs and Hama, considered to be opposition strongholds.

On 11 November Human Rights Watch reported that 104 people had been killed in Homs since the announcement of the Arab League plan 9 days earlier. There have also been an increasing number of clashes between the Syrian armed forces and the “Free Syrian Army,” a growing force consisting of military defectors and based around Homs and Hama.

The arrival of Arab League monitors at the end of December coincided with a significant increase in violence. There was reportedly a massacre of civilians in Idlib province, and allegedly more than 100 army defectors were killed during an attempted mass desertion.

Although the government bore primary responsibility for the killings in Idlib, it is unclear who was responsible for two car bombs in Damascus that killed 44 people on 23 December. Another car bomb on 6 January killed 26 people. As Arab League monitors travelled around Syria violence against civilians continued, especially in Homs.

Crimes against humanity perpetrated by the Syrian government continue to pose a grave threat to civilians.

ANALYSIS

A history of gross human rights violations by the al-Assad dictatorship, combined with the fear of retributive sectarian violence against the ruling Alawite sect, reduces the government’s range of political movement. Tensions within the country remain extremely high and the violence shows no sign of abating.

Sectarian violence and armed resistance against the government appear to be increasing. There is a growing threat of civil war, a situation that would substantially increase the risk of further mass atrocity crimes.

Despite promises of reform by President al-Assad and a peace plan brokered by the Arab League, there has been no substantial attempt by the regime to address the legitimate concerns of the protest movement. Instead, the security forces have been encouraged in the ongoing commission of *crimes against humanity*.

External political influence upon the Syrian government via the UN is weak. Traditional rival, Saudi Arabia, and emerging regional powers, Qatar and Turkey, have been critical of the Syrian regime's violence but wield little influence over its actions. Syria's key regional ally, Iran, may become concerned as the scale, intensity and longevity of the violence creates the risk of regional destabilization and increased refugee flows. The extent to which the Arab League will be able to positively influence the regime's behavior remains unclear.

On 26 September, Syria's Foreign Minister, speaking at the opening of the UN General Assembly, insisted that, "Syria exercised its responsibility to protect its citizens." Despite this claim the current government of Syria has not only failed to uphold its Responsibility to Protect, it bears primary responsibility for the commission of *crimes against humanity*. The international community is obliged to act.

INTERNATIONAL RESPONSE

On 20 June the UN Joint Office on the Prevention of Genocide and the Responsibility to Protect issued a statement calling for an immediate halt to possible *crimes against humanity* in Syria.

On 23 August the UN Human Rights Council passed a resolution condemning *crimes against humanity* in Syria (33 votes for, 4 against, 9 abstentions) and called for an investigation.

The United States, European Union (EU) and a number of other states have imposed unilateral sanctions on senior Ba'ath party members, including the al-Assad family. On 3 September, the EU imposed a ban on purchases of Syrian oil.

A UN Security Council (UNSC) Presidential Statement was issued on 3 August, condemning "the widespread violations of human rights and the use of force against civilians by the Syrian authorities." A European-sponsored UNSC resolution that proposed travel bans, an arms embargo and other sanctions, circulated for several months and was significantly watered down during negotiations. When the resolution finally came before the UNSC on 4 October it received 9 votes. South Africa, India, Brazil and Lebanon abstained. China and Russia vetoed the resolution.

On 2 November the Syrian government accepted an Arab League peace plan in which it committed to withdraw its military forces from civilian areas, negotiate with the opposition and release political prisoners. Despite the agreement, the government

launched a major military offensive in Homs and Hama, resulting in further mass atrocity crimes. On 12 November the Arab League voted to suspend Syria from the organization and impose sanctions.

During the last week of November Turkey announced expanded sanctions directed at the al-Assad regime. Turkey is now supporting Syrian dissidents and hosting the leadership of the Free Syrian Army.

On 28 November the UN Human Rights Council released the final report of its independent international commission of inquiry detailing extensive *crimes against humanity* committed by the Syrian government against its own people. On 2 December the Human Rights Council passed a strong resolution on Syria and referred the report of its Commission of Inquiry to the UN Secretary-General.

On 19 December the UN General Assembly passed a resolution (133 for, 11 against, 43 abstentions) condemning the violence in Syria and supporting the Arab League's plan. The resolution was co-sponsored by 61 states, including 6 Arab countries. Reflecting Syria's growing isolation, no Arab country voted against the resolution.

On 22 December a team of 150 Arab League monitors began arriving in Syria and deploying throughout the country. On 8 January foreign ministers from the Arab League met in Cairo to assess the monitoring mission's progress and discuss possible further action.

NECESSARY ACTION

The UNSC should demand that Syria immediately cease attacks on civilians and uphold its Responsibility to Protect its people. The UNSC should impose an arms embargo and targeted sanctions against members of the Syrian government who have command responsibility for the security forces. The matter should also be referred to the ICC for investigation and indictment of those individuals found responsible for *crimes against humanity*.

In support of the Arab League plan, the UN Secretary-General should convene a meeting of concerned regional states, the Syrian government and the opposition, to discuss a means of resolving the crisis.

The UNSC should, in collaboration with the Arab League, establish clear and accountable benchmarks for an improvement in the Syrian situation (return of troops to barracks, release of political prisoners, etcetera) and respond accordingly.

MORE INFORMATION:

- » ["Report of the Independent International Commission of Inquiry on the Syrian Arab Republic"](#), UN Human Rights Council, 23 November 2011
- » [Statement on the situation in Syria](#), Special Advisers to the UN Secretary-General on the Prevention of Genocide and the Responsibility to Protect, 2 June 2011
- » ["We've Never Seen Such Horror"](#), Human Rights Watch, 1 June 2011
- » ["Syria: Crimes against humanity in Homs"](#), Human Rights Watch, 11 November 2011
- » [GCR2P Open Letter to the UNSC regarding Syria](#), 9 June 2011



SUDAN AND SOUTH SUDAN

Crimes against humanity and war crimes are currently occurring in the disputed Republic of Sudan provinces of South Kordofan, Blue Nile and Darfur, and on the border with South Sudan. Rising ethnic violence in South Sudan also poses a grave risk to civilians.

BACKGROUND

On 9 January 2011 the people of southern Sudan voted for secession from the Republic of the Sudan in a referendum mandated by the Comprehensive Peace Agreement (CPA) that ended the country's long north/south civil war. However, in the run up to South Sudan's transition to independent statehood on 9 July, violence on the contested border between Sudan and South Sudan broke out.

During late May the armies of Sudan and South Sudan exchanged artillery fire around Abyei and there was an attack on UN peacekeepers. On 22 May the Sudanese

Armed Forces (SAF) militarily seized the Abyei region and set fire to villages, displacing at least 110,000 civilians according to UN estimates, some of whom have become refugees in South Sudan. On 4 November the UNSC issued a statement deploring the fact that neither the SAF nor South Sudanese army had withdrawn from Abyei despite a 30 July agreement to do so.

The situation in Darfur in the west remains a serious concern with renewed attacks on civilians. In early May the UN reported that the government of Sudan had carried out airstrikes against villages in Darfur and subsequent reports verified serious attacks in Khor Abeche and Shangil Tobayi. Reliable sources reported as many as 70,000 people (mainly ethnic Zaghawa and Fur) had been displaced by the renewed violence.

The UN estimates that more than 300,000 people have died in Darfur since 2003. Despite the presence of UN peacekeepers, Darfur remains volatile with the civilian population at considerable risk.

Instability and increased violence spread to Sudan's south-eastern provinces of South Kordofan in June and Blue Nile in September. What began as a SAF operation against the Sudanese People's Liberation Movement–North (SPLM-N), a rebel group that fought alongside its southern counterparts during Sudan's long civil war (1983–2003), has escalated to the point of threatening the entire peace process.

Over several months the SAF, along with allied paramilitaries from the Popular Defence Forces, have deployed systematic violence against civilians in these regions as part of a pacification campaign. This has included extra-judicial killings, the aerial bombardment of civilian areas and the forced displacement of local populations considered to be opposed to the rule of the Sudanese government in Khartoum. There have also been reports that armed elements from the SPLM-N have carried out extra-judicial killings.

According to humanitarian organizations and the UN more than 417,000 people have been displaced from South Kordofan and Blue Nile with those in the Nuba mountains under grave threat of starvation and disease. The UN estimates that 80,000 refugees from South Kordofan and Blue Nile have made their way to South Sudan. Both the SAF and SPLM-N have played a role in exacerbating the military and humanitarian crisis.

On 10 November the SAF dropped four bombs near a refugee camp inside South Sudan, with two bombs landing within the camp. The Yida camp, located in

Unity state, provides shelter to approximately 20,000 people displaced by violence in South Kordofan. The government of Sudan initially denied responsibility for the bombing.

Both Sudan and South Sudan wrote to the UNSC in November alleging that the other was fomenting armed rebellion in their territory. Military tensions remain high along the border regions, while *crimes against humanity* and *war crimes* continue to be perpetrated in South Kordofan, Blue Nile and Darfur.

There is also rising inter-communal violence within South Sudan, especially in Jonglei state. Increased violence between Lou Nuer and Murle ethnic groups at the end of December was of such a magnitude that it was necessary for the UN and the South Sudan government to deploy extra troops to Jonglei in order to protect civilians.

Despite an increased presence of UN peacekeepers and government soldiers, an estimated force of 6,000 armed Lou Nuer attacked towns and villages populated by the rival Murle. Lukangol was burned down and Pibor was attacked, displacing tens of thousands of civilians. After clashing with soldiers from the South Sudanese Army, the Lou Nuer turned back from Pibor on 3 January. The UN is now mounting a major humanitarian operation to assist with an estimated 50,000 displaced Murle civilians. More than 1,000 people have been killed in inter-communal violence in Jonglei since independence in July.

ANALYSIS

The government of Sudan has a history of perpetrating *genocide* in Darfur and committing other mass atrocity crimes during its civil war with the south. Despite the successful negotiation of an end to the civil war and the existence of the CPA, few domestic institutions exist that are capable of alleviating conflict.

Over many years the government of Sudan has defied external pressure to halt mass atrocity crimes, although the African Union maintains some restraining influence. The Arab League, whose membership includes states that are major investors in Sudan, has potential influence over the regime's behavior.

The current violence in South Kordofan and Blue Nile is a direct result of unimplemented aspects of the CPA. Following the independence of South Sudan a discernible political shift has taken place inside the government of Sudan with hardliners from the ruling National Congress Party (NCP) and the military gaining the upper hand.

The government of Sudan is unwilling to uphold its Responsibility to Protect. *Crimes against humanity* and *war crimes* continue to be committed with impunity in South Kordofan, Blue Nile, Abyei and Darfur. The international community needs to act in order to halt the commission of mass atrocity crimes.

In South Sudan the fragile state is struggling to establish a functioning government while facing increased refugee flows, SAF incursions on its borders and attempts from former SPLM-N allies to drag it into direct confrontation with Khartoum. A new Sudanese Revolutionary Front (SRF), an alliance that includes rebel groups from Darfur, South Kordofan and Blue Nile, has contributed to an increasingly volatile political and military situation along South Sudan's borders. Most serious of all, rising inter-communal violence in Jonglei poses a grave threat to hundreds of thousands of civilians. South Sudan is struggling to uphold its Responsibility to Protect and requires ongoing international assistance.

INTERNATIONAL RESPONSE

Sudan has been the subject of various UNSC resolutions (eight in 2011 alone) and the President of Sudan, Mr. Omar al-Bashir, is already under indictment by the ICC for *war crimes*, *genocide* and *crimes against humanity* for his government's earlier actions in Darfur.

UN peacekeeping missions currently exist in Darfur (UNAMID), South Sudan (UNMISS) and in Abyei (UNISFA). Three UN peacekeepers were killed in Darfur at the start of October, and one was killed in November. On 14 December the UNSC expanded UNISFA's mandate to include a border monitoring support mechanism. On 22 December the Council extended UNISFA's mandate for five months.

External mediation conducted in June by former President Thabo Mbeki of South Africa and Prime Minister Meles Zenawi of Ethiopia, was rejected by President Bashir. Bashir and the SAF consider other external parties involved in facilitating the CPA—the United States, Norway, European Union and United Kingdom—hostile to Khartoum's interests and now view them with suspicion.

Several attempts to get the UNSC to issue a Presidential Statement on South Kordofan have failed due to a lack of a consensus position within the Council.

On 11 November the UNSC discussed the recent aerial bombing of the Yida refugee camp in South Sudan by the SAF. Hilde Johnson, the head of UNMISS and Special Representative to South Sudan, confirmed that at least

four bombs landed in and around the camp. Various UN officials condemned the bombing, including the UN High Commissioner for Human Rights who commented that it could constitute an international crime.

On 2 December the ICC requested an arrest warrant for Sudan's Defense Minister, Abdelrahim Mohamed Hussein, for *war crimes* and *crimes against humanity* committed in Darfur between 2003-2004. The current governor of South Kordofan, Ahmad Harun, is also under indictment by the ICC for mass atrocity crimes committed in Darfur.

On 30 December UNMISS announced that an extra battalion of peacekeepers were being deployed to Pibor, Jonglei state, "in support of the government of South Sudan's primary responsibility to protect civilians."

NECESSARY ACTION

The UNSC, Arab League and African Union need to take immediate action to protect civilians in Abyei, Darfur, South Kordofan and Blue Nile. The UN, Arab League and other key international actors should demand an immediate ceasefire between the government and rebel forces as well as unimpeded access for humanitarian organizations to South Kordofan and Blue Nile.

All *crimes against humanity* and *war crimes* perpetrated in South Kordofan, Blue Nile, Abyei and Darfur since April 2011 should be thoroughly investigated by a credible and independent body authorized by the UN.

Military forces from both Sudan and South Sudan must withdraw from Abyei as previously agreed.

In South Sudan UNMISS must be given additional resources, especially much needed helicopters, to adequately protect all civilians within its mandated zone of operations.

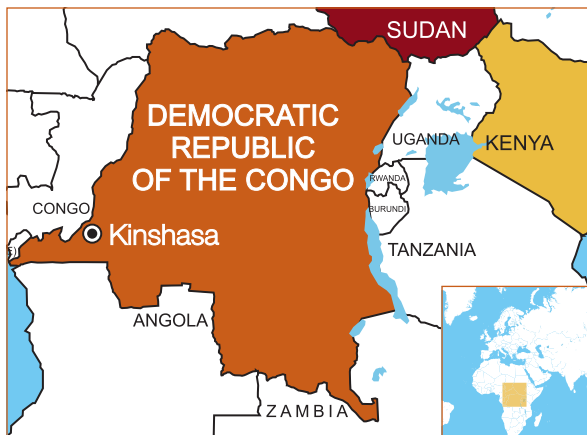
In keeping with the principle of the Responsibility to Protect and the CPA, the UNSC should prioritize sustained engagement with the governments of Sudan and South Sudan in order to secure adequate protection for civilians at risk of further mass atrocity crimes.

MORE INFORMATION

- » [UNIFSA Website](#)
- » [UNMISS Website](#)
- » [UNSC Press Statement on the Situation in Abyei](#), 23 May 2011
- » [Human Rights Council Resolution 15/27](#), 7 October 2010
- » ["Conflict Risk Alert: Stopping the Spread of Sudan's New Civil War"](#), International Crisis Group, 26 September 2011
- » ["Sudan: Possible War crimes in Southern Kordofan"](#), Amnesty International, 30 August 2011
- » [GCR2P Open Statement on Atrocities in South Kordofan](#), 20 July 2011
- » [GCR2P Policy Brief: The Responsibility to Protect and Sudan](#), 7 January 2011
- » [GCR2P Policy Brief: Sudan Fulfilling the Responsibility to Protect](#), 6 October 2010

IMMINENT RISK

The situation is reaching a critical threshold and the risk of atrocity crimes occurring in the immediate future is very high if effective preventive action is not taken.



DEMOCRATIC REPUBLIC OF THE CONGO

*In the aftermath of the 28 November elections there is an imminent risk of further **crimes against humanity** being perpetrated by state and non-state actors operating in the Democratic Republic of the Congo.*

BACKGROUND

The 28 November 2011 elections have caused instability and increased violence in the Democratic Republic of the Congo (DRC). Although the electoral commission declared current President Joseph Kabila the winner of the Presidential ballot, the main opposition candidate, Étienne Tshisekedi, alleged extensive electoral fraud and has also claimed victory.

Allegations of widespread voting irregularities have been supported by international election monitors including the Carter Center and the EU. Despite the legitimacy of the election remaining in dispute, Kabila was sworn in as President on 20 December. An attempt by Tshisekedi's supporters to hold a rival inauguration was forcibly dispersed by police.

At least 18 people were killed in the days leading up to voting and at least 24 more have been killed by government troops since then. Large numbers of soldiers have been moved into Kinshasa to suppress protests by Tshisekedi's supporters. The risk of

escalating violence is significant as final results of the parliamentary elections are due to be released during January.

Dispute over the electoral process poses a grave threat to the DRC because of the weakness of central authority, a culture of impunity with regard to previous mass atrocity crimes, and deep ethnic and political tensions remaining from the 1998–2003 civil war. There is a real and immediate danger that government forces that have previously been implicated in mass atrocity crimes may use extreme violence to suppress protests in Kinshasa and areas where Tshisekedi has strong support.

There is also a grave risk that various armed groups already operating elsewhere in the DRC will use instability caused by the current crisis to commit further mass atrocity crimes. According to a Human Rights Watch report, the Lord's Resistance Army (LRA) attacked local villagers near Faradje, Orientale Province on their way to vote. Three people were killed and several women and children were abducted. Similarly, on 2–3 January the militia group the Democratic Forces for the Liberation of Rwanda (FDLR) burned homes and killed 45 civilians in South Kivu.

Activity by the LRA, FDLR and others may increase as security forces and UN peacekeepers are redeployed elsewhere because of the electoral crisis.

Since 1996 armed conflict in the DRC has claimed more than five million lives. In addition to widespread killing, millions of civilians have been raped, maimed, or forcibly displaced. Committed with impunity, these crimes pose an ongoing threat to civilians, especially in North Kivu and South Kivu provinces.

The existing culture of impunity in the DRC imperils efforts to prevent further crimes from occurring.

A Mayi-Mayi militia leader, Ntabo Ntaberi Sheka, was a candidate in the recent elections. Sheka is believed to have had command responsibility for one of the armed groups, Mayi-Mayi Sheka, who carried out a mass rape of more than 387 people from a dozen villages in Walikale region between 30 July and 2 August 2010. The

UN has also accused the Mayi-Mayi Sheka of abducting children and seizing the Bisiye mines in eastern DRC. Despite a Congolese warrant for his arrest, Sheka publicly campaigned in Walikale during the elections.

There are more than 2 million internally displaced persons (IDPs) in the DRC who remain at risk of violence, disease and starvation. There are also hundreds of thousands of refugees in neighboring countries, with political instability caused by the recent elections preventing existing refugees from returning home and causing additional thousands to flee the DRC.

Despite the presence of UN peacekeepers, civilians in the DRC continue to be subjected to gross human rights violations. In the aftermath of the 28 November election there is an imminent threat of further mass atrocity crimes as the electoral crisis has a destabilizing effect upon an already precarious security situation.

ANALYSIS

Since 1997 the government of the DRC has struggled to meet its Responsibility to Protect civilians and in some cases has actually been complicit in *crimes against humanity* and *war crimes* in the eastern DRC.

Tensions across the DRC remain especially high following the 28 November elections. The weakness of government structures undermines attempts to develop peaceful solutions and protect civil society. Outside influence has generally been negative, with several neighboring countries previously involving themselves in the earlier war in the DRC and indirectly in the commission of *war crimes* and *crimes against humanity*. This has compromised the ability of several regional actors to mediate the current crisis.

UN efforts in the eastern DRC have been focused upon humanitarian assistance and peacekeeping. In the aftermath of the 28 November elections, the political, military and humanitarian situation across the DRC has the potential to further destabilize the country and the Great Lakes region. The government of DRC appears unable to uphold its Responsibility to Protect.

INTERNATIONAL RESPONSE

Although there has been a UN peacekeeping force in the DRC for almost ten years, international efforts have so far failed to stop the violence. The current UN peacekeeping mission, MONUSCO, is responsible for almost 19,000 uniformed UN personnel in the DRC and operates under a UNSC mandate that will continue until June 2012. Major humanitarian efforts continue under UN protection.

A UNSC sanctions regime is also in place. On 29 November the UN's DRC Sanctions Committee added Ntabo Ntaberi Sheka, of the Mayi-Mayi Sheka militia, to its individual sanctions list.

The ICC has been involved in the DRC since April 2004. One individual charged with *war crimes*, Thomas Lubanga Dyilo, and two individuals charged with *war crimes* and *crimes against humanity*, Mathieu Ngudjolo Chui and Germain Katanga, are currently appearing before the ICC on charges related to crimes perpetrated in Ituri. Further indictments are expected.

The African Union and South African Development Community (SADC) maintain an active interest in the DRC.

NECESSARY ACTION

With the assistance of the international community, the government of the DRC must immediately improve its protective efforts. All government officials, political parties and candidates in the recent election must refrain from activities that might be seen as inciting violence. The African Union and SADC need to play a constructive and collaborative role in facilitating a peaceful resolution to the electoral crisis.

While the current ICC trials represent a step forward, all perpetrators of mass atrocity crimes in the DRC need to be held accountable in courts of law and the culture of impunity ended once and for all.

Working with the African Union and SADC, the UNSC needs to continue to closely monitor the situation in the DRC and enable MONUSCO to take all necessary measures to protect civilians. MONUSCO needs to work with the government of DRC to help it uphold its Responsibility to Protect.

MORE INFORMATION

- » [MONUSCO Website](#)
- » [ICC DRC Situation Page](#)
- » [UN Mapping Exercise Report](#), August 2010
- » [UNSC Resolution 1991](#), 28 June 2011
- » [Human Rights Council Resolution 16/35](#), 13 April 2011
- » [Conflict in Congo](#), International Crisis Group, 27 January 2011
- » [GCR2P Policy Brief on DRC](#), 19 May 2011

SERIOUS CONCERN

There is a real risk of occurrence, or recurrence, of mass atrocity crimes within the foreseeable future if effective action is not taken



LIBYA

*Those responsible for perpetrating **crimes against humanity** and **war crimes** during the February–September 2011 uprising and civil war must be brought to justice.*

BACKGROUND

In response to a popular uprising during February 2011 in favor of political change, the Libyan government initiated a violent crackdown. An estimated 500–700 civilians were killed by the regime over a period of several weeks. In response rebel forces emerged and opposition to Muammar Qaddafi's rule increasingly took the form of a civil war. The Libyan government used tanks and troops against civilians in the besieged cities of Benghazi, Misrata and elsewhere. The systematic and widespread nature of these attacks constituted *crimes against humanity*.

Under UNSC resolutions 1970 and 1973 the Responsibility to Protect was invoked and a NATO-led alliance was authorized to conduct air strikes against military targets that posed a severe threat to civilians.

After several months of intense fighting, Tripoli fell to the rebels at the end of August and the Qaddafi regime collapsed. Since then allegations have continued to surface regarding *war crimes* committed by both pro-Qaddafi and pro-National Transitional Council (NTC) forces during the conflict. Several massacre

sites have been identified but require further investigation. Armed militias that were formed to protect civilians from pro-Qaddafi forces have not been fully demobilised and pose a growing threat to establishing the rule of law.

ANALYSIS

Although the NTC has transformed itself into the interim government of Libya, and achieved international recognition, the rule of law remains weak throughout much of the country.

The NTC has expressed support for international human rights obligations and a readiness to prosecute senior figures from the deposed Qaddafi regime for *crimes against humanity*. While the ICC examines the question of complementarity and the jurisdiction of the court, it is imperative that states support the NTC's efforts to strengthen the rule of law within Libya. The NTC must also demonstrate a willingness to investigate, prosecute, and punish any members of the NTC who were responsible for committing *war crimes* during the conflict.

The NTC requires ongoing support and international assistance in its efforts to rebuild, to end impunity and to uphold its Responsibility to Protect.

INTERNATIONAL RESPONSE

On 26 February the UNSC passed resolution 1970, calling upon the Libyan government to immediately cease its attacks on civilians and meet its Responsibility to Protect. Sanctions were imposed and the issue was referred to the ICC for investigation. The Libyan government's failure to act in accordance with resolution 1970 resulted in resolution 1973 on 17 March, which called upon UN member states to take "all necessary measures" to protect civilians.

Following the fall of Tripoli and the final collapse of the Qaddafi regime, the UN, Arab League and African Union officially recognized the NTC as the legitimate representatives of the Libyan people. The UNSC has established a support mission in Libya, UNSMIL, tasked with assisting Libyan authorities in "restoring public security and the rule of law, promoting inclusive political dialogue and national reconciliation."

On 21 October, NATO declared its operations in support of resolution 1973 to be over. UNSC resolution 2016 of 27 October officially lifted the “no-fly zone” and ended the mandate for the protection of civilians.

On 18 November, following a UN General Assembly vote, Libya was reinstated as a member of the Human Rights Council. Libya had been suspended in March because of the Qaddafi regime’s commission of mass atrocities against its own people.

In two separate incidents on 19 and 20 November two surviving senior figures from the former regime still under indictment by the ICC, Saif al-Islam Qaddafi and Abdullah al-Senussi, were captured in Libya. The ICC is currently negotiating with the NTC regarding their trial for *crimes against humanity* and *war crimes*.

NECESSARY ACTION

The NTC and the ICC should continue to pursue the prosecution of Saif al-Islam Qaddafi and Abdullah al-Senussi for *crimes against humanity* and *war crimes*.

The NTC should also investigate *war crimes* and *crimes against humanity* committed by all forces during the conflict. This should include investigating the alleged summary execution of Muammar Qaddafi, who was under ICC indictment.

Breaking the culture of impunity, demobilising armed groups, and establishing the rule of law will be an important part of building a new Libya. The international community, in upholding the Responsibility to Protect, should support all efforts aimed at meeting these objectives.

MORE INFORMATION

- » [Follow-up Report of the High Commissioner for Human Rights](#), 10 June 2011.
- » [ICC Libya Situation Page](#)
- » [UNSC Resolution 1970](#), 26 February 2011
- » [UNSC Resolution 1973](#), 17 March 2011
- » [GCR2P Background Briefing: R2P After Libya and Côte d'Ivoire](#), 7 November 2011
- » [GCR2P Open Statement: Libya: Time for Decision](#), 14 March 2011
- » [GCR2P Open Statement on the Situation in Libya](#), 22 February 2011



CÔTE D'IVOIRE

Perpetrators of crimes against humanity committed in Côte d'Ivoire following the disputed election of November 2010 must be brought to justice.

BACKGROUND

Following the November 2010 UN-supervised election, incumbent President Laurent Gbagbo, having lost the election, refused to transfer power to Alassane Ouattara who won the Presidency. Over a period of more than six months security forces and militias loyal to President Gbagbo attacked civilians perceived to be supporters of Ouattara on the basis of their ethnic or religious affiliation. State television was used to incite violence and massacres of civilians took place.

An estimated 3,000 people were killed during the conflict that followed the election with mass atrocity crimes committed by both sides. Among documented incidents, during a 17 March attack on a market in Abidjan security forces indiscriminately killed 30 civilians.

In April rebel forces loyal to Ouattara re-launched a military campaign to topple President Gbagbo. While most reported mass atrocities were committed by pro-Gbagbo forces, in Duékoué and several other locations pro-Ouattara forces also committed massacres of perceived ethnic and political enemies.

UN peacekeepers, while cautiously responding to the deteriorating situation, militarily intervened in April with the assistance of French forces in order to protect civilians. This intervention occurred under a more robust mandate resulting from UNSC resolution 1975 and in keeping with the Responsibility to Protect.

Following the arrest of former President Gbagbo and the swearing-in of President Ouattara the situation in Côte d'Ivoire has stabilized. A Commission on Dialogue,

Truth and Reconciliation was created following a 13 July Presidential decree. On 11 December Côte d'Ivoire held parliamentary elections. Despite low turnout and a boycott by the opposition, there were no reports of major violence.

There is still a need to bring perpetrators of *crimes against humanity* to justice, regardless of their previous position or current allegiances. Impunity poses a grave risk to the long-term stability of Côte d'Ivoire.

ANALYSIS

Despite a history of civil war in which atrocities were committed on both sides, President Ouattara has taken steps to begin to bring perpetrators to justice. Although state structures are weak and underlying tensions remain, the presence of an established UN mission in Côte d'Ivoire should assist in peace building.

President Ouattara has demonstrated a willingness to engage with international agencies, especially the UN, with regard to resolving conflict in Côte d'Ivoire. The government of Côte d'Ivoire requires international assistance to rebuild, end impunity for past crimes, and uphold its Responsibility to Protect.

INTERNATIONAL RESPONSE

The UNSC has passed eight resolutions on Côte d'Ivoire since the crisis began in late 2010, with the key resolution being 1975 at the peak of the crisis in March 2011 when the Responsibility to Protect was invoked. A UN peacekeeping mission, UNOCI, was authorized under resolution 1528 (2004) and has a protection of civilians mandate. UNSC resolution 2000 increased UNOCI's policing personnel and extended its mandate until 31 July 2012.

On 29 November 2011 former President Gbagbo was handed over to the ICC in order to face four charges relating to *crimes against humanity* committed between 16 December 2010 and 12 April 2011.

NECESSARY ACTION

In order to prevent the future commission of mass atrocity crimes, it is essential to break the culture of impunity in Côte d'Ivoire. The ICC should continue to investigate *crimes against humanity* perpetrated in Côte d'Ivoire and call upon all concerned parties to assist with this process. UNOCI should assist the government of Côte d'Ivoire in upholding its Responsibility to Protect.

MORE INFORMATION:

- » [UNOCI Website](#)
- » [ICC Côte d'Ivoire Situation Page](#)

- » [UNSC Resolution 1975](#), 30 March 2011.
- » [Report of the UN High Commissioner for Human Rights on the situation in Côte d'Ivoire](#), 20 September 2011
- » ["A Critical Period for Ensuring Stability in Côte d'Ivoire"](#), International Crisis Group, 1 August 2011.
- » ["Côte d'Ivoire: Both sides responsible for war crimes and crimes against humanity"](#), Amnesty International, 25 May 2011
- » [GCR2P Background Briefing: R2P After Libya and Côte d'Ivoire](#), 7 November 2011
- » [GCR2P Open Statement to the UNSC on the Situation in Cote d'Ivoire](#), 21 March 2011
- » [GCR2P Open Statement on the Situation in Cote d'Ivoire](#), 7 March 2011



KENYA

*There are concerns about the possibility of a resumption of **ethnic cleansing** in the run-up to the 2012 Kenyan elections.*

BACKGROUND

In December 2007 post-election violence between ethnic Kikuyu, Luos and Kalenjin left 1,133 dead and over 663,000 people displaced. The ICC subsequently indicted several leading politicians from President Mwai Kibaki's Party of National Unity (PNU) for implementing a "common plan" to attack supporters of the rival Orange Democratic Movement, precipitating the ethnic violence.

As Kenya prepares for elections in 2012, many of the factors that contributed to previous violence remain. Concerns exist about the possibility of renewed conflict, leading to the potential resumption of mass atrocity crimes.

In 2007 the international community, led by the African Union and former UN Secretary-General, Kofi Annan, responded quickly and in keeping with the Responsibility to Protect. After the conclusion of a successful mediation, international engagement with Kenya waned.

Since 2007 the Kenyan government has struggled to ensure the safety and security of its population, particularly outside of large urban centers. This has contributed to the ominous growth in a number of ethnic-based militias. While post-election mediation led to a power-sharing government, Kenya's political leaders, President Mwai Kibaki and Prime Minister Raila Odinga, remain locked in an ongoing power struggle and there is a risk that the security situation could deteriorate quickly.

The August dismissal of the Higher Education Minister, William Ruto, under indictment by the ICC for his role in the 2007 violence, is a promising sign, although it is unclear if his dismissal will ameliorate or inflame the overall political situation.

On 5 January the UN Office for the Coordination of Humanitarian Affairs (OCHA) warned of growing ethnic violence in northern Kenya where 46 people have been killed in recent months. OCHA estimates that 300 people were killed in ethnic violence in north and central Kenya in 2011.

ANALYSIS

Underlying political and ethnic tensions are strong. It is unclear if the power-sharing government could withstand a further outbreak of violence associated with fresh elections. On the positive side, Kenya is

receptive to outside influence via the African Union and other key international bodies, and current political leaders have declared their intention to ensure there is no repeat of the violence of 2007. The government of Kenya remains committed to upholding its Responsibility to Protect.

INTERNATIONAL RESPONSE

A number of leading Kenyan politicians associated with Kibaki's PNU are currently in The Hague awaiting possible prosecution by the ICC for *crimes against humanity*. The six accused include the Deputy Prime Minister, Uhuru Kenyatta, and the former chief of police, Mohammed Hussein Ali.

NECESSARY ACTION

The African Union and UNSC should continue to work with the government of Kenya to support its Responsibility to Protect. In particular, the international community should assist the Kenyan government in all efforts aimed at strengthening the rule of law, demobilization of militias and building inter-communal dialogue.

MORE INFORMATION

- » ["ICC case against Kenyan officials to proceed"](#), UN News Centre, 30 August 2011
- » ["Kenya and the ICC: Questions and Answers"](#), Human Rights Watch, January 2011
- » ["Unfinished Business: Closing Gaps in the Selection of ICC Cases"](#), Human Rights Watch, 15 September 2011
- » [GCR2P Policy Brief: The Responsibility to Protect and Kenya: Past Successes and Current Challenges](#), 13 August 2010



**Global Centre for the
Responsibility to Protect**

**Ralph Bunche Institute for
International Studies**

The CUNY Graduate Center,
365 Fifth Avenue, Suite 5203,
New York, NY 10016, USA.

Phone: (+1) 212.817.2100

www.globalr2p.org

Email: info@globalr2p.org

R2P Monitor Sponsors

Switzerland

GCR2P Sponsors

Governments: Australia, Denmark, The Netherlands, Norway, Rwanda, Sweden, United Kingdom

Foundations: Humanity United, The Stanley Foundation, The Open Society Institute

GCR2P Patrons

Kofi Annan, Lloyd Axworthy, Romeo Dallaire, Jan Eliasson, David Hamburg, Lee Hamilton, Prince El Hassan bin Talal, Sadako Ogata, Fidel V. Ramos, Mary Robinson, Desmond Tutu

GCR2P International Advisory Board

Gareth Evans (Co-Chair), Mohamed Sahnoun (Co-Chair), Jan Egeland, Thelma Ekiyor, Rosemary Foot, Carolina G. Hernandez, Ricardo Lagos Escobar, Frank Majoer, Juan Mendez, Edward Mortimer, Ramesh Thakur, Thomas G. Weiss

**R2P Monitor is a bimonthly publication of
the Global Centre for the Responsibility
to Protect (GCR2P).**

The material in R2P Monitor is subject to copyright. Material in this publication may be freely used as in the public domain. You are free to copy, distribute, or make derivative works under the following conditions: you must attribute the work to R2P Monitor or the Global Centre for the Responsibility to Protect. You may not use this work for commercial purposes.

To subscribe to the R2P Monitor please send an e-mail request to jstreitfeld@globalr2p.org

For media inquiries please contact **Naomi Kikoler**,
GCR2P Director of Policy and Advocacy.
(+1) 212.812.1943