

보호책임(R2P)의 이론 및 실행, 그리고 한반도에의 함의: 리비아 및 코트디부아르 사태를 중심으로

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2011년 10월 20일 카다피의 사망으로 8개월여를 끌어온 리비아 사태는 일단 종지부를 찍은 것으로 보인다. 수만 명의 사상자를 낸 이번 리비아 사태는, 비록 앞으로의 국가재건작업이 지금까지의 과정보다 더 험난하면서도 중요하다는 관측에도 불구하고, 국제사회 및 한반도에 중요한 시사점을 주었다.

2011년 2월 15일부터 발생한 금번 리비아 사태는 카다피 정부가 무기를 소지하지 않은 민간인 시위대를 전투기까지 동원한 군대, 아프리카 용병, 저격수 등을 통해 학살하는 등 극명한 인권침해 행위로 국제사회의 주목을 받았다. 이에 대응하여 국제사회는 2011년 2월 26일 UN 안전보장이사회 결의 1970을 통해 리비아에 대해 해외자산동결 및 무기금수조치 등 경제적 제재를 가하는 동시에 리비아 지도자 카다피의 인도에 반한 죄(crimes against humanity) 혐의 등을 근거로 국제형사재판소에 리비아 사태를 직접 회부하였다. 이러한 국제사회의 일치된 메시지에도 불구하고 카다피 정부의 태도가 근본적으로 변하지 않자, UN 안보리는 3월 17일 추가적으로 UN 헌장 제7장에 근거한 비행금지구역 설치 및 회원국 무력사용 허가의 내용을 담은 안보리 결의 1973을 채택하였다. 동 결의에 명시된 ‘민간인 보호(protection of civilians)’라는 명분 및 추후 UN 사무총장 등의 발언을 통해, 2000년대 이후 UN을 중심으로 논의되어 오던 ‘보호책임(Responsibility to Protect: R2P)’의 개념이 본 사안에 직접 적용되었음이 확인되었다. 이상의 문제들, 즉 국제적 개입 근거로서의 보호책임(R2P), 그리고 안보

리에 의한 인도에 반한 죄 관련 사태의 국제형사재판소 회부 등은 모두 그 기저에 상당 부분 국제법적 논의들이 자리잡고 있다. 또한 금번 리비아 사태에서 드러난 이런 국제법적 논점들은 한반도 문제에도 적용 가능할 것으로 예상되기 때문에 한국으로서는 더욱 관심을 기울일 수밖에 없다.

현대국제법이 인권문제를 더 이상 단순히 일국의 관할권 하에 있는 국내문제로 보지 않고 인류보편적 가치의 하나로 인식하여 이를 국제문제화 하고는 있지만, 이것이 대량인권침해사태를 자동적으로 ‘국제평화와 안전에 대한 위협 내지 파괴’로 간주하여 UN 안전보장이사회의 무력적 강제제재 조치를 정당화하거나 일부 국가들에 의한 일방적인 무력 개입, 즉 ‘인도적 간섭(humanitarian intervention)’을 허용하는 것으로 해석되지는 않는다. 그러함에도 1999년 세르비아의 코소보 자치주에서의 인종청소 행위에 대응해 나토군이 UN 안보리 허가 없이 공습을 단행했을 당시 비록 합법성 논란이 있기는 하였으나 그 인도적 간섭에 대한 정당성에 대해서는 국제사회로부터 큰 이의가 제기되지 않았었다.

대량인권침해와 같은 국내문제에 대해 국제사회가 개입할 ‘근거’ 내지 ‘권리’를 부여하는 차원에서의 ‘인도적 간섭’ 논의는, 2000년대 UN을 중심으로 국제사회가 ‘책임’ 내지 ‘의무’ 차원에서 관련 문제를 접근하는 ‘보호책임(R2P)’ 논의로 발전하였다. 이는 90년대 중반 보스니아 내전 및 르완다 내전 시 인종청소와 집단학살이 대규모로 발생했음에도 국제사회가 이에 적절히 대처하지 못했다는 반성에서 기인한 것이다. 2005년 10월 UN 총회 결의의 형식으로 채택된 세계정상회의 결과(2005 World Summit Outcome) 문서에 의하면, ‘집단학살(genocide)’, ‘전쟁범죄(war crimes)’, ‘인종청소(ethnic cleansing)’, ‘인도에 반한 죄

(crimes against humanity)’ 등으로부터 자신의 거주민들(populations)을 보호할 책임을 개별 영토국가에 일차적으로 부여한 후, 동시에 국제공동체도 UN을 통해 현장 제6장 및 제8장에 근거해 적절한 평화적 방법으로 이러한 보호를 도울 책임을 명시하였다. 아울러, 평화적 수단이 부적절하고 관련국이 상기 국제범죄로부터의 보호책임 수행에 명백히 실패한 경우에는 UN 안보리가 현장 제7장에 근거 시의적절하고 단호하게 집단적 강제제재조치를 취할 준비가 되어 있다고 언급하였다. 이렇게 일국 내의 국제범죄 방지 내지 인권보호 책무를 당해국가와 함께 국제사회 전체가 공유해야 한다는 ‘보호책임’의 논의는, 기존의 ‘인도적 간섭’과 일맥상통하면서도 전통적 국가주권 개념에 대해 더욱 공세적인 입장을 취하고 UN 안보리로 대표되는 국제공동체에는 보다 강한 책임감과 의무의식을 요구한다.

그러나 국제법적으로 봤을 때 보호책임 관련 내용은 아직 조약이나 국제관습법과 같은 경성법(hard law)이기 보다는 법적 구속력이 없는 UN 총회 결의 형식으로 채택된 연성법(soft law)일 뿐이다. 또한 그 내용이 아직 구체적이거나 명확하지 않고 여전히 형성 중에 있는 개념으로 이해된다. 즉, 안보리의 명시적 허가 없이 타국의 대량인권침해 사태에 대해 ‘무력’ 개입을 하는 것은 여전히 실정 국제법 ‘위반’이며, 안보리로 대표되는 국제공동체도 대량인권침해사태에 대해 집단제재 조치를 취할 ‘재량’을 원칙적으로 갖는 것이지 그러한 조치를 취할 법적 ‘의무’나 ‘책임’까지 부과되는 것은 아직 아니다.

이러한 상황에서 금번 리비아에 대한 UN 안보리의 무력사용 허가는, 비록 리비아 영토에 대한 외국군의 점령을 배제하는 등의 제한은 있었지만, 상기 ‘보호책임’ 논의에 중요한 실제 국제관행을 제공했다는 의의를 가진다. 또한, 비슷한 시기에 진행됐던 코트디부아르 사태는

UN 평화유지군(PKO Forces)을 통해서도 ‘보호책임’ 개념이 실제 적용될 수 있음을 보여주었다.

추후 북한에서 금번 리비아에서와 유사한 사태가 발생한다면, 이는 국제사회 공동의 보호책임 적용대상으로 취급될 수 있을 것이다. 그러나 현 보호책임 논의가 그 구체적 이행방안에 대해서는 원칙적으로 ‘UN 안보리를 통한 개입’을 상정하고 있으므로, 결국 안보리에서 거부권을 가지고 있는 상임이사국의 의사에 영향을 받을 수밖에 없다. 그러한에도 보호책임 논의의 발전은 이러한 상황에서 상임이사국에 이는 단순히 재량적 선택의 문제가 아니라 국제공동체 전체가 반드시 해결하고 개입해야 할 최소한 ‘도덕적 의무’가 있는 사안이라는 점을 주지시키는 데 일정한 역할을 할 것이라 기대된다. 이러한 역할은 과거 인도적 개입이 관련 강대국들의 이해관계에 영향을 받아 선별적으로 실행됐다는 비판을 잠재우기 위해서라도 꼭 필요한 것이라 판단된다.

추가로, 보호책임에 등장하는 국제범죄들은 모두 국제형사재판소의 관할대상범죄인데, 이러한 사실은 리비아 사태와 같은 대량인권침해 사태에 대한 국제사회의 대응이 크게 관련 ‘국가’에 대한 집단적 강제 조치 및 관련 ‘개인’에 대한 국제적 형사처벌로 나뉘어 나타날 수 있으며, 이 양자 간에는 서로 긴밀한 연관성이 있음을 시사한다. 따라서 최근 수단 대통령 및 리비아의 카다피에 대해 국제형사재판소가 공식 수사 후 체포영장을 발부한 사실에서도 알 수 있듯이, 북한의 지도자들도 보호책임에 의한 국제적 개입과 함께 개인적으로는 국제적 형사책임을 질 수도 있을 것이다.

이번 리비아 사태에서 보여준 UN과 국제사회의 개입은 민간인 보호와 같은 인권문제가 더 이상 단순한 국내문제도 아닐 뿐더러 국제공동체의 무력 개입을 정당화하는 사유가 될 수도 있음을 다시 한 번 확

인하였다는 데 의의가 있다. 이러한 선례는 우리나라는 물론 현재 경제난 속에서도 3대 세습을 한창 진행 중인 북한에게도 시사하는 바가 클 것이다. 우리 정부로서도 이번 리비아 사태를 통해 등장한 여러 사안과 논점들이 구체적으로 어떻게 한반도 문제에 적용될 수 있을지에 대해 보다 심층적인 연구 및 정책 검토가 필요한 시점이다.

I. 서론

10월 20일 카다피의 사망으로 8개월여를 끌어온 리비아 사태는 일단 종지부를 찍은 것으로 보인다.¹ 수만 명의 사상자를 낸 이번 리비아 사태는, 비록 앞으로의 국가재건작업이 지금까지의 과정보다도 더 험난하면서도 중요하다는 전문가들의 관측에도 불구하고, 국제사회 및 한반도에 중요한 시사점을 주었다.

2011년 2월 15일부터 발생한 금번 리비아 사태는 대부분의 여타 아랍 민주화운동 내지 시민혁명과는 달리 카다피로 대표되는 리비아 정부가 무기를 소지하지 않은 시위대, 즉 자국 민간인을 전투기까지 동원한 군대(친위부대) 및 아프리카 용병, 저격수 등을 통해 학살하는 등 극명한 인권침해 행위로 국제사회의 주목을 받았다. 이에 대응하여 국제사회는 2011년 2월 26일의 국제연합(United Nations: UN) 안전보장이사회 결의 1970을 통해 리비아에 대해 해외자산동결(asset freeze) 및 무기금수조치(arms embargo) 등 경제적 제재를 가하는 동시에 리비아 지도자 카다피의 인도에 반한 죄(crimes against humanity) 혐의 등을 근거로 국제형사재판소(International Criminal Court: ICC)에 리비아 사태를 직접 회부하였다.² 이러한 국제사회의 일치된 메시지에도 불구하고 카다피 정부의 태도가 근본적으로 변하지 않자, UN 안보리는 3월 17일 추가적으로 UN 헌장 제7장에 근거한 비행금지구역(no fly zone) 설치 및 회원국 무력사용 허가의 내용을 담은 안보리 결의 1973을 채택하였다.³ 동 결의에 직접적으로 드러나지는 않았지만⁴ ‘민

¹ UN의 관련 제재 조치는 2011년 10월 31일부로 공식 종료되었다. UN Doc. S/RES/2016 (27 October 2011).

² UN Doc. S/RES/1970 (26 February 2011).

³ UN Doc. S/RES/1973 (17 March 2011).

⁴ 상기 2개의 관련 안보리 결의에는 서문에 리비아의 1차적 주민 보호책임(“Libyan authorities’ responsibility to protect its population”)을 명기하고 있을 뿐 국제사회의 보호책임은 명시적으로 언급되지 않았다.

간인 보호(protection of civilians)'라는 명분 및 추후 국제연합(UN) 사무총장 등의 발언을 통해 2000년대 이후 UN을 중심으로 논의되어 오던 보호책임(Responsibility to Protect: R2P)의 논리가 본 사안에 직접 적용되었음이 확인되었다. 또 다른 문제로, 리비아 사태를 피해 수많은 외국인 및 리비아 시민들이 주변국으로 피난길을 떠났으며, 카다피 자신도 유럽 국가 대사들에게 “이 정권이 몰락하면 유럽은 아프리카 난민들로 인해 수렁에 빠지게 될 것”이라고 경고하기도 하였다. 실제로 많은 유럽 국가들이 리비아 난민의 자국 유입 시 지게 될 책임에 대해 큰 부담을 느꼈기 때문에 군사작전을 통해서라도 리비아 사태의 해결을 원했다는 해석도 충분히 가능하다.⁵

이상의 문제들, 즉 국제적 개입 근거로서의 보호책임(R2P), 안보리에 의한 인도에 반한 죄 등 관련 사태의 국제형사재판소 회부, 그리고 대량난민 문제 모두 그 기저에는 상당 부분 국제법적 논의들이 자리 잡고 있다. 그 중에서도 보호책임 논의는 UN 안보리 개혁 논의와도 연결되면서 보다 책임 있는 국제공동체의 모습을 지향한다는 측면에서 주목할 만하다. 또한 금번 리비아 사태에서 드러난 이런 국제법적 논점들은 한국으로서는 북한 관련 문제들에 적용 가능할 것으로 예상되기 때문에 더욱 관심을 기울일 수밖에 없다. 이에 본 연구에서는 보호책임 논의를 중심으로 최근 발생한 리비아 사태와 코트디부아르 사태를 국제법적 관점에서 분석하고 이를 다시 한반도의 상황에 적용해 봄으로써, 최근 새롭게 부각되고 있는 보호책임 논의의 이론 및 실행을 전반적으로 검토하고 이러한 발전이 한반도에 주는 국제법적·국제정치학적 함의에 대해 1차적인 분석 및 검토의견을 제시하고자 한다.

⁵ “유전 폭파, 죄수 석방”…막가는 카다피, 왜?” 『조선일보』, 2011년 2월 23일 (인터넷판); “리비아인들도 피난 행렬 나섰다.” 『조선일보』, 2011년 3월 23일 (인터넷판) 참조.

II. 보호책임(Responsibility to Protect: R2P)의 이론

1. 인도적 간섭(Humanitarian Intervention)

한 국가 내에서 대규모의 조직적인 인권 침해 사태가 발생하고 있음에도 불구하고 당사국은 이를 수습할 의사나 능력이 없는 경우, 타국이 이러한 인권 침해로부터 사람들을 보호하거나 대규모 인도적 참사를 중지시킬 목적으로 ‘무력’을 사용하여 그 사태에 개입하는 것을 ‘인도적 간섭(humanitarian intervention, 인도적 개입)’이라고 한다. 광의로는 해외 자국민을 보호하기 위한 간섭 및 타국에 대한 비군사적 간섭을 인도적 간섭에 포함시키기도 하지만, 본 연구에서는 논의의 효율성을 위해 인도적 간섭 논의의 대다수를 점하고 있는 협의의 상기 개념을 따른다.⁶

UN 체제 이전의 인도적 간섭 개념은 확립된 관련 국가 관행이 존재하지 않았고, 그 권리 여부 및 개입 기준에 대해서 학자들 간의 논의만 있었을 뿐이다. 실제 인도적 간섭의 사례로 종종 원용되는 19세기의 몇몇 사례들은 사실 개별 조약상 의무에 근거하거나 기타 자국민 보호 및 자국의 상업적 이익을 보호하기 위한 조치의 일환으로 진행된 경우가 대부분이었다. 결국 과거 무력사용이 자유롭게 허용되던 시절의 인도적 간섭 논리는, 무력 개입이 실제 가능한 강대국들에 의해 기타 다양한 개입 사유들과 함께 부분적으로 원용되거나 사실상 전혀 상관이 없는 경우가 전부였으며, 인도적 사유 하나만으로 타국을 간섭하는 완

⁶ Vaughan Lowe and Antonios Tzanakopoulos, “Humanitarian Intervention,” Max Planck Encyclopedia of Public International Law <www.mpepil.com> (May 2011), paras. 1~3, 9; 오병선, “인도적 간섭의 적법성과 정당성,” 『국제법학회논총』, 제54권 제3호 (2009), pp. 246~247; 정경수, “북한에 대한 인도적 개입의 정당성,” 『민주법학』, 제25호 (2004), p. 130; 이규창, “남북통일시 북한지역 관할권 확보방안 연구,” 『2011년 남북법제연구보고서』(서울: 법제처, 2011), pp. 147~148; 정인섭, 『신국제법강의: 이론과 사례』개정판 (서울: 박영사, 2011), p. 862, 864~865.

전한 법적 근거가 확립되었다고 인식하지도 않았던 것으로 보인다.⁷

무력사용을 원칙적으로 금지하는⁸ UN 체제가 1945년 성립된 이후에는 무력사용을 동반한 일방적 인도적 개입에 대한 인식이 더욱 부정적인 방향으로 전개되었다.⁹ 즉, 자위권 행사¹⁰나 UN 안전보장이사회의 명시적 허가가 있는 경우¹¹를 제외한 무력사용은 그 인도적 목적 여부를 불문하고 실정 국제법에 위배되는 것으로 이해되고 있는 것이다.¹² 아울러, UN 헌장 제2조 7항에 의하면 “본질상 어떤 국가의 국내 관할권 안에 있는 사항에 간섭할 권한을 국제연합에 부여하지 아니하며, 또는 그러한 사항을 이 헌장에 의한 해결에 맡기도록 회원국에 요구하지 아니한다”고 규정하여 ‘국내문제불간섭의 원칙(principle of non-intervention in domestic matters)’을 주요한 국제법 원칙 중 하나로 명시하였다. 이는 전통적으로 개별 국가의 국내문제로 인식되던 인권 문제에도 적용될 수 있는 원칙이다. 그러나 이 원칙은 헌장 “제7장에 의한 강제조치의 적용을 해하지 아니한다”고 부연하여 UN 안보리에 의한 국내문제 개입을 예외적으로 인정하고 있다.¹³ 물론 이는 국

⁷- Vaughan Lowe and Antonios Tzanakopoulos, “Humanitarian Intervention,” paras. 4-6.

⁸- UN 헌장 제2조 4항.

⁹- 정경수, “북한에 대한 인도적 개입의 정당성,” pp. 131~132.

¹⁰- UN 헌장 제51조.

¹¹- UN 헌장 제42조 참조.

¹²- 정인섭, 『신국제법강의: 이론과 사례』, pp. 862~863; Vaughan Lowe and Antonios Tzanakopoulos, “Humanitarian Intervention,” paras. 26~31 참조.

¹³- UN 헌장 제2조 7항의 원문은 다음과 같다: “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.”

제 평화와 안전에 대한 위협이나 파괴에 관한 사안에 한한다.¹⁴

현대 국제법이 인권문제를 더 이상 단순히 일국의 관할권 하에 있는 국내문제로 보지 않고 인류 보편적 가치의 하나로 인식하여 이를 국제 문제화 하고는 있지만,¹⁵ 이것이 대량인권침해사태를 자동적으로 상기 ‘국제 평화와 안전에 대한 위협 내지 파괴’로 간주하여 UN 안보리의 무력적 강제제재 조치를 정당화하거나 일부 국가들에 의한 일방적인 무력 개입, 즉 무력적 인도적 간섭을 허용하는 것으로 해석되지는 않는다. 그러함에도 1999년 세르비아의 코소보(Kosovo) 자치주에서의 인종청소 행위에 대응해 북대서양조약기구(NATO)군이 UN 안보리 허가 없이 공습을 단행했을 당시 비록 절차적 합법성 논란이 있기는 하였으나 그 인도적 간섭의 실체적 정당성에 대해서는 국제사회로부터 큰 이의가 제기되지 않았었다.¹⁶ 또한, 비록 결과적으로 목적 달성에는 실패하였지만, 1992년 소말리아 사태 시에는 순수한 내전 상황이었음에도 불구하고 인도적 목적의 UN 안보리 결의 794에 근거 미국 중심의 다국적군이 형성되어 합법적으로 인도적 개입의 실행을 시도한 사례도 있었다.¹⁷

¹⁴ UN 헌장 제39조 참조.

¹⁵ UN 헌장 서문, 제1조 3항, 제13조 1항, 제55조, 제56조, 제62조 2항 참조.

¹⁶ 김대순, 『국제법론』, 제16판 (서울: 삼영사, 2011), pp. 1349-1352 참조. NATO의 군사행동을 비난하는 안보리 결의안은 1999년 3월 26일 반대 12, 찬성 3(중국, 러시아, 나미비아)으로 부결된 바 있다. 정인섭, 『신국제법강의: 이론과 사례』, p. 863.

¹⁷ Spencer Zifcak, “The Responsibility to Protect,” Malcolm D. Evans (ed.), 『International Law』, 3rd ed. (Oxford: Oxford University Press, 2010), p. 507; 김대순, 『국제법론』, pp. 1352, 1378-1381. 그 당시 다국적군인 UNITAF(Unified Task Force)는 UN PKO인 UNOSOM(United Nations Operation in Somalia) 및 UNOSOM II와는 원칙적으로 구별된다.

2. 보호책임 논의의 발전 과정

대량인권침해와 같은 국내문제에 대해 국제사회가 개입할 ‘근거’ 내지 ‘권리’를 부여하는 차원에서의 ‘인도적 간섭’ 논의는, 2000년대 UN을 중심으로 국제사회가 ‘책임’ 내지 ‘의무’ 차원에서 관련 문제를 접근하는 ‘보호책임(responsibility to protect: R2P)’ 논의로 발전하였다. 이는 1990년대 중반 보스니아 내전 및 르완다 내전 시 인종청소와 집단 학살이 대규모로 발생했음에도 국제사회가 이에 적절히 대처하지 못했다는 반성에서 기인한 것이다. 물론 양 내전에 대해 UN 안보리는 평화유지활동(PKO) 인원을 파병하고 상당수 강제조치도 취했으며 구유고 국제형사재판소(International Criminal Tribunal for the former Yugoslavia: ICTY) 및 르완다 국제형사재판소(International Criminal Tribunal for Rwanda: ICTR) 등 특별 국제형사재판소도 각각 설립하여 관련자를 처벌하였으나, 전반적으로 대량인권침해사태에 대해 적시에 적절히 대응하지 못했다는 평가를 받았다.

‘보호책임’에 대한 본격적인 논의에 들어가기에 앞서, 먼저 ‘Responsibility to Protect’를 한국어로 어떻게 지칭할 것인지에 대해 간단히 짚고 넘어가고자 한다. 지금까지 국제법학계 및 국제정치학계에서는 ‘Responsibility to Protect (R2P)’를 일반적으로 ‘보호책임’이라는 명칭으로 불러왔다.¹⁸ 그러다가 최근 리비아 사태가 발생하고 UN을 중심으로 한 국제적 개입이 진행되자 일반 대중들의 이해를 돕고자 언론계를 중심으로 ‘국민보호책임’이란 용어가 널리 쓰이기 시작했다. 물론 이 용어가 전반적으로 큰

¹⁸ 박기갑 외, 『국제법상 보호책임』(서울: 삼우사, 2010); 박홍순, “인도적 위기와 보호책임(RtoP): 주요사례와 함의,” 『국제기구저널』, 제5집 1호 (한국유엔체제학회, 2010); 이신화, “유엔과 보호책임(Responsibility to Protect),” 『국제문제연구』, 제10권 제4호 (2010) 등 참조.

무리 없이 관련 개념을 쉽게 이해하는데 도움을 준다는 실용적 의미를 무시할 수만은 없으나, 엄격한 법적 의미에서는 다음의 두 가지 문제점이 있다. 첫째, ‘보호책임’의 보호대상인 ‘population’은 1차적으로는 그 영토국에 보호책임이 있지만 국제공동체의 2차적 책임 또한 존재한다. 따라서 ‘population’을 ‘국민’으로 해석하는 것은 국제공동체 입장에서는 잘못된 표현이다. 둘째, 국제인권법 원칙상 인권은 국적에 의해 외국인과 구별되는 국민에게만 있는 것이 아니라 하나의 ‘인간’으로서 모든 사람이 갖고 있는 것이다. 즉, 영토국은 자신의 영토에 있는 국민뿐만 아니라 외국인 및 무국적자도 보호할 의무가 있으며, 영토(territory)는 물론 더 넓은 의미의 자신의 관할권(jurisdiction) 하에 있는 인간을 보호할 책임도 부담한다. 이러한 점들을 고려할 때, ‘보호책임’은 ‘(거)주민보호책임’ 내지 ‘민간인보호책임’, 또는 ‘인간보호책임’ 등으로도 불릴 수 있을 것이다. 본 연구에서는 기존의 학계 관행에 따라 원어를 직역한 ‘보호책임’이란 단어를 사용한다.¹⁹

¹⁹- “Implementing the responsibility to protect,” Report of the Secretary-General, UN Doc. A/63/677 (12 January 2009), para. 11 (a): “Pillar one is the enduring responsibility of the State to protect to protect its populations, *whether nationals or not*, from genocide, war crimes, ethnic cleansing and crimes against humanity, and from their incitement” (emphasis added); UN Doc. S/RES/2016 (27 October 2011), para. 3: “... the Libyan authorities’ responsibility for the protection of its population, *including foreign nationals and African migrants*” (emphasis added) 참조.

가. 2001년 간섭과 국가주권에 관한 국제위원회(ICISS)

보고서와 보호책임

앞서 언급한 90년대 중반 보스니아와 르완다에서의 대량인권침해사태를 국제사회가 적절히 대처하지 못했다는 반성이 존재하던 상황에서, UN은 1999년 코소보 사태에서조차 거부권을 보유한 안보리 상임이사국 간의 의견불일치로 UN의 승인 없는 NATO의 무력 개입을 바라볼 수밖에 없었다. 그 당시 알바니아계 코소보인들이 세르비아인들에 의해 무참히 인종청소 당하고 있는 상황에서 NATO의 군사적 개입은 그 인도적 정당성에 대해 상당 부분 지지를 받았던 것이 사실이다.²⁰ 당시 UN 사무총장이던 코피 아난(Kofi Annan)은 냉전 종식 이후 제3세계를 중심으로 빈발하던 내전 및 인도적 참화에 대해 UN이 인도적 개입을 확대하지 못한다면 인류의 양심은 새로운 대변자를 찾으려 할 것이라고 경고하였다. 주권은 권력뿐만 아니라 책임도 수반한다(“Sovereignty implies responsibility, not just power.”)고 국가주권을 재해석한 그는, 동시에 UN의 강화를 통하여 대규모인권침해사태의 해결책을 찾으려 하였다.²¹

21세기에는 대규모의 조직적 인권침해행위를 방지하기 위해 UN 안보리를 필두로 한 국제사회가 더욱 효과적인 조치를 취할 수 있어야 한다는 코피 아난 전 UN 사무총장의 요청에 부응하여, 2000년 9월 캐나다 정부는 ‘간섭과 국가주권에 관한 국제위원회(International Commission on Intervention and State Sovereignty: ICISS)’란 전문가 패널을 설치하였

²⁰- Spencer Zifcak, “The Responsibility to Protect,” pp. 509~510 참조.

²¹- Ingo Winkelmann, “Responsibility to Protect,” *Max Planck Encyclopedia of Public International Law* <www.mpepil.com> (July 2006), para. 6.

고, 동 위원회는 1년 후인 2001년 9월 기준에 상당수의 국가들이 부정적 반응을 보이던 ‘간섭’이나 ‘개입’이란 용어 대신 새로운 표현인 ‘보호책임(The Responsibility to Protect)’이란 획기적 제목의 보고서를 발간하였다.²² 2001년 ICISS 보고서는 먼저 국가주권은 그에 따른 책임을 내포하고 있으며, 한 국가의 사람들을 보호할 일차적 책임은 바로 당해 국가 자신에게 있다고 확인한다. 그러나 한 국가의 주민이 내전, 반란, 억압, 국가실패로 인해 심각한 피해를 겪고 있고 해당 국가가 이를 멈추거나 막을 의지 내지 능력이 없는 경우, 불간섭의 원칙은 국제적 보호책임에 그 우선권을 내준다고 강조한다. 즉, 2차적이기는 하나 국제공동체의 ‘보호책임’을 최초로 명문으로 인정한 것이다. 이러한 보호책임의 근거로 ICISS는 주권 개념에 내재되어 있는 의무, UN 헌장 제24조에 근거한 UN 안전보장이 사회의 국제평화와 안전의 유지 책임, 국제인권법, 국제인도법 및 국내법상의 구체적 법적 의무, 그리고 국가, 지역기구 및 안보리의 발전 중인 관련 관행을 들고 있다. 또한 동 보고서는 기존의 인도적 간섭이 일반적으로 무력사용을 통한 대응의 관점에서만 접근했던 점과 달리, 대응 이전의 예방 및 대응 이후의 재건을 함께 논의하여 ‘예방책임(responsibility to prevent)’ - ‘대응책임(responsibility to react)’ - ‘재건책임(responsibility to rebuild)’으로 연결되는 보호책임의 3단계 이행을 제시하고 있다.²³

2001년 ICISS 보고서는 군사개입의 기준도 제시하였는데, 먼저 군사개입은 예외적 조치가 되어야 하며, 대량의 인명 살상 내지 대량의 인종청소가 발생하거나 임박한 상황에서 정당화되고, 필요성(정당한

²²- International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect* (Ottawa: International Development Research Center, 2001).

²³- 자세한 내용은, 박기갑 외, 『국제법상 보호책임』, pp. 59-62, 264 참조.

의도, 최후 수단성)과 비례성의 원칙 및 합리적 성공 가능성 등을 고려하여야 함을 언급하였다. 또한, ICISS는 무력사용금지원칙이 적용되는 현 국제법 체제 하에서 UN 안보리를 통한 개입의 필요성 및 중요성을 확인하는 동시에, 인명 보호를 위한 군사적 개입에 대해 안보리 상임이사국의 거부권 행사 자제를 권고하였다. 마지막으로, 안보리가 합리적 기간 내에 적절한 조치의 합의에 이르는 데 실패할 경우, 그 대안으로 UN 총회의 긴급특별회기를 소집하여 ‘평화를 위한 단결(Uniting for Peace)’ 절차를 밟거나 지역기구가 우선 필요한 조치를 취하고 안보리의 사후추인을 받는 방법을 제안하기도 하였다.²⁴

한편, ICISS 보고서에서 제시한 보호책임의 적용 범위에는, 뒤에서 자세히 살펴볼 집단살해, 전쟁범죄, 인종청소 및 인도에 반한 죄 등 대표적인 4가지 경우(협약의 보호책임)는 물론, 실패국가에서의 대규모 기아 사태 및 자연재해, 환경파괴로 인한 인명피해가 발생한 경우(광약의 보호책임)도 함께 포함되어 있는데, 이는 보호책임의 적용 범위를 기존의 인도적 간섭 논의에서보다 더욱 확대함과 동시에 보호책임의 사전예방적 측면을 강조한 것으로도 볼 수 있다.²⁵

나. UN 내에서의 보호책임 논의

UN 내에서의 보호책임 논의는, 2003년 9월 UN 사무총장에 의해 설치된 ‘위협, 도전 및 변화에 관한 고위급 패널(The High-level Panel on Threats, Challenge and Change)’이 2004년 12월 발간한 ‘보다 안전한 세계: 우리의 공동책임 (A More Secure World: Our Shared

²⁴- 자세한 내용은, *ibid.*, pp. 62-67, 265-266 참조.

²⁵- *Ibid.*, pp. 112-117.

Responsibility)’이라는 제목의 보고서를 통해 본격화되었다.²⁶ 이 보고서는 인간안보의 중요성 및 인류에 대한 새로운 위협에 대처하기 위해서는 국가들의 집단행동이 필요함을 논의의 출발점으로 삼았는데, ‘집단안보와 무력사용’을 논하는 부분에서, 한 국가가 대규모의 인권유린 사태를 막을 능력이나 의지가 없는 경우에 국제공동체가 이에 대한 책임을 진다는 점을 명확히 확인하고 이를 ‘생성 중인 규범(emerging norm)’인 ‘집단적 국제보호책임(collective international responsibility to protect)’이라고 지칭하였다.²⁷ 국내적 대량인권침해행위를 ‘국제 평화와 안전에 대한 위협’으로 보고 이에 대한 UN 안보리의 역할과 책임을 강조한 고위급 패널 보고서는, 그 내용면에서 앞서의 ICISS 보고서에서 제시한 보호책임의 개념을 대부분 수용하였다. 이는 16명의 정부 대표로 구성된 고위급 패널을 통해 UN이 공식적으로 보호책임 논의를 본격화하였다는 의미를 지닌다.²⁸

2005년에는 보호책임과 관련된 2개의 중요한 문서가 UN에서 발표되었다. 먼저 2005년 3월에는 밀레니엄 정상회의 5주년을 맞아 UN 사무총장 보고서 ‘보다 큰 자유: 모두를 위한 발전, 안보 및 인권을 향하여 (In Larger Freedom: towards development, security and human rights for all)’가 발간되었다.²⁹ 본 보고서에서 코피 아난 UN 사무총장은 2004년 고위급 패널의 보고서를 지지하며 ‘공포로부터의 자유(Freedom from fear)’ 및 ‘존엄한 삶을 살 수 있는 자유(Freedom to

²⁶- “A more secured world: Our shared responsibility,” Report of the High-level Panel on Threats, Challenges and Change, UN Doc. A/59/565 (2 December 2004).

²⁷- “A more secured world: Our shared responsibility,” paras. 201-203.

²⁸- 박기갑 외, 『국제법상 보호책임』, pp. 67-73 참조.

²⁹- “In larger freedom: towards development, security and human rights for all,” Report of the Secretary-General, UN Doc. A/59/2005 (21 March 2005).



live in dignity)’ 부분에서 보호책임을 논하였다.³⁰ 기존의 보호책임 논의를 전반적으로 따르긴 하였으나, 구체적으로 집단살해(genocide), 인종청소(ethnic cleansing) 및 인도에 반한 죄(crimes against humanity)에 한정하여 보호책임 논의를 진행시킴으로써 소위 ‘협정의 보호책임’ 개념을 채택하고 있다.³¹ 동 보고서는 같은 해에 개최된 UN 총회의 세계정상회의 회기에 제출되었으며, 이를 근거로 보다 공식적인 UN 차원의 보호책임 논의가 진행되었다.³²

2005년 9월 14일부터 16일까지 UN 총회의 세계정상회의에 모인 각국 정상들은 ‘새천년개발목표(Millennium Development Goal: MDG)’를 2015년까지 달성하기 위해 협력할 것을 약속하고 구체적인 조치들에 대해 합의하였다. 이러한 배경 속에서 각국 정상들은 모든 국가가 집단살해, 전쟁범죄, 인종청소 및 인도에 반한 죄에 대항하여 집단적인 국제적 보호책임을 이행해 나갈 것을 논의하고, UN 안보리는 개별 주권국가들이 자신의 책임을 다하지 못할 경우 단호한 집단강제조치를 취한다는 ‘보호책임’의 개념을 받아들였다. 이러한 내용은 ‘세계정상회의 결과(2005 World Summit Outcome)’ 문서에 수록되어 2005년 10월 24일 UN 총회 결의의 형태로 최종 채택되었다.³³ 이는 ‘보호책임’에 대한 그간의 다양한 논의들을 국가들의 의견을 종합적으로 반영하여 잠정적이거나 현 시점에서는 최종 정리한 내용이라 할 수 있다. 이후 2008년 7월 반기문 UN 사무총장도 독일 베를린에서 행한 연설에서 보호책임의 적용 대상이 2005년 세계정상회의의 결과 문서에서 제시한 4

³⁰- “In larger freedom: towards development,” paras. 76-77, 125, 132-135,

³¹- ‘전쟁범죄(war crimes)’는 동 보고서에서는 누락되어 있다.

³²- 박기갑 외, 『국제법상 보호책임』, pp. 73-76 참조.

³³- “2005 World Summit Outcome,” UN Doc. A/RES/60/1 (24 October 2005).

개 국제범죄에 국한됨을 확인하였고, 2009년 1월 발표된 UN 사무총장의 ‘보호책임 이행(Implementing the Responsibility to Protect)’이란 보고서³⁴에서도 기본적으로 2005년 세계정상회의 결과 문서의 내용에 기반해서 후속 논의를 진행시켰다.³⁵

이러한 맥락에서 아래에서는 ‘2005년 세계정상회의 결과 문서’에 규정된 내용을 중심으로 ‘보호책임’의 주요 내용에 대해 더욱 구체적으로 살펴보겠다.

3. 보호책임의 주요 내용

2005년 10월 UN 총회 결의의 형식으로 채택된 세계정상회의 결과 (2005 World Summit Outcome) 문서에 규정된 ‘보호책임’의 핵심 내용은 다음과 같다.

집단학살, 전쟁범죄, 인종청소, 인도에 반한 죄로부터 주민들을 보호할 책임

138. 개별 국가는 집단학살, 전쟁범죄, 인종청소 및 인도에 반한 죄로부터 자신의 주민들을 보호할 책임을 진다. 이러한 책임에는 적절하고 필요한 수단을 통해 그러한 범죄 및 범죄 유인을 예방할 책임도 포함된다. 우리는 이러한 책임을 수락하고 이에 따라 행동할 것이다. 국제공동체는 각 국가들이 이러한 책임을 수행할 수 있도록

³⁴- “Implementing the responsibility to protect,” Report of the Secretary-General, UN Doc. A/63/677 (12 January 2009).

³⁵- 박기갑 외, 『국제법상 보호책임』, pp. 117~118.

적절하게 장려하고 도와주어야 하며 UN이 조기경보능력을 수립할 수 있도록 지원하여야 한다.

139. 국제공동체 또한 집단학살, 전쟁범죄, 인종청소 및 인도에 반한 죄로부터 주민들을 보호하는 것을 돕기 위해 UN을 통해 UN 헌장 제6장 및 제8장에 따라 적절한 외교적, 인도적 및 기타 평화적 수단을 사용할 책임을 부담한다. 이러한 맥락에서, 평화적 수단이 부적절하고 국내 당국이 집단학살, 전쟁범죄, 인종청소 및 인도에 반한 죄로부터 자신의 주민들을 보호하는 데 있어 명백히 실패하고 있을 경우, 우리는, 각각의 사안에 따라 그리고 적절하다면 관련 지역 기구와의 협력 하에, 제7장을 포함한 UN 헌장에 따라 안전보장이사회를 통해, 시의적절하고 단호한 방법으로, 집단적 조치를 취할 준비가 되어 있다. 우리는 UN 총회가, UN 헌장 및 국제법의 원칙들을 상기하는 가운데, 집단학살, 전쟁범죄, 인종청소 및 인도에 반한 죄로부터 주민들을 보호하는 책임 및 그 함의에 대해 지속적으로 검토할 필요가 있음을 강조한다. 우리는 또한, 필요하고 적절한 경우, 국가들이 집단학살, 전쟁범죄, 인종청소 및 인도에 반한 죄로부터 자신의 주민들을 보호하는 능력의 구축을 돕고, 위기 및 분쟁이 발생하기 이전의 긴장상태에 직면한 국가들을 지원할 것이다.³⁶

³⁶- UN Doc. A/RES/60/1, paras. 138-139. 원문은 다음과 같다:

“Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

앞서 전문가들의 견해를 반영한 보고서들은 내용이 더 풍부하고 깊
이도 있으며 전체적인 논리의 통일성을 유지하는 면에서도 상대적으
로 강점이 있다. 그럼에도 그러한 의견이 국가라는 주요 행위자로 이
루어진 국제사회의 현실을 제대로 반영하지 못한다면 이를 당장의 국
가정책에 적극적으로 반영하긴 힘들 것이다. 상기 세계정상회의 결과
문서에 규정된 보호책임의 내용은 이러한 점에서 보다 더 국제관행을
실질적으로 주도하는 국가들의 의견이 적극 반영됐다는 점에서 주목
할 만하다. 물론, 영국, 캐나다 등 보호책임 개념을 지지하는 국가들의
적극적인 의지가 ‘보호책임’의 기본 개념을 상기 문서에 포함시키는 데
에는 성공했지만, 이를 반대한 미국, 러시아, 중국, 파키스탄, 이집트
등에 의해 보호책임의 중요 내용 중 하나인 군사적 개입의 허용에 관
한 기준 등 이행에 관한 실질적 내용이 제외되었다는 점은 아쉬운 부
분이다.³⁷

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.”



보호책임의 주요 내용은 다음과 같이 정리될 수 있다. 먼저, ‘집단학살(genocide),’ ‘전쟁범죄(war crimes),’ ‘인종청소(ethnic cleansing),’ ‘인도에 반한 죄(crimes against humanity)’ 등으로부터 자신의 거주민들(populations)을 보호할 책임을 개별 영토국가에 일차적으로 부여한 후, 동시에 국제공동체도 UN을 통해 헌장 제6장 및 제8장에 근거해 적절한 평화적 방법으로 이러한 보호를 도울 책임을 명시하였다. 아울러, 평화적 수단이 부적절하고 관련국이 상기 국제범죄로부터의 보호책임 수행에 명백히 실패한 경우에는 UN 안보리가 헌장 제7장에 근거 시의적절하고 단호하게 집단적 강제제재조치를 취할 수 있음을 언급하였다.³⁸

이렇게 일국 내의 국제범죄 방지 내지 인권보호 책무를 당해국가와 함께 국제사회 전체가 공유해야 한다는 ‘보호책임’의 논의는, 기존의 ‘인도적 간섭’과 일맥상통하면서도 전통적 국가주권 개념에 대해 더욱 공세적인 입장을 취하고 UN 안보리로 대표되는 국제공동체에는 보다 강한 책임감과 의무의식을 요구한다. 즉, 과거 국제사회가 개입할 ‘근거’ 내지 ‘권리’를 부여하는 차원에서 ‘인도적 간섭’ 논의를 진행했다면, 현재의 ‘보호책임’ 개념은 국제사회가 ‘책임’ 내지 ‘의무’ 차원에서 관련 문제를 접근하는 일종의 발상의 전환이라고 할 수 있다.³⁹ 또한 과거 선별성 논란을 불러일으켰던 인도적 간섭에 비해, 보호책임은 4개의 대표적 국제범죄를 국제적 개입의 근거로 명시함으로써 나름대로 객

³⁷- 박기갑 외, 『국제법상 보호책임』, pp. 78-79; 이신화, “유엔과 보호책임 (Responsibility to Protect),” pp. 170-171. 예를 들어 2004년 고위급 패널 보고서에서는, ‘합법성’ 문제로 UN 헌장 상의 무력사용 근거를 확인함과 동시에, 무력사용의 ‘정당성’ 문제로 위협의 심각성, 적절한 목적, 최후의 수단성, 수단의 비례성, 합리적 성공 가능성 등을 제시한 바 있다(para. 207).

³⁸- Spencer Zifcak, “The Responsibility to Protect,” p. 521 참조.

³⁹- 조정형, “리비아 사태와 국제법, 그리고 한반도에의 함의,” 『국제법평론』, 통권 제33호 (2011), pp. 56-57.

관적 기준을 제시하였다는 평가도 가능하다. 물론, 자연재해 등을 포함하는 광의의 보호책임 대신 협의의 보호책임이 채택된 데 대한 이견도 있을 수 있겠으나, 이는 새로 생성 중인 진보적 개념에 대해 최소한의 국제적 공감대를 확보하기 위한 현실적 요구에서 기인한 것으로 국제사회의 효과적 대응 측면에서 보더라도 전반적으로 적절한 제한으로 판단된다.⁴⁰

그러나 국제법적으로 봤을 때 ‘보호책임’ 관련 내용은 아직 조약이나 국제관습법과 같은 ‘경성법(hard law)’이기 보다는 법적 구속력이 없는 UN 총회 결의의 형식으로 채택된 ‘연성법(soft law)’일 뿐이다. 또한 그 내용이 아직 구체적이거나 명확하지 않아 ‘실정법(positive law)’ 내지 현재의 ‘있는 법(lex lata)’이기보다는 여전히 형성 중에 있는 개념으로 앞으로 ‘있어야 할 법(lex ferenda)’으로 이해된다.⁴¹ 즉, 안보리의 명시적 허가 없이 타국의 대량인권침해 사태에 대해 ‘무력’ 개입을 하는 것은 여전히 실정 국제법 ‘위반’이며, 안보리로 대표되는 국제공동체도 대량인권침해사태에 대해 집단제재조치를 취할 ‘재량’을 원칙적으로 갖는 것이지 그러한 조치를 취할 법적 ‘의무’나 ‘책임’까지 부과되는 것은 아직 아니다.⁴² 따라서 보호책임이란 개념이 장래 보다 유의미하게 법적으로 인식되고 적용되기 위해서는 관련 국제관행이 일정한 수준 이상으로 축적될 필요가 있다. 이럴 경우 동 개념의 국제관습법적 지위를 인정받을 수 있기 때문이다. 이러한 점에서 금번 리비아 사태 등은 보호책임 관련 실제 국제관행을 국제사회에 제공했다는 점에서 유의 깊게 살펴볼 필요가 있다.

⁴⁰ 이신화, “유엔과 보호책임(Responsibility to Protect),” pp. 172~174 참조.

⁴¹ 박기갑 외, 『국제법상 보호책임』, pp. 211~222 참조.

⁴² 조정현, “리비아 사태와 국제법, 그리고 한반도에의 함의,” pp. 57~58.

4. 국제형사법과의 관련성

앞서 언급했듯이, UN 안보리는 2011년 2월 26일 ‘만장일치’로 채택된 결의 1970을 통해 리비아 사태를 국제형사재판소(International Criminal Court: ICC)에 회부하였다. 또한 방금 ‘보호책임’에 대한 논의 중에서도 4개 국제범죄가 계속 등장하였다. 그렇다면 ICC 로마규정(Rome Statute)의 당사국이 아닌 리비아에 대해 어떻게 ICC가 재판관할권을 행사할 수 있고, 카다피 등이 혐의를 받았던 인도에 반한 죄 등 국제형사법이 관할하는 국제범죄란 과연 무엇이며, 이러한 국제형사법과 보호책임과는 과연 어떠한 관계가 설정되어 있는 것인가? 아래에서는 이에 대해 차례대로 논한다.

가. 국제형사재판소(ICC)의 관할권

ICC의 관할권(jurisdiction)과 관련하여서는 ‘재판적격성’ 문제, ‘관할권 행사의 전제조건’, ‘관할권의 행사’로 각각 나누어 살펴보아야 한다.⁴³ 먼저, 특정 사건과 관련하여 국내 수사나 재판이 진행 중인 경우 보충성의 원칙에 의거 ICC는 ‘재판적격성’이 없음(inadmissible)을 결정하여야 한다. 단, 수사 및 기소할 의사가 없거나 능력이 없는 경우는 예외로 한다.⁴⁴ 리비아의 경우 로마규정 당사국이 아니라 해당 국제범죄를 국내적으로 처벌하는 절차가 마련되어 있지 않는 것으로 파악되지만 혹 있다 하더라도 전 정부 하에서는 국가원수인 카다피 등을 처벌할 의사나 능력이 있는 것으로는 볼 수 없었을 것이다.

⁴³⁻ 이에 더해, 시간적 관할권 문제(로마규정 발효 이후의 범죄에 대해서만 관할권 행사가, 제11조) 및 소급효 금지 원칙(제24조) 등의 문제들이 있다.

⁴⁴⁻ ICC 로마규정 제17조.

다음으로, ICC가 관할권을 행사하기 위한 ‘전제조건(preconditions)’으로는, 범죄발생지국이나 범죄 혐의자 국적국 중 최소한 한 국가는 로마규정의 당사국이어야 한다. 단, 비당사국이라 하더라도 별도로 ICC의 관할권을 수락할 수도 있다.⁴⁵ 이번 리비아 사태의 경우 범죄발생지국 및 범죄 혐의자 국적국 모두가 로마규정 비당사국인 리비아이고 리비아가 ICC의 관할권에 대한 별도의 동의를 표명하지 않았으므로 ‘일반적으로’ 금번 사태에 대한 ICC의 관할권은 성립하지 않는다. 다만, 전제조건을 규정한 로마규정 제12조는 2항 서두에서 제13조에 규정된 3가지 관할권 행사 방법 중 (a)항과 (c)항에 대해서만 이러한 전제조건이 적용되고 나머지 하나인 (b)항에 대해서는 예외적으로 전제조건 없이도 관할권이 행사될 수 있음을 규정하고 있다.

‘관할권 행사’를 규정한 제13조는 앞서 언급한 대로 3가지의 구체적 행사 방법을 제시하고 있는데, 첫째 로마규정 당사국에 의한 회부((a)항), 둘째 UN 헌장 제7장에 근거한 안전보장이사회에 의한 회부((b)항), 셋째 소추관의 직권수사 개시((c)항)가 바로 그것이다. 이 중 안보리에 의한 ICC에의 회부가 상기 ‘전제조건’이 적용받지 않는 유일한 상황으로, 금번 리비아 사태에 대한 UN 안보리의 ICC 회부가 바로 여기에 해당한다.

나. 국제형사재판소(ICC)의 관할대상범죄

한편, ICC의 관할 대상범죄로는 집단살해죄(the crime of genocide), 인도에 반한 죄(crimes against humanity), 전쟁범죄(war crimes) 및 침략범죄(the crime of aggression)의 4가지가 명시적으로 규정되어

⁴⁵- ICC 로마규정 제12조.

있다. 이 중 침략범죄는 추후 구체적인 내용이 정해질 때까지 관할권 행사가 보류되어 있다⁴⁶ 2010년 6월 우간다 캄팔라에서 개최된 로마 규정 재검토회의(Review Conference of the Rome Statute)에서 드디어 국가 간에 타협점을 찾아 침략범죄 관련 구체적인 내용들이 정해졌지만, 그 적용은 2017년 이후의 당사국이 결정하는 시기로 늦춰져 현재는 적용이 유보되고 있는 상황이다.⁴⁷

이번 리비아 사태에서 검토되고 있는 국제범죄는 대표적으로 ‘인도에 반한 죄’가 거론되고 있는데, 이는 전통적인 전쟁범죄에 속하던 사항을 평시로 그 시간적 범위를 확대하고, 인적 보호대상도 단순히 타방 교전국 국민이 아닌 자국민까지 포괄한다는 점에서 관할 대상범죄 중에서도 가장 주목받고 있는 범죄라 할 수 있다.⁴⁸ 또한, 사태 추이 및 개별 사안에 따라서는 ‘전쟁범죄’⁴⁹나 ‘집단살해죄’⁵⁰도 적용될 가능성이 있다.

주목할 만한 점은 3가지 국제범죄 모두가 보호책임 개념에도 등장하는 범죄라는 점인데, 이러한 사실은 리비아 사태와 같은 대량인권침해 사태에 대한 국제사회의 대응이 크게 관련 ‘국가’에 대한 집단적 강제조치 및 관련 ‘개인’에 대한 국제적 형사처벌로 나뉘어 나타날 수 있으며 이 양자 간에는 서로 긴밀한 연관성이 있음을 시사한다. 사실상 보호책임이 규율하는 사안과 국제형사재판소의 처벌대상범죄는 정확

⁴⁶- ICC 로마규정 제5조.

⁴⁷- ‘침략범죄’에 대한 자세한 내용은, 최태현, “ICC규정 침략범죄관련 조항의 채택과 함의,” 『서울국제법연구』, 제17권 2호 (2010), pp. 115-153 참조.

⁴⁸- ICC 로마규정 제7조 참조.

⁴⁹- 현 시점에서의 전쟁범죄는 ‘국제적’ 무력충돌은 물론 ‘비국제적’ 성격의 무력충돌, 즉 ‘내전’에도 적용된다. ICC 로마규정 제8조; 박기갑 외, 『국제법상 보호책임』, pp. 121~122 참조.

⁵⁰- ICC 로마규정 제6조 참조.

히 일치한다고도 말할 수 있는데, 현재 ICC에서 적용되지 않고 있는 침략범죄를 제외하면 기타 집단살해죄, 인도에 반한 죄 및 전쟁범죄는 양자에서 동일하게 등장하는 국제범죄이고, 보호책임에서만 논의되는 ‘인종청소(ethnic cleansing)’의 경우도 사실 개념적으로는 ‘집단살해죄’ 내지 ‘인도에 반한 죄’ 등에 포섭된다고 볼 수 있다.⁵¹

⁵¹ 박기갑 외, 『국제법상 보호책임』, pp. 88, 119~120 참조.

Ⅲ. 보호책임의 적용 및 실행

1. 리비아 사태 이전의 보호책임 적용 시도

가. 수단 다르푸르 사태

2005년 10월 UN 총회 결의로 확인된 ‘보호책임’의 개념은 2006년 4월 ‘무력충돌 시 민간인 보호 (Protection of civilians in armed conflict)’에 관한 UN 안보리 결의 1674에 의해 명시적으로 재확인되었다.⁵² 이는 안전보장이사회가 최초로 ‘보호책임’ 개념을 언급한 공식적 결의로, ‘무력충돌 시 민간인 보호’와 ‘보호책임’이 개념적으로 상호 연결되어 있으며 이에 대해 안보리가 필요한 집단적 조치의 이행 등에서 주도적인 역할을 할 것임을 확인한 것으로 볼 수 있다.⁵³

그러나 현실적으로 ‘보호책임(R2P)’의 개념을 실제 사건에 제대로 적용하는 것은 그리 쉽지만은 않았다. 아랍계 유목민과 아프리카계 정착민이 섞여 살던 수단의 다르푸르(Darfur) 지역에서는 2003년 이 지역 흑인들의 무장봉기 이후 친정부 아랍계 무장조직인 잔자위드(Janjaweed)에 의해 20만 명 이상이 인종청소 및 집단학살을 당하였고 250만 명의 대량난민을 발생시키는 등 전형적인 협의의 보호책임 적용 대상이었는데, 국제사회는 사실상 이 상황을 방치하고 있던 수단 정부의 1차적 책임을 강조하며 소극적으로 대응하여 결국 30-40만 명까지 사망자 수가 늘어나게 되었다. 이는 UN 안보리 상임이사국이던 중국과 러시아가 원유 수입 및 무기 수출 등 자국의 경제적 이익을 고려하여 수단에 대한 UN의 경제적 제재 등 강제조치에 대해 거부권을 행사하였기 때문이다.⁵⁴

⁵² UN Doc. S/RES/1674 (28 April 2006), para. 4.

⁵³ 박기갑 외, 『국제법상 보호책임』, pp. 82~84 참조.

⁵⁴ 이신화, “유엔과 보호책임(Responsibility to Protect),” pp. 175-176; 박홍순, “인도

결국 2005년 3월 UN 안보리는 수단 다르푸르 사태를 국제형사재판소(ICC)에 재판소 최초 사건으로 회부하고,⁵⁵ 2006년 결의 1706 및 2007년 결의 1769를 통해 서문 등에서 ‘보호책임’ 원칙을 확인함과 동시에 수단 다르푸르에서 아프리카연합(AU)과의 공동 평화유지활동(AU/UN Hybrid operation in Darfur: UNAMID)⁵⁶ 임무를 결의하였다. 동 결의에서는 UN 헌장 제7장에 근거하여 (PKO군 개인의) 자위권 차원은 물론 ‘민간인 보호’ 차원에서도 무력사용을 허가하는 내용이 일부 포함되어 있어 일견 보호책임에 근거한 국제적 개입으로 볼 여지도 전혀 없지는 않으나, 각각 수단 정부의 1차적 보호책임을 저해하지 않는다는 문구가 바로 명시되어 있어⁵⁷ 여전히 국제공동체의 2차적 책임 이행 차원의 단계로는 아직 발전되지 않았음을 확인하고 있다. 이는 현존하는 정부가 사실상 1차적 보호책임을 수행할 의지가 전혀 없음에도 불구하고, 그 정부가 ‘직접적’으로 국제범죄를 저지르지 않는 상태에서 실질적인 통치권을 행사하고 있다면, 안보리 상임이사국 간의 역학관계와 함께 맞물려서, 국제공동체의 2차적

적 위기와 보호책임(RtoP): 주요사례와 함의,” pp. 27~28; 이신화, “보호책임(R2P)의 원칙과 이행: 발전적 적용의 가능성 및 동아시아의 관점,” 『국제기구저널』, 제5집 1호 (한국유엔체제학회, 2010), pp. 42~43; 박기갑 외, 『국제법상 보호책임』, pp. 123~124 참조.

⁵⁵- 다르푸르 사태에 대한 공식 수사 후 ICC는 현직 국가원수에 대해서는 최초로 수단 대통령인 오마르 알 바시르(Omar Al Bashir)에 대해 전쟁범죄 및 인도에 반한 죄 혐의로 2009년 3월 체포영장을 발부하였다. 2010년 7월 ICC는 추가로 집단학살 혐의에 대한 체포영장도 발부하였다.

⁵⁶- 이는 기존의 African Union Mission in the Sudan(AMIS)과 United Nations Mission in the Sudan(UNMIS) 등을 통합한 것이다.

⁵⁷- “without prejudice to the responsibility of the Government of the Sudan, to protect civilians under threat of physical violence” (UN Doc. S/RES/1706 (31 August 2006), para. 12 (a)); “... protect civilians, without prejudice to the responsibility of the Government of Sudan” (UN Doc. S/RES/1769 (31 July 2007), para. 15 (a)).

보호책임 행사가 현실에서는 결코 쉽지 않음을 보여주는 사례라 하겠다.⁵⁸

나. 기타 사례

기타 2008년 미얀마 사이클론 사태⁵⁹ 및 2010년 아이티 지진 참사⁶⁰가 보호책임과 관련하여 논의되기도 하였지만, 기본적으로 이들은 자연재해를 포함한 광의의 보호책임 개념에 해당하는 사안이므로 본 연구에서 자세한 논의는 생략한다. 또한, 2008년 8월 러시아가 조지아(그루지야)의 남오세티야 침공 시 보호책임을 정당화 근거 중 하나로 주장했었는데, 우선 남오세티야에서 러시아가 주장한 집단학살 자체가 있었는지에 대한 본질적인 의문 제기와 함께, UN의 허가 없는 보호책임 근거 일방적 개입에 대한 명백한 부정적 시각으로 인해, 국제사회의 지지를 전혀 받지 못하였다. 즉, 이는 보호책임 논리를 명백히 남용한 사례로 이해된다.⁶¹

⁵⁸ 박기갑 외, 『국제법상 보호책임』, pp. 84-85, 125-127 참조. 물론 당시 수단 정부는 민병대를 동원하여 사실상 국제범죄를 직접 수행한 것으로 볼 수 있으며, ICC도 이러한 점을 고려하여 2009년과 2010년 수단 대통령에 대해 체포영장을 발부하였던 것이다.

⁵⁹ 미얀마 사태에의 보호책임 적용 가능성에 대해서는, 이신화, “유엔과 보호책임 (Responsibility to Protect),” pp. 178-180, 182; 이신화, “보호책임(R2P)의 원칙과 이행: 발전적 적용의 가능성 및 동아시아의 관점,” pp. 44-45; 박기갑 외, 『국제법상 보호책임』, pp. 85-87, 127-129 참조. 여기서 문제되는 점은 미얀마 정부가 자국 주민을 보호할 ‘의지’가 없었다는 점이다.

⁶⁰ 아이티 참사에의 보호책임 적용 가능성에 대해서는, Linda A. Malone, “The Responsibility to Protect Haiti,” *ASIL Insight*, Vol. 14, Issue 7 (American Society of International Law(ASIL), March 10, 2010) 참조. 여기서 문제되는 점은 아이티 정부가 자국 주민을 보호할 ‘능력’이 없었다는 점이다.

⁶¹ 이신화, “유엔과 보호책임(Responsibility to Protect),” pp. 176-178; 이신화, “보호책임(R2P)의 원칙과 이행: 발전적 적용의 가능성 및 동아시아의 관점,” pp. 45-46 참조.

2. 리비아 사태와 보호책임의 적용

보호책임의 이론 및 이에 대한 기본적 공감대는 어느 정도 형성되었지만 구체적으로 국제사회의 공동책임 내지 2차적 책임이 확실히 적용된 사례는 아직 없는 상황 하에서, 군사적 개입까지 포함한 금번 리비아 사태에서의 국제공동체의 대응은 보호책임의 적용 및 실행에 있어 매우 중요한 선례로 평가될 만하다.

가. 리비아 사태 개요

2010년 12월 17일 튀니지의 한 과일노점상의 분신자살로 촉발된 재스민 혁명 또는 ‘아랍의 봄(Arab Spring)’은 튀니지와 이집트를 거쳐 1969년 무혈 쿠데타 이후 42년째 장기 집권 중인 무아마르 카다피(Muammar Qaddafi)⁶²의 리비아에까지 상륙하였다. 2011년 2월 15일 제2의 도시 벤가지에서의 반정부시위를 시작으로 금번 리비아 사태는 발생하였는데, 직전의 여타 아랍 민주화운동 내지 시민혁명과는 달리 카다피로 대표되는 리비아 정부가 초기부터 강경 대응으로 유혈사태가 발생하면서 시위는 전국적으로 빠르게 확산되었다. 카다피 정부는 무기를 소지하지 않은 시위대, 즉 자국 민간인을 탱크, 박격포, 헬리콥터, 전투기까지 동원한 군대(친위부대) 및 아프리카 용병, 저격수 등을 통해 학살하는 등 극명한 인권침해 행위로 국제사회의 주목을 받았다. 국제사회의 경고에 귀를 기울이지 않고 도발적으로 반응하는 카다피 정부에 대해 UN을 중심으로 한 국제공동체는 구체적 대응의 필요성을 느낄 수밖에 없었다. 2011년 2월 26일 UN 안보리는 결의 1970을 통해, 리비아의 자국 주민에 대한 보

⁶² 카다피의 이름은 이외에도 Gaddafi, Gadhafi, Qadhafi 등 다양한 영어 철자로 불리우고 있다.

호책임을 상기시키는 한편, UN 헌장 제7장 제41조에 근거 리비아에 대해 해외자산동결(asset freeze) 및 무기금수조치(arms embargo) 등 경제적 제재를 가함과 동시에 리비아 지도자 카다피에 대해서는 인도에 반한 죄 혐의 등을 근거로 국제형사재판소(ICC)에 리비아 사태를 직접 회부하였다.⁶³ 이러한 국제적 대응에 힘을 얻은 반카다피 세력은 2월 27일 벵가지에서 전 법무부장관 잘릴(Mustafa Abdul Jalil)을 의장으로 하는 국가 과도위원회(National Transitional Council: NTC)를 수립하여, 리비아 사태는 반정부시위에서 본격적인 내전 상황으로 진행되었다.⁶⁴

국제사회의 일치된 메시지에도 불구하고 카다피 정부가 여성 및 아동을 포함한 민간인을 학살하는 등 이전의 반인권적 태도에 근본적 변화가 없고 오히려 반군에 대한 공세를 더욱 강화하자, UN 안보리는 3월 17일, 리비아 사태가 국제 평화와 안전에 대한 계속적 위협을 구성하고 있음을 결정하고, 추가적으로 UN 헌장 제7장에 근거한 비행금지구역(no fly zone) 설치 및 회원국 무력사용 허가의 내용을 담은 안보리 결의 1973을 채택하였다.⁶⁵ 동 결의에 직접적으로 드러나지는 않았지만⁶⁶ ‘민간인 보호(protection of civilians)’라는 명분 및 추후 반기문 UN 사무총장 등의 발언을 통해 2000년대 이후 UN을 중심으로 논의되어 오던 보호책임의 논리가 본 사안에 직접 적용되었음이 확인되었다. 안보리의 무력사용 허가를 근거로 NATO 중심의 군사적 개입이 진행되었고 이러한 공군력의 지원을 받은 반군은, 밀고 밀리는 접전 끝에 8월 23일 수도

⁶³- UN Doc. S/RES/1970 (26 February 2011).

⁶⁴- 박종철 외, 『재스민 혁명의 분석과 북한에 대한 시사점』(서울: 통일연구원, 2011), pp. 58-65 참조.

⁶⁵- UN Doc. S/RES/1973 (17 March 2011).

⁶⁶- 상기 2개의 관련 안보리 결의에는 서문에 리비아의 1차적 주민 보호책임(“Libyan authorities’ responsibility to protect its population”)을 명기하고 있을 뿐 국제사회의 보호책임은 명시적으로 언급되지 않았다.



트리폴리를 함락하고, 10월 20일에는 카다피를 체포(작전 중 사망)함으로써 8개월여를 끌어온 리비아 사태는 일단 시민군의 승리로 종지부를 찍었다. 이에 따라 UN의 무력 제재 조치는 2011년 10월 31일부로 공식 종료되었다.⁶⁷ 수만 명의 사상자를 낸 이번 리비아 사태는, 물론 장래 국가재건작업이 지금까지의 과정보다 더 험난하고 중요할 수 있겠지만, 지금까지의 상황만으로도 ‘보호책임’을 근거로 한 국제공동체 개입의 구체적 첫 사례로서 국제사회에 중요한 시사점을 주었다.

[리비아 사태 일지]

- 2011.2.15. 리비아 사태 발발
- 2011.2.26. UN 안보리 결의 1970 채택: 경제제재 및 국제형사재판소 회부
- 2011.2.27. 국가과도위원회(NTC) 설립
- 2011.3.12. 아랍연맹, UN의 리비아 비행금지구역 설정 촉구
- 2011.3.17. UN 안보리 결의 1973 채택: 무력사용 허가 및 비행금지 구역 설정
- 2011.3.19. 프랑스 등 군사개입 시작
- 2011.3.31. NATO로 군사작전지휘권 일원화
- 2011.8.23. 반군, 수도 트리폴리 함락
- 2011.9.16. UN 안보리 결의 2009 채택: UN 리비아지원단(UNSMIL) 설치
- 2011.10.20. 카다피 체포 후 사망
- 2011.10.22. 국가과도위원회(NTC) ‘리비아 해방’ 공식 선포
- 2011.10.31. UN 무력제재 공식 종료 (UN 안보리 결의 2016)
- 2011.11.19. 카다피 후계자였던 차남 사이프 알 이슬람 체포
- 2011.11.24. 리비아 과도정부 내각 출범

⁶⁷- UN Doc. S/RES/2016 (27 October 2011).

나. 리비아 사태와 보호책임(R2P)

금번 리비아 사태에 대해 ‘민간인 보호(protection of civilians)’라는 목적으로 UN 안보리가 무력사용을 허가한 것은, ‘보호책임’ 논의에 있어 중요한 실제 국제관행을 제공했다는 의의를 가진다. 현재 계속 발전 중인 보호책임 논의에 있어 이번 안보리 결정은 분명 긍정적인 쪽으로 일정한 방향성을 제공했다는 평가를 받을 수 있을 것이다.

일단 이번 리비아 사태에서 보호책임에 근거한 국제사회의 무력 개입은 UN 안보리의 무력사용 허가를 사전에 획득했다는 점에서 절차적 ‘합법성’을 가지고 있다. 무력사용금지란 대원칙이 적용되는 현대 국제사회에서는 자위권 행사 및 UN 안보리의 무력사용 허가 등으로 예외 상황을 엄격하게 제한하고 있다.

한편, 무력사용의 실질적 ‘정당성’ 측면을 2004년 UN 고위급 패널 보고서 등에서 제시한 5가지 기준에 의해 살펴보자면,⁶⁸ 먼저 ‘위협의 심각성(seriousness of threat)’은 국제적 개입 당시 카다피 정부군이 민간인을 여성, 아동까지 포함하여 무차별 강간·살해하고 그 규모도 시간이 지남에 따라 계속 늘어났을 뿐 아니라 공공연히 그러한 국제범죄 행사 의사를 표명하는 등 당시의 제반 상황을 고려했을 때 큰 무리 없이 만족하는 것으로 판단된다.⁶⁹

둘째, ‘적절한 목적(proper purpose/right intention)’ 측면에서도, 비록 기타 국제정치적·경제적·지정학적·국내정치적 고려 요소들이 함께 작용하기도 했겠지만, 전반적으로 ‘민간인 보호’를 위해 리비아가 영토

⁶⁸ “A more secured world: Our shared responsibility,” para. 207.

⁶⁹ John R. Crook (ed.), “Contemporary Practice of the United States relating to International Law,” *American Journal of International Law*, Vol. 105, No. 3 (July 2011), pp. 605-606 참조.

국의 1차적 책임을 이행하지 못하자 이에 대한 국제공동체의 ‘대응책임’ 수행 차원에서 이루어진 국제적 개입으로 보인다. 이러한 인도적 명분을 거부할 수 없어, 이라크와 아프가니스탄에서의 문제 해결에 집중하려던 미국도 참여할 수밖에 없었고, 무기수출과 원유수입 등 큰 경제적 이익이 걸려 있던 중국과 러시아도 비록 명시적으로 찬성한 것은 아니지만 안보리 표결에서 거부권을 행사하지 않고 기권함으로써 소극적이거나 큰 흐름에 동참하였다.⁷⁰ 또한 NATO 참가국 면면에서도 이러한 정당성을 확인할 수 있는데, 이라크·아프가니스탄 전쟁과 같은 불법적 성격의 전쟁에는 잘 참여하지 않는 벨기에, 캐나다 같은 중견국가들이 금번 리비아 군사개입에서는 자국의 항공기와 함선 등을 지원한 바 있다.⁷¹ 또한, UN 안보리 결의 1973에서 무력사용을 포함한 모든 필요한 조치(all necessary measures)를 취할 수 있도록 허가하면서도, 리비아 영토에 대한 외국군의 점령을 명시적으로 배제함으로써 목적의 정당성을 부여하고 있다.⁷²

그러나 개입의 목적이 카다피 등 정권을 직접 공격하고 반군을 지원하는 등 정권교체(regime change)로 전이되는 양상을 보이자, 이에 대한 정당성 문제가 제기되기도 하였다.⁷³ 물론, 카다피 정권과 같이 사실상 민간인 보호 책임을 수행할 의지 및 능력이 전혀 없어 보이는 현

⁷⁰- 박종철 외, 『재스민 혁명의 분석과 북한에 대한 시사점』, pp. 69-86 참조.

⁷¹- 이수형, “리비아 사태와 NATO의 군사 개입,” 『리비아 사태 관련 정세 현안 진단 워크숍』 (외교안보연구원, 2011.4.12), p. 6.

⁷²- UN Doc. S/RES/1973 (2011), para. 4. 관련 원문은 다음과 같다: “... while excluding a foreign occupation force of any form on any part of Libyan territory, ...”

⁷³- 이장희, “보호책임 적용의 국제법적 검토,” 『국제법: 한국, 아시아 그리고 세계』 (2011년 국제법학자대회, 2011.10.22), p. 20. 박홍순, “보호책임 (RtoP)의 이론적 검토: 안보리 결의 1973호를 중심으로,” 『포괄적 안보 위협과 국가안보, 국방개혁』, (한국정치학회 국방안보학술회의, 2011.11.11), p. 51 참조.

정권의 교체 없이 실질적으로 민간인 보호란 원래 목적이 달성될 것인가에 대해서는 회의적 견해가 많으나,⁷⁴ 그럼에도 대량인권침해사태를 중지시키기 위해 항상 정권교체를 수반해야 한다고 볼 수도 없는 것이기 때문에 이에 대해서는 앞으로 보호책임 논리를 더욱 다듬는 과정에서 보다 정교한 논리 및 근거로 보완되어야 할 것이다.

셋째, ‘최후 수단성(last resort)’ 차원에서는 큰 문제가 없어 보인다. 리비아 정부의 보호책임 이행 실패가 명백한 상황에서 국제사회는 다양한 경고의 메시지를 보냈다. 예를 들어, 반기문 UN 사무총장은 리비아 유혈사태 초기에 카다피 국가원수에게 직접 전화를 걸어 동 사태의 평화적 해결을 촉구하였고, 아랍연맹(Arab League) 등의 지역기구도 문제 해결을 위해 노력하였다.⁷⁵ 그럼에도 리비아 정부의 입장에 근본적 변화가 없자, UN은 먼저 안보리 결의 1970을 통해 국제형사재판소 회부(ICC referral)는 물론 무기금수(arms embargo), 여행금지(travel ban), 자산동결(asset freeze) 등의 경제적 제재 조치를 취하였다. 이에 리비아 정부는 오히려 심하게 반발하며 반군 지역에 대한 공격의 강도를 더욱 높였고, 국제공동체는 안보리의 두 번째 결의 1973을 통해 비행금지구역(no fly zone)을 설정하고 민간인 보호(protection of civilians)를 위한 무력사용을 허가하는 등 무력제재 조치를 취하게 된 것이다. 따라서 금번 리비아 군사 개입은 평화적 수단이 부적절한 상황에서 불가피하

⁷⁴- Christian Henderson, “International Measures for the Protection of Civilians in Libya and Côte D’Ivoire,” *International and Comparative Law Quarterly*, Vol. 60, Part 3 (July 2011), pp. 769-777 참조. ‘반군지원’ 및 ‘정권교체’ 등과 관련된 이번 안보리 결의 해석의 불일치를 안보리 이사국들이 각자 자신에게 유리한 해석이 가능하도록 관련 문구의 ‘의도적 모호성(intentional ambiguity)’에 합의함으로써 발생한 것이라는 견해도 있다. *Ibid*.

⁷⁵- 박홍순, “보호책임(RtoP)의 이론적 검토: 안보리 결의 1973호를 중심으로,” pp. 50, 53.

게 최후 수단으로 무력적 개입을 하게 된 것으로 평가할 수 있다.

넷째, ‘수단의 비례성(proportional means)’도 살펴봐야 한다. 일부 우발적 민간인 피해가 있기는 하였으나, 전반적으로 민간인 보호를 위해 이라크 정부군의 공격을 효과적으로 잘 방어하기 위한 군사력의 사용이었다고 생각된다. 그럼에도, 앞서의 ‘적절한 목적’에서의 논의와 마찬가지로, 카다피를 직접 공격하는 등 정권교체의 목적으로 보다 공세적으로 취해진 조치에 대해서는 논란이 있을 수 있다. 단, 이 경우에도 보다 넓게 인도적 무력 개입의 목적을 상정한다면, 내전을 가능한 빨리 종식시켜 민간인 피해를 최소화하기 위한 무력사용으로 보아 비례성의 원칙에 어긋나지 않은 것으로 볼 수도 있을 것이다.⁷⁶

마지막으로, ‘합리적 성공가능성(balance of consequences/reasonable prospects)’에 대해 살펴보면, 그대로 카다피 정부의 무력대응을 방치했을 경우의 민간인 피해 규모 및 심각성 등을 고려했을 때 원래 국제적 개입의 목적으로 설정했던 인도적 성과는 달성한 것으로 판단되며, 이와 같은 전망은 개입 이전에도 어느 정도 예측되었던 것으로 판단된다.

이상의 논의를 종합하면, 이번 리비아 사태에 대한 국제공동체의 보호책임 군사개입은 절차적 합법성은 물론 전반적으로 실체적 정당성도 확보하고 있는 것으로 보인다. 아울러 UN을 중심으로 한 국제공동체는 이러한 ‘대응책임(responsibility to react)’ 이행을 완수한 현재, ‘재건축책임(responsibility to rebuild)’의 일환으로 안보리 결의 2009에 의거 UN 리비아 지원단(UNSMIL)을 설치·파견하여 리비아 과도정부의 정치적·경제적·사회적 복구 및 재건 사업을 지원 중이다.⁷⁷

⁷⁶- Christian Henderson, “International Measures for the Protection of Civilians in Libya and Côte D’Ivoire,” pp. 772~774. 776 참조.

⁷⁷- UN Doc. S/RES/2009 (16 September 2011), para. 12.

다. 리비아 사태와 국제형사재판소(ICC)

앞서 언급한 대로, UN 안보리는 2011년 2월 26일 ‘만장일치’로 채택된 결의 1970을 통해 리비아 사태를 국제형사재판소(ICC)에 회부하였다. 이에 ICC는 2월 28일 리비아 유혈사태에 대한 예비조사(preliminary examination)에 착수하여 사흘만인 3월 3일 카다피와 그의 일부 아들, 정권 핵심인사를 대상으로 인도에 반한 죄 혐의에 대한 공식 수사(investigation)를 개시하였고,⁷⁸ 결국 6월 27일 카다피 국가원수와 차남 사이프 알 이슬람 군사령관 및 친척인 압둘라 알 세누시 군정보국장에 대해 같은 혐의로 체포영장을 발부하였다.

리비아의 경우 ICC 로마규정 당사국이 아님에도 안보리의 직접 회부로 ICC의 관할권이 성립하게 되었는데, 현재 사망한 카다피를 제외하고, 최근 체포된 카다피의 둘째 아들 사이프 알 이슬람 및 압둘라 세누시 전 정보당국 수장에 대해 과도정부가 ICC와 같은 국제재판 보다는 리비아 국내재판을 선호한다는 입장을 명백히 표명하였다.⁷⁹ ICC의 보충성 원칙을 고려할 때,⁸⁰ 이런 경우엔 국내재판이 국제재판에 우선하게 되며 ICC도 이를 인정하였다. 그럼에도 카다피가 체포과정에서 살해당하는 등 국제사회와의 협력 없이 공정한 국내재판이 이루어질지에 대해서는 일부 우려의 목소리도 있다.

이번 리비아 사태에서 검토되었던 대표적 국제범죄는 ‘인도에 반한 죄’인데, 이는 전통적인 전쟁범죄에 속하던 사항을 평시로 그 시간적

⁷⁸- Luis Moreno-Ocampo (Prosecutor of the International Criminal Court), “Statement of the Prosecutor on the opening of the investigation into the situation in Libya” (3 March 2011). ICC 로마규정 제15조 참조.

⁷⁹- 『자유아시아방송 (RFA)』, 2011년 11월 29일.

⁸⁰- ICC 로마규정 제17조; 김영석, 『국제형사재판소법강의』 (서울: 법문사, 2003), pp. 120~122 참조.

범위를 확대하고, 인적 보호대상도 단순히 타방 교전국 국민이 아닌 자국민까지 포괄한다는 점에서 ICC 관할 대상범죄 중에서도 가장 주목받고 있는 범죄이다.⁸¹ 이 외에도, 리비아 사태가 내전 상황으로 전이된 후에 발생한 민간인 학살에 대해서는 ‘전쟁범죄’⁸² 내지 ‘집단학살죄’⁸³의 적용도 가능할 것이다.

3. 코트디부아르 사태와 보호책임의 적용

리비아 사태에 대한 UN 안보리의 보호책임을 근거로 한 무력사용 허가 결의가 채택된 지 몇 주 후인 2011년 3월 30일 리비아의 남서쪽 아프리카 대륙의 서해안에 위치한 코트디부아르(Côte d'Ivoire; 영어명 Ivory Coast)에 대해서도 안보리는 유사한 성격의 결의를 채택하였다.⁸⁴

2010년 11월말 대통령 선거에서 로랑 그바그보(Laurent Gbagbo) 코트디부아르 대통령은 알라산 와타라(Alassane Ouattara) 전 총리가 이끄는 야당에 패배했지만 선거 부정을 이유로 대선 당선자에게 권력 이

⁸¹ ICC 로마규정 제7조 참조.

⁸² 현 시점에서의 전쟁범죄는 ‘국제적’ 무력충돌은 물론 ‘비국제적’ 성격의 무력충돌, 즉 ‘내전’에도 적용된다. ICC 로마규정 제8조 참조. 언론보도에 의하면, 반군이 장악하고 있던 리비아 서북부 미스라타에서 친정부군 저격수들이 일반 민간인은 물론 어린이들까지 무차별 저격한다는 유엔아동기금(UNICEF)의 4월 8일자 발표가 있었는데, 이러한 행위가 사실로 확인된다면 관련 행위는 ‘전쟁범죄’로 처벌이 가능할 것이다. “리비아 어린이 저격하는 스나이퍼,” 『조선일보』, 2011년 4월 10일 (인터넷판). 또한, 미스라타에서는 친정부군이 민간인 거주지역을 향해 ‘집속탄’ 등을 무차별 발사하는 등 전쟁범죄 행위를 범하고 있다고 유엔인권최고대표 사무소(OHCHR)가 지적한 바 있었으며 병원 및 구급차를 향해서도 정부군이 공격을 가했다는 보도도 있었다. “유엔 인권수장 ‘리비아 사태 전범행위’ 비난,” 『연합뉴스』2011년 4월 20일 (인터넷판).

⁸³ ICC 로마규정 제6조 참조.

⁸⁴ Christian Henderson, “International Measures for the Protection of Civilians in Libya and Côte D'Ivoire,” p. 768 참조.

양을 거부함으로써 양측 간 내전 양상으로 상황이 악화되고 민간인을 다수 포함한 수천 명의 사상자를 발생시켰다. 그바그보 정부군은 민간인은 물론(부녀자에 대한 기관총 난사 등) 정전 및 대선 감시 임무를 수행하던 UN 평화유지활동(PKO) 인원에 대해서도 저격수 및 박격포·로켓탄 등의 중화기까지 동원해 공격하며 다수를 희생시켰다. 이에 UN 안전보장이사회는 2011년 3월 30일 만장일치로 채택된 결의 1975를 통해 로랑 그바그보 대통령의 퇴진을 요구하면서 UN 평화유지군에 대해 민간인 보호를 위해 ‘모든 필요한 조치(all necessary means)’를 취할 수 있도록 허가하게 된 것이다.⁸⁵ 물론 그 이전에도 2007년 평화협정(Ouagadougou Political Agreement) 이행 차원에서 파견된 상기 UN 평화유지군(UN Operation in Côte d’Ivoire: UNOCI)이 정전 및 선거 감시 등 기존의 임무에 더해 이미 2010년 6월 보호책임에 근거한 민간인 보호 임무를 일부 부여받기도 하였지만,⁸⁶ 이는 어디까지나 코트디부아르 정부의 1차적 보호책임을 저해하지 않는 한도 내에서 부여된 제한된 임무였었다(“To protect, without prejudice to the primary responsibility of the Ivorian authorities, civilians under imminent threat of physical violence”).⁸⁷

이 점에서 상기 안보리 결의 1975는 본격적인 국제공동체의 2차적 보호책임을 강조한 것으로도 이해될 수 있는데, 이를 좀 더 상세히 살펴보면, 먼저 이 결의는 코트디부아르의 1차적 보호책임을 상기하고 현재 일어나고 있는 인도에 반한 죄가 국제형사재판소에서 다루어질 가능성을 언급하면서, 동 사태가 국제 평화와 안전에 대한 계속적 위

⁸⁵- UN Doc. S/RES/1975 (30 March 2011), para. 6.

⁸⁶- UN Doc. S/RES/1933 (30 June 2010), 서문 및 paras. 16 (b),17 참조.

⁸⁷- *Ibid.*, para. 16 (b).



[코트디부아르 사태 일지]

- 2010.11.28. 코트디부아르 대통령 선거: 그바그보 대통령 대 와타라 전 총리
- 2010.12.2. 코트디부아르 선거관리위원회 와타라 승리 발표
- 2010.12.3. 코트디부아르 헌법위원회 그바그보 승리로 결과 번복
- 2010.12.4. 그바그보 및 와타라 각각 대통령 취임 / UN 와타라 승리 인정
- 2010.12.29. 서아프리카경제공동체(ECOWAS) 와타라 인정 및 무력 개입 경고
- 2011.1.19 UN 안보리 결의 1967 채택: PKO 2천 명 증파
- 2011.3.10. 아프리카연합(AU) 특별 정상회의 와타라 인정 및 그바그보 퇴진 요구
- 2011.3.28. 와타라 군대 총공격 개시
- 2011.3.30. UN 안보리 결의 1975 채택: PKO(UNOCI)군에 민간인 보호위한 무력사용 허가
- 2011.4.4. UN PKO, 프랑스군 및 와타라 군과 함께 아비장 대통령궁 및 관저에 대한 공격 작전 개시
- 2011.4.11. 그바그보 생포 및 코트디부아르 내전 종식
- 2011.11.23. ICC 그바그보에 대해 체포영장 발부
- 2011.11.30. 그바그보 전 대통령 ICC로 압송

협을 구성하고 있음을 결정하였다. 이후 동 결의는 헌장 제7장에 근거해 그바그보의 즉각적 퇴진을 촉구하고 현재 진행 중인 각종 인권침해 행위들을 비난한 후, 모든 필요한 수단을 사용하여 압박한 폭력의 위협에 처해 있는 민간인들에 대한 보호 임무를 수행할 것을 강조하였다. 특히, 중화기를 사용해 민간인 주민들을 공격하는 것을 막기 위해 최선을 다할 것을 UNOCI에 요구하였다. 또한 그바그보를 비롯한 핵심

인물들에 대해 경제적 제재 및 여행금지 조치를 취하였다.⁸⁸

UN 차원의 보호책임 개입 결정 후 열흘 만에 성공적으로 마무리된 금번 코트디부아르 사태는, ‘UN 평화유지군’이 ‘(개인 차원의) 자위권 행사’는 물론이거니와 ‘민간인 보호’를 위해 UN 안보리 결의에 의거 무력사용을 허가받고 평화강제(peace enforcement, 평화집행) 성격의 군사작전까지 수행했다는 점에서, 앞서 살펴본 리비아 사태에서의 ‘다국적군’을 통한 국제적 개입과 함께 UN의 적극적인 보호책임(R2P) 적용을 시사하는 것으로 해석될 수 있다.

현재 코트디부아르에서의 UN 평화유지단(UNOCI)의 임무는 치안유지, 무기금수조치 감시, 무기회수 등 통상의 ‘평화유지(peace-keeping)’ 활동으로 다시 전환되었으며, 2012년 7월말까지 상기 평화유지활동은 물론 ‘평화재건(peace-building)’ 임무도 함께 수행할 예정이다.⁸⁹ ‘민간인 보호(protection of civilians)’ 임무 또한 다시 이전에 코트디부아르의 1차적 보호책임을 저해하지 않는 한도 내에서만 제한적으로 인정되던 것으로 되돌아갔다.⁹⁰

다른 한편, 민간인 살상과 관련해 그바그보 전 대통령의 전쟁범죄 및 인도에 반한 죄 혐의 등에 대해 예비조사 및 정식 수사에 착수하였던 국제형사재판소는 2011년 11월 23일 체포영장을 발부하고 11월 30일 그바그보 전 대통령을 헤이그의 국제형사재판소로 압송하여 국제형사재판소(ICC) 역사상 최초로 전직 대통령에 대한 재판을 현재 진행 중이다.⁹¹

⁸⁸- UN Doc. S/RES/1975 (30 March 2011), 서문 및 paras. 3, 5, 6, 12.

⁸⁹- UN Doc. S/RES/2000 (27 July 2011) 참조.

⁹⁰- *Ibid.*, para. 7 (a).

⁹¹- ICC 로마규정 당사국이 아닌 코트디부아르는 동 규정 제12조 3항에 의거 2003년 4월 ICC의 관할권을 자발적으로 수락한 바 있다. 2010년 12월과 2011년 5월 코트디

4. 시리아 사태 및 예멘 사태

과거 인도적 간섭의 ‘선별성(selectivity)’ 논란을 상당 부분 불식시킬 것으로 기대되고 있는 보호책임 논의는 금번 리비아 사태 및 코트디부아르 사태를 통해 국제규범으로서의 발전 가능성을 일정 부분 보여준 것으로 충분히 해석할 여지가 있다. 그러나 최근 시리아와 예멘 등지에서의 민주화 시위에 대한 정부 측의 폭압적 진압 및 이에 대한 UN 등 국제사회의 미온적 대응을 살펴보면, 앞서의 긍정적 해석을 강조하는 것은 아직 시기상조라는 생각도 든다. 2011년 12월 현재까지 시리아에서는 약 5000명 이상의 민간인 사망자(UN 인권최고대표(OHCHR) 추산)가 발생한 것으로 보도되고 있는데, 이는 일견 인도에 반한 죄 적용 및 보호책임의 행사 측면에서 이미 리비아 사태에 필적할만한 수준에 도달한 것으로 보인다. 그럼에도, 미국, EU, 캐나다, 아랍연맹 등 개별적 내지 지역적 차원에서의 경제적 제재 조치는 이루어졌지만, 또한 시리아 사태를 비판하는 안보리 의장성명이 채택되기도 했지만, UN 안보리를 통한 집단적 제재조치는 중국과 러시아의 거부권 행사로 관련 결의 채택이 무산된 바 있다. 국제형사재판소에의 회부도 물론 마찬가지로 상황이다.⁹²

결국 국제법적 관점에서 달라진 것은 아무 것도 없는 것인가 하는 의문이 제기된다. 인도적 간섭이나 보호책임이란 논의 자체가 주권국

부아르 대통령은 이를 다시 공식적으로 확인하여 ICC의 재판관할권이 이번 사건에 대해 성립한 것이다.

⁹² 한편, 예멘 사태에 대해서, UN 안보리는 무력 사용의 중지를 촉구하고 걸프협력기구(Gulf Cooperation Council: GCC)의 역할 및 UN 사무총장의 주선을 강조하는 내용의 결의를 채택하였다. UN Doc. S/RES/2014 (21 October 2011). 또한, 2011년 11월 23일 살레 예멘 대통령이 권력 이양안에 결국 합의함으로써, 2011년 12월 10일 바신드와 총리가 이끄는 예멘 여야 통합정부가 출범하였고, 예멘 사태는 일단 큰 고비를 넘기고 해결 국면으로 들어선 것으로 보인다.

가의 수평적 분권체제인 국제사회에서 실제 적용되기엔 너무나 비현실적이고 이상적일 수 있겠다는 생각도 할 수 있을 것이다. 그렇다면 대량인권침해가 발생하였다고 해도 이는 전통적으로 그래왔던 것처럼 국내문제로만 인식해야만 하는 것인가? 결국 국가들은 정치적·경제적 이익 등 각자의 국가이익에 따라서만 ‘선별적’으로 행동하는 것인가? 이번 리비아 사태에 국제사회가 개입하는 데 있어 대량인권침해 사태에 대한 인도적 고려는 결국 지극히 주변적인 이유였을 뿐인가?

아직 발전될 내용이 많기는 하지만, 지금까지 살펴본 보호책임의 이론 및 최근의 몇몇 구체적 관행은 분명 국제공동체 전체와 UN 안보리 내부에 새로운 시각과 성찰을 제공했을 것이다. 4개 국제범죄와의 연결고리를 더욱 정교화하고 구체적 군사개입의 시기 및 방법을 더욱 세밀하게 보완한다면, 대량인권침해사태 시의 보호책임에 근거한 ‘시의 적절하고 단호한’ 개입은 UN 안보리 상임이사국에게 최소한의 확고한 도덕적 의무로 다가올 수 있을 것이며, 안보리 개혁 의제 차원에서도 ‘보호책임’ 논의는 활발히 진행될 필요가 있을 것이다.

IV. 한반도에의 함의

1. 북한의 일차적 보호책임

보호책임의 기본 개념 중 하나는 주권에는 책임이 수반된다는 것이다. 북한 지역을 실효적으로 통치하고 있는 북한은 자신의 영토 내에 있는 주민들을 보호할 일차적 책임이 있다. 즉, 북한 정부는 자신의 주민들을 집단학살, 전쟁범죄, 인종청소, 인도에 반한 죄 등으로부터 보호하기 위해 가장 주도적인 위치에 있는 것이다. 전통적으로 ‘주권(sovereignty)’이란 개념은 대내적으로는 최고의 권력 내지 권한을 나타내고 대외적으로는 독립, 자주를 의미하곤 했는데, 새로 등장한 보호책임의 개념에서는 주권은 대내적으로는 국민(내지 주민)에 대한 책임을 수반하고 대외적으로도 1차적 책임 실패 시 국제공동체의 개입을 막는 방패 역할을 제대로 수행할 수가 없다.⁹³ 따라서 개별국가 입장에서는 오남용이 우려되는 인도적 목적에서의 외부 개입을 막는 가장 효과적인 방법은 두말 할 필요도 없이 영토국이 자신의 1차적 보호책임을 잘 수행하는 것이다.

그러나 북한의 내부 현실은 결코 좋게 평가할 수가 없다. 북한의 식량난 등을 포함할 수 있는 ‘광의’의 보호책임 논의는 차치하더라도,⁹⁴ 위에 명시한 4대 국제범죄의 상세한 내용(‘협의’의 보호책임)과 북한의 구체적 실상을 함께 비교해 보면, 북한의 예측치 못한 위기상황을 특별히 논하지 않더라도 현재의 상황 자체로도 북한의 1차적 보호책임 실패에 해당할 가능성이 상당히 높다.⁹⁵ 예를 들어, 15~20만 명의 수감인

⁹³- 박기갑 외, 『국제법상 보호책임』, pp. 131~133, 150~153 참조.

⁹⁴- 위의 책, pp. 247~250 참조.

⁹⁵- 북한의 1차적 보호책임 이행 실패에 대한 전반적 논의는, Václav Havel *et al.*, *Failure to Protect: A Call for the UN Security Council to Act in North Korea* (Washington: DLA Piper and U.S. Committee for Human Rights in North Korea, 2006) 참조.

원이 있는 것으로 추정되는 북한의 정치범수용소(관리소)의 존재는 국제형사재판소 로마규정의 관련 규정을 자세히 살펴보지 않더라도 ‘집단학살(genocide)’이나 ‘인도에 반한 죄(crimes against humanity)’를 구성하기에 충분하다.

따라서, 북한이 지금과 같은 극도의 반인권적 정책을 시정하지 않고 UN 총회 결의 채택과 같은 국제사회의 지속적 인권개선 권고에 대해 제대로 반응하지 않는다면, 또한 국제사회의 감시절차를 거부하고 북한인권 특별보고관의 방북도 계속 불허하는 등 국제공동체의 건설적이고 평화적인 조력을 지속적으로 거부한다면, 미래 어느 시점에 북한의 1차적 보호책임은 국제공동체의 2차적 책임으로 전환될 가능성도 있을 것이다. 물론 금번 리비아 사태 및 코트디부아르 사태와 유사한 사건이 북한 내에서 발생할 때에도 국제공동체의 2차적 보호책임은 적용될 수 있다. 따라서 북한 입장에서는 굳이 방어적으로 외부의 개입 가능성에만 주목하며 예민하게 반응하는 것 보다는, 그 근본원인에 더욱 주목하여 ‘보호책임’이나 ‘인도에 반한 죄’, ‘정치범수용소,’ 또한 ‘난민’ 내지 ‘탈북자’란 단어가 북한과 관련해 더 이상 들리지 않도록 보다 적극적으로 자신이 일차적으로 보호할 책임이 있는 북한 주민들의 삶과 인권에 대해 진지하게 고민하고 구체적인 정책 변화로 연결시켜야 할 것이다.

2. 국제적 개입 근거로서의 보호책임

앞서 살펴본 정치범수용소의 존재와 같은 현재의 북한인권상황으로 인해 무력사용을 동반한 국제공동체의 보호책임 적용이 이루어지기 힘들 것이다. 우선, 5가지 정당성 기준을 살펴보면, 위협의 심각성이나 적절한 목적은 어느 정도 만족할 수 있고, 최후 수단성도 완벽하진 않

아도 어느 정도 주장할 수 있겠지만, 수단의 비례성이나 합리적 성공 가능성 측면에서는 아무래도 무력개입을 정당화시켜 주기엔 미진한 점이 많다. 또한, 절차적 합법성 측면에서, UN 안보리 상임이사국 중국이 현재와 같은 정도의 상황을 가지고 찬성 내지 기권을 할 가능성은 전혀 없다고 봐도 무방할 것이다.

그러나 추후에 만약 북한에서 금번 리비아에서와 유사한 사태가 발생한다면, 즉 정부군이 민간인의 평화적 시위를 대규모 인명손실을 초래하는 무력사용을 통해 진압한다든지 기타 내전 상황 속에서 비무장 민간인을 무차별 살상하거나 정치범수용소 수감인원에 대해 유사한 조치를 취한다면, 이는 이번 리비아 사례에서도 볼 수 있듯이 충분히 국제사회 공동의 보호책임 적용대상으로 취급될 수 있을 것이다.⁹⁶ 그러나 현 보호책임 논의가 그 구체적 이행방안에 대해서는 원칙적으로 ‘UN 안보리를 통한 개입’을 상정하고 있으므로, 결국 안보리에서 거부권을 가지고 있는 상임이사국 중국 등의 의사에 영향을 받을 수밖에 없다. 그러함에도 보호책임 논의의 발전 및 최근의 구체적 관련 실행들은 이러한 상황에서 중국과 같은 상임이사국에 이는 단순히 재량적 선택의 문제가 아니라 국제공동체 전체가 반드시 해결하고 개입해야 할 최소한 ‘도덕적 의무’가 있는 사안이라는 점을 주지시키는 데 일정한 역할을 할 것이라 기대된다.⁹⁷ 이러한 역할은 과거 인도적 개입이 관련 강대국들의 이해관계에 영향을 받아 선별적으로 실행됐다는 비

⁹⁶ 물론, 북한의 경우는 민간인 보호라는 인도적 개입 내지 R2P의 명분 외에도, 핵무기 등 WMD의 존재 자체가 국제적 평화와 안전에 대한 위협으로 간주되어 안보리의 개입을 더욱 용이하게 할 수 있다. 다만, 이 경우에도 안보리 상임이사국인 중국 등의 협조 없이는 아무 것도 UN 차원에서 할 수 없다는 한계가 존재한다.

⁹⁷ 참고로, 중국과 러시아는 리비아에 대한 군사개입에서는 기권으로 거부권 행사를 포기하였지만, 코트디부아르에 대해서는 명시적으로 찬성표를 던졌다.



판을 잠재우기 위해서라도 꼭 필요한 것이라 볼 수 있다.

UN의 무력사용 허가 하에 보호책임에 근거한 국제공동체의 개입이 실행된다면, 이는 리비아에서와 같은 다국적군의 형태가 될 수도 있고, 코트디부아르에서와 같은 UN 평화유지군의 형태가 될 수도 있을 것이다.

3. 국제형사법적 합의

리비아와 마찬가지로 북한은 국제형사재판소(ICC) 로마규정의 당사국이 아니다. 그러나 앞서 리비아의 경우에서 살펴봤듯이 북한 또한 UN 안보리의 직접 회부가 가능하다면 ICC의 관할권 행사 대상이 될 수 있다. 또한 최근 연평도 포격 사건 등에 대해 ICC 예비조사가 진행되고 있는 것처럼, 로마규정 당사국인 한국에 대한 공격이 발생할 경우 전쟁범죄 등의 혐의로 소추관 직권수사 개시에 의한 ICC 관할권 행사도 가능하다.⁹⁸

북한에서 금번 리비아에서와 유사한 사태가 발생한다면, 즉 정부군이 민간인의 평화적 시위를 대규모 인명손실을 초래하는 무력사용을 통해 진압한다든지 기타 내전 상황 속에서 비무장 민간인을 무차별 살상하거나 정치범수용소 수감인원에 대해 유사한 비인도적 조치를 취한다면, ‘인도에 반한 죄’나 ‘전쟁범죄,’ ‘집단살해죄’ 혐의로 결국 UN 안보리에 의한 ICC 회부를 생각해 볼 수 있을 것이다. 이미 여러 번 언급했듯이 거부권 행사가 가능한 안보리 상임이사국 중국의 존재는

⁹⁸ 이론상, 북한의 국내처벌절차가 진행되거나 북한이 자발적으로 ICC의 관할권을 승인할 가능성에 대해서도 생각해볼 수 있으나, 현실적으로 이는 거의 불가능해 보인다.

이 모든 가능성에 대한 논의를 어렵게 한다. 그럼에도 민간인을 보호(R2P)하고 관련 위반자를 국제적으로 처벌하자는 대의명분이 리비아 사태와 북한의 유사 사태에 똑같이 적용될 수만 있다면 카다피의 ICC 회부에 명시적으로 찬성한(또한, 코트디부아르에서 민간인 보호를 위한 UN PKO군의 무력사용도 명시적으로 찬성한) 중국이 김정일의 ICC 회부를 반대할 실질적 정당성은 쉽게 확보하기 힘들 것이다.

관련 국제범죄에 대해 좀 더 자세히 살펴보면, 아무래도 ‘인도에 반한 죄’가 적용될 가능성이 높다. 특히 15~20만명 정도로 추산되는 정치범수용소(관리소)의 규모를 봤을 때 그 존재만으로도 ‘광범위하거나 체계적일(widespread or systematic)’ 것을 요구하는 동 범죄의 개념에 부합할 가능성이 높다. 또한 ‘인도에 반한 죄’의 구체적 열거규정은 살해(murder)나 절멸(extermiation)뿐만 아니라 노예화(enslavement), 주민의 추방(deportation) 또는 강제이주(forceful transfer), 고문(torture) 등을 명시적으로 언급하고 있어 현 북한 강제수용소 실태와 기타 북한인권 상황에 적용될 개연성이 높은 것으로 판단된다.⁹⁹ 또한 ‘집단살해죄’도 종교적 집단 등을 파괴할 의도를 가지고 살해나 신체적 위해뿐 아니라 정상적인 생활조건을 파괴하고 강제로 이주시키는 등의 행위를 규율하고 있으므로 현 북한 상황에 적용이 가능해 보인다.¹⁰⁰ 하물며 리비아 사태에서와 유사한 대량인권위반행위가 추가로 북한에서 발생한다면 이러한 실체적 범죄 규정의 적용은 더욱 용이해질 것이다. 아울러, 로마규정 제27조에 명시된 대로 김정일 국방위원장과 같은 현직 국가원수 내지 정부수반도 국제적 형사책임으로부터 면제될 수 없는데, 2009년 3월 현직 수단 대통령에 대한 ICC의 체포영장 발부 및 이번 카다피 국가원수에 대한 체포영장

⁹⁹- ICC 로마규정 제7조.

¹⁰⁰- ICC 로마규정 제6조 참조.

I
II
III
IV
V

발부가 이와 관련된 좋은 예이다. 앞서 살펴봤듯이 코트디부아르의 전직 대통령인 그바그보도 현재 ICC에서 재판이 진행 중이다.

북한 내에서 일어나고 있거나 일어날 가능성이 있는 대량인권유린 행위에 대해 ICC를 통해 국제적으로 관련자를 처벌하는 일은 안보리에 의한 회부가 필요하다는 점에서 쉽지 않아 보인다. 설사 구체적으로 안보리에 의해 관련 사안이 ICC에 회부됐다 하더라도 실제 그 신병을 확보하는 것은 별개의 문제이다. 그러함에도 이러한 국제적 처벌 시도 자체가 북한 지도부에 주는 메시지는 분명히 있을 것이며,¹⁰¹ 리비아 및 코트디부아르 사태와 같이 보호책임에 근거한 국제적 개입과 함께 형사처벌이 시도된다면 신병확보와 실제 처벌도 전혀 불가능하지 않은 것이다.

¹⁰¹ 참고로, ICC에서는 국내 형법에서와 같은 공소시효가 적용되지 않는다. ICC 로마규정 제29조.

V. 결론

금번 리비아 사태 등 아랍에서의 민주화운동 내지 시민혁명이 북한으로까지 전이될 가능성에 대한 전망은 대체로 부정적이다.¹⁰² 오히려 김정일 등 북한 지도부가 2003년 핵개발 프로그램을 포기한 카다피의 종말을 목도한 후 더욱 핵무기 보유에 집착할 가능성이 점쳐지기도 한다.¹⁰³

그러함에도 이번 리비아 및 코트디부아르 사태에서 보여준 UN과 국제사회의 개입, 즉 ‘보호책임(R2P)’ 논리의 적용은 민간인 보호와 같은 인권문제가 더 이상 단순한 국내문제도 아닐 뿐더러 국제공동체의 무력 개입을 정당화하는 사유가 될 수도 있음을 다시 한 번 확인하였다는 데 의의가 있다. 이러한 선례는 한국은 물론 현재 경제난 속에서도 3대 세습을 한창 진행 중인 북한에게도 시사하는 바가 클 것이다. 북한은 방어적으로 외부의 개입 가능성에만 주목하기 보다는 그 근본 원인에 더욱 주목하여, ‘보호책임’이나 ‘인도에 반한 죄’, ‘정치범 수용소’란 단어가 북한과 관련해 더 이상 들리지 않도록 보다 적극적으로 자신이 일차적으로 보호할 책임이 있는 북한 주민들의 삶과 인권에 대해 진지하게 고민하고 구체적인 정책 변화로 연결되는 계기로 삼아야 할 것이다.

¹⁰²- 박종철 외, 『재스민 혁명의 분석과 북한에 대한 시사점』, pp. 94-100 참조. 물론 리비아와 북한은 장기 독재 등 억압 체제, 지도층 부정부패, 정치범수용소 운영, 권력 세습, 경제정책 실패로 인한 경제난 등 공통적인 부분도 많지만, 북한의 내부통제가 리비아 등 중동국가에 비해 현저히 강하고, 인터넷이나 SNS는 물론 최근 아랍에서 중요한 영향을 끼치고 있는 위성TV의 수신 등이 원천봉쇄되어 있다는 점에서, 또한 중국이라는 버팀목이 있다는 점에서, 상당한 차이가 있다고 할 수 있다. 그럼에도, 중장기적으로는, 고난의 행군 시절인 90년대 태어난 현역군인들, 10년을 군에 봉사했지만 당장 생계대책이 없는 제대군인들, 대학생들, 상인계층 등이 과거에 비해 상대적으로 느슨해진 통제와 단파라디오, 휴대전화, CD 및 USB 등 다양해진 외부정보 유입에 힘입어 중동에서와 유사한 형태의 움직임이 발생할 여지도 전혀 배제할 순 없을 것이다.

¹⁰³- 실제 북한은 2011년 3월 22일, 외무성 대변인을 통해, 리비아 사태를 거론하며 핵무기 포기 의사가 없음을 확인하였다.

I
II
III
IV
V

한국으로서도 이번 리비아 사태 등을 통해 본격적으로 적용되기 시작한 보호책임의 개념, 이행방안 등이 앞으로 UN을 중심으로 어떻게 논의되고 발전되어 나가는가에 더욱 관심을 기울이고 이러한 논의에 적극적으로 참여하여야 할 것이다. 그러기 위해서는 먼저 여전히 ‘형성 중인 개념(evolutionary concept)’인 보호책임에 대한 보다 심층적인 연구 및 정책 검토를 통해 우리의 분명한 입장을 정립할 필요가 있을 것이다. 특히 보호책임의 여러 측면들이 한반도의 다양한 상황에서 구체적으로 어떻게 적용될 수 있을지에 대한 심도 깊은 논의가 필요하다. 예를 들어, UN 안보리의 비효율적인 현 구조를 그대로 둔 채 UN을 통한 다자적 개입의 가능성만 상정한 것이 반드시 적절한 것인지, 중장기적으로 광의의 보호책임 개념을 발전시키는 것이 좋은 것인지 아닌지, 금번 리비아 사태에서 문제가 됐던 것처럼 정권교체가 민간인 보호를 위해 정당화되는 상황은 앞으로도 가능한 것인지, 가능하다면 그 기준은 무엇인지, 대응책임 뿐만 아니라 예방책임 및 재건축책임의 구체적 내용은 무엇이고 영토국의 일차적 책임과의 관계는 어떻게 설정될 수 있는 것인지, 보호책임에 근거한 군사개입 시 다국적군과 UN 평화유지군을 이용하는 것의 차이점 및 각각의 장·단점은 무엇인지, 그리고 이러한 여러 논의들이 한반도 통일에 주는 구체적 함의는 무엇인지 등에 대해 다양한 측면에서의 검토 및 고찰이 필요할 것이다.

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부 록

[부록 I] 전쟁난민/대량난민의 개념

[부록 II] 보호책임(R2P) 관련 UN 문서

- UN 총회 결의 60/1 “2005 세계정상회의 결과” (2005, 부분 발취)
- UN 안보리 결의 1674 (2006)
- UN 사무총장 보고서 “보호책임 이행” (2009)

[부록 III] 리비아 사태 관련 UN 문서

- UN 안보리 결의 1970 (2011)
- UN 안보리 결의 1973 (2011)
- UN 안보리 결의 2009 (2011)
- UN 안보리 결의 2016 (2011)

[부록 IV] 코트디부아르 사태 관련 UN 문서

- UN 안보리 결의 1933 (2010)
- UN 안보리 결의 1967 (2011)
- UN 안보리 결의 1975 (2011)
- UN 안보리 결의 2000 (2011)

[부록 I]
전쟁난민/대량난민의 개념

1. 리비아 사태와 난민

리비아 사태로 수십만 명이 리비아를 탈출하여 인접국인 이집트와 튀니지 등으로 피신하였으며, 유엔난민기구(UNHCR) 등 국제사회도 이들을 지원하였다. 리비아 사태 초기에는 리비아에서 근무하던 외국인 근로자들이 대부분이었으나 내전상황으로 사태가 발전한 후로는 리비아인들의 탈출도 점차로 늘어났다. 결국 카다피가 유럽을 향해 협박조로 경고한 것처럼 대량의 리비아 난민들이 보트피플 등의 형태로 유럽 대륙에 유입되지는 않았으나,¹ 리비아에 인접한 이태리, 그리스 등은 물론 기타 EU 국가들도 과거 약 200만명의 피난민이 발생했던 보스니아 내전 때와 유사한 대량난민사태가 혹 발생하지 않을까 하는 우려의 눈빛으로 리비아 사태를 지켜보며 대응책을 강구하였다.

2. 정치적 난민과 인도적 난민

유럽국가들의 이러한 우려는 일견 아주 자연스러운 반응으로 보인다. 기존의 불법이민자 문제에 더해 대량의 피난민이 한꺼번에 들어오면 경제적으로나 사회질서유지 측면에서나 여러 가지로 문제가 발생할 수 있기 때문이다. 그러나 이러한 상황을 보다 더 정확히 이해하려면, 국제법적으로 인정된 ‘난민(refugees)’과 기타 난민과 유사한 상황의 ‘실향민 내지 유민(displaced persons)’을 먼저 구별하고 이러한 구별이 유럽이나 아프리카 지역에서 구체적으로 어떤 의미가 있는지를 검토할 필요가 있다.

¹ 언론 보도에 의하면, 수천명의 튀니지 ‘난민’들이 이태리에 상륙했으며, 리비아로부터 탈출한 외국인 근로자 중 일부도 이태리, 몰타 등 EU 회원국으로 유입되었다. “Some 2,000 people flee from Tripoli by boat to Italy and Malta,” UNHCR News Stories (29 March 2011).

1951년 난민지위협약²으로 대표되는 국제난민법에 의해 ‘법적 보호 (legal protection)’의 대상으로 일반적으로 인정되는 ‘협약난민(Convention refugees)’ 내지 ‘정치적 난민(political refugees)’이란, 정치적 박해를 피해 자국을 떠난 사람들을 일반적으로 지칭하며 원칙적으로 개별적인 난민지위 심사를 거쳐 난민지위를 확인받고 관련 처우 및 보호를 받는다. 반면, 상기 ‘실향민’ 내지 ‘유민’과 같은 맥락에서 사용되는 소위 ‘인도적 난민(humanitarian refugees)’ 내지 ‘사실상 난민(de facto refugees)’이란 개념은 대개 무력충돌과 같은 인재(man-made disaster)로 인해 발생한 대량적 혹은 집단적 난민을 지칭하는 용어로 법적 보호의 대상이 아닌 ‘인도적 지원(humanitarian assistance)’의 대상일 뿐이다. 소위 ‘전쟁난민(war refugees)’도 이러한 인도적 난민의 범주에 일반적으로 속한다. 물론 UNHCR은 상기 두 범주의 난민을 특별히 구별하지 않고 이번 리비아 사태에서처럼 모두에게 지원을 제공하고 있다.³

3. 유럽연합(EU)에서의 ‘난민’ 개념 확대

한편, 이러한 보편적 차원에서의 난민법적 규율과는 별개로, 각 지역별로 법적 난민의 개념을 실질적으로 확대하고 보다 강화된 법적 보호

² “Convention relating to the Status of Refugees,” United Nations, *Treaty Series*, Vol. 189, p. 137 (No. 2545), 1951년 7월 28일 채택, 1954년 4월 22일 발효. 2011년 현재 144개 당사국.

³ UNHCR의 지원대상이 되는 사람들을 통상 ‘위임난민(mandate refugees)’이라고 지칭하는데, 이는 협약난민과 인도적 난민을 모두 포함하는 개념이다. 즉, UNHCR 규정(Statute) 상 보호대상 난민의 개념은 협약난민의 개념과 거의 동일하며, UN 총회 및 경제사회이사회 결의를 통해 점차 확대된 UNHCR의 지원대상을 지칭하는 ‘관심유민(persons of concern to UNHCR)’은 일반적으로 인도적 난민과 유사한 개념으로 사용된다.

를 제공하는 경우들이 있는데, 그 대표적인 예가 바로 유럽연합(EU)의 난민 관련 지역법이다. EU는 2001년 이사회 지침⁴을 통해 EU 외부의 제3국으로부터 무력충돌이나 조직적 인권침해를 피해 ‘대량’의 실향민 유입(mass influx of displaced persons)이 발생한 경우 최소 1년에서 최대 3년까지 ‘일시적 보호(temporary protection)’를 제공할 것을 규정하고 있다.⁵ 이에 더해, 2004년의 EU 이사회 지침⁶에서는 ‘개별’적 난민지위 판정에 있어서도 전형적인 ‘난민(refugees)’에 더해 ‘2차적 보호가 필요한 사람(persons eligible for subsidiary protection)’을 별도로 규정하여 무력충돌, 고문 및 사형집행 등을 피해 온 자들에게 난민과 유사한 보호 및 처우를 제공하도록 하고 있다.⁷ 따라서 확대된 난민 개념과 강화된 난민보호체제가 확립되어 있는 EU 회원국의 입장에서는 리비아 대량난민의 유입은 더욱 더 부담스러운 상황으로 인식될 수밖에 없으며, 이러한 점들을 카다피도 잘 숙지한 상태에서 유럽 국가들을 위협하는 수단의 하나로 난민 문제를 활용했던 것으로 파악할 수 있다.

⁴- EU Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, *Official Journal of the European Communities*, 7 August 2001, L 212/12.

⁵- EU Council Directive 2001/55/EC, Arts. 1-5 참조.

⁶- EU Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, *Official Journal of the European Union*, 30 September 2004, L 304/12.

⁷- EU Council Directive 2004/83/EC, Arts. 2 & 15 참조.

4. 한반도에의 함의

반면, 한반도가 속한 아시아의 난민법적 상황은 유럽과는 근본적으로 다르다. 별도의 지역적 조약이나 협약이 없는 상태에서 동아시아의 한국, 일본, 중국이 1951년 난민지위협약의 당사국이긴 하지만 이는 상기 개별적 차원의 정치적 난민만을 규율하는 것이고,⁸ 집단적 차원의 대량탈북사태와 같은 경우는 기본적으로 각국의 보호의무로서가 아닌 재량사항으로서, 즉 인도적 지원 차원에서 접근해야 할 문제로 볼 수 있을 뿐이다.⁹ 물론 한국의 경우는 자국민으로 북한 주민을 간주하기 때문에 국내적으로 난민법이 적용될 가능성은 없고 오히려 더욱 강화된 보호를 제공할 필요가 있을 수 있겠으나, 기타 주변국들의 경우는 법적 의무의 큰 부담 없이 대량난민사태를 자국의 이해관계에 맞춰 자의적으로 대처할 가능성이 있음은 인도적 시각에서는 다소 우려스러운 점이다. 한국은 이와 같은 법적 상황을 정확히 이해하고 유사 시 인접국 간에 대량난민 문제의 적절한 처리를 위해, EU의 경우를 참조하고 필요하다면 UNHCR의 지원을 받아, 어떠한 협조체제를 구축할 수 있을지에 대해 더욱 구체적으로 고민하고 협의해 나가야 할 것이다.

⁸ 현재도 주변 인접국에 체류 중인 다수의 탈북자는 국제난민법 범리상 다양한 사유로 협약난민 내지 정치적 난민으로 충분히 인정받을 수 있으며, 실제 유럽 및 미주의 다수 국가에서 공식 난민지위를 부여받고 있다.

⁹ 아시아 지역에서도 아시아아프리카법률자문기구(Asian-African Legal Consultative Organization: AALCO)의 결의를 통해 인도적 난민 개념을 포함한 방콕 원칙(Bangkok Principles) 등이 채택되기도 하였지만, 이 문서는 법적 구속력이 없다는 한계가 있다. “Final Text of the AALCO’s 1966 Bangkok Principles on Status and Treatment of Refugees,” as adopted on 24 June 2001 at the AALCO’ 40th Session, New Delhi (전문은 www.aalco.int 에서 입수 가능),” Art. I, para. 2 참조.

[부록 Ⅱ]
보호책임(R2P) 관련 UN 문서



General Assembly

Distr.: General
24 October 2005

Sixtieth session
Agenda items 46 and 120

Resolution adopted by the General Assembly

[without reference to a Main Committee (A/60/L.1)]

60/1. 2005 World Summit Outcome

The General Assembly

Adopts the following 2005 World Summit Outcome:

2005 World Summit Outcome

I. Values and principles

1. We, Heads of State and Government, have gathered at United Nations Headquarters in New York from 14 to 16 September 2005.
2. We reaffirm our faith in the United Nations and our commitment to the purposes and principles of the Charter of the United Nations and international law, which are indispensable foundations of a more peaceful, prosperous and just world, and reiterate our determination to foster strict respect for them.
3. We reaffirm the United Nations Millennium Declaration,¹ which we adopted at the dawn of the twenty-first century. We recognize the valuable role of the major United Nations conferences and summits in the economic, social and related fields, including the Millennium Summit, in mobilizing the international community at the local, national, regional and global levels and in guiding the work of the United Nations.
4. We reaffirm that our common fundamental values, including freedom, equality, solidarity, tolerance, respect for all human rights, respect for nature and shared responsibility, are essential to international relations.
5. We are determined to establish a just and lasting peace all over the world in accordance with the purposes and principles of the Charter. We rededicate ourselves to support all efforts to uphold the sovereign equality of all States, respect their territorial integrity and political independence, to refrain in our international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations, to uphold resolution of disputes by

¹ See resolution 55/2.

Democracy

135. We reaffirm that democracy is a universal value based on the freely expressed will of people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives. We also reaffirm that while democracies share common features, there is no single model of democracy, that it does not belong to any country or region, and reaffirm the necessity of due respect for sovereignty and the right of self-determination. We stress that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing.

136. We renew our commitment to support democracy by strengthening countries' capacity to implement the principles and practices of democracy and resolve to strengthen the capacity of the United Nations to assist Member States upon their request. We welcome the establishment of a Democracy Fund at the United Nations. We note that the advisory board to be established should reflect diverse geographical representation. We invite the Secretary-General to help to ensure that practical arrangements for the Democracy Fund take proper account of existing United Nations activity in this field.

137. We invite interested Member States to give serious consideration to contributing to the Fund.

Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

140. We fully support the mission of the Special Adviser of the Secretary-General on the Prevention of Genocide.



Security Council

Distr.: General
28 April 2006

Resolution 1674 (2006)

**Adopted by the Security Council at its 5430th meeting,
on 28 April 2006**

The Security Council,

Reaffirming its resolutions 1265 (1999) and 1296 (2000) on the protection of civilians in armed conflict, its various resolutions on children and armed conflict and on women, peace and security, as well as its resolution 1631 (2005) on cooperation between the United Nations and regional organizations in maintaining international peace and security, and further reaffirming its determination to ensure respect for, and follow-up to, these resolutions,

Reaffirming its commitment to the Purposes of the Charter of the United Nations as set out in Article 1 (1-4) of the Charter, and to the Principles of the Charter as set out in Article 2 (1-7) of the Charter, including its commitment to the principles of the political independence, sovereign equality and territorial integrity of all States, and respect for the sovereignty of all States,

Acknowledging that peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being, and *recognizing* in this regard that development, peace and security and human rights are interlinked and mutually reinforcing,

Expressing its deep regret that civilians account for the vast majority of casualties in situations of armed conflict,

Gravely concerned with the effects of the illicit exploitation and trafficking of natural resources, as well as the illicit trafficking of small arms and light weapons, and the use of such weapons on civilians affected by armed conflict,

Recognizing the important contribution to the protection of civilians in armed conflict by regional organizations, and *acknowledging in this regard*, the steps taken by the African Union,

Recognizing the important role that education can play in supporting efforts to halt and prevent abuses committed against civilians affected by armed conflict, in particular efforts to prevent sexual exploitation, trafficking in humans, and violations of applicable international law regarding the recruitment and recruitment of child soldiers,

Recalling the particular impact which armed conflict has on women and children, including as refugees and internally displaced persons, as well as on other civilians who may have specific vulnerabilities, and stressing the protection and assistance needs of all affected civilian populations,

Reaffirming that parties to armed conflict bear the primary responsibility to take all feasible steps to ensure the protection of affected civilians,

Bearing in mind its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security, and *underlining* the importance of taking measures aimed at conflict prevention and resolution,

1. *Notes with appreciation* the contribution of the Report of the Secretary-General of 28 November 2005 to its understanding of the issues surrounding the protection of civilians in armed conflict, and *takes note* of its conclusions;

2. *Emphasizes* the importance of preventing armed conflict and its recurrence, and *stresses in this context* the need for a comprehensive approach through promoting economic growth, poverty eradication, sustainable development, national reconciliation, good governance, democracy, the rule of law, and respect for, and protection of, human rights, and in this regard, *urges* the cooperation of Member States and *underlines* the importance of a coherent, comprehensive and coordinated approach by the principal organs of the United Nations, cooperating with one another and within their respective mandates;

3. *Recalls* that deliberately targeting civilians and other protected persons as such in situations of armed conflict is a flagrant violation of international humanitarian law, *reiterates* its condemnation in the strongest terms of such practices, and *demands* that all parties immediately put an end to such practices;

4. *Reaffirms* the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity;

5. *Reaffirms also* its condemnation in the strongest terms of all acts of violence or abuses committed against civilians in situations of armed conflict in violation of applicable international obligations with respect in particular to (i) torture and other prohibited treatment, (ii) gender-based and sexual violence, (iii) violence against children, (iv) the recruitment and use of child soldiers, (v) trafficking in humans, (vi) forced displacement, and (vii) the intentional denial of humanitarian assistance, and *demands* that all parties put an end to such practices;

6. *Demands* that all parties concerned comply strictly with the obligations applicable to them under international law, in particular those contained in the Hague Conventions of 1899 and 1907 and in the Geneva Conventions of 1949 and their Additional Protocols of 1977, as well as with the decisions of the Security Council;

7. *Reaffirms* that ending impunity is essential if a society in conflict or recovering from conflict is to come to terms with past abuses committed against civilians affected by armed conflict and to prevent future such abuses, *draws attention* to the full range of justice and reconciliation mechanisms to be considered, including national, international and "mixed" criminal courts and tribunals and truth and reconciliation commissions, and *notes* that such mechanisms can promote not

only individual responsibility for serious crimes, but also peace, truth, reconciliation and the rights of the victims;

8. *Emphasizes* in this context the responsibility of States to comply with their relevant obligations to end impunity and to prosecute those responsible for war crimes, genocide, crimes against humanity and serious violations of international humanitarian law, while recognizing, for States in or recovering from armed conflict, the need to restore or build independent national judicial systems and institutions;

9. *Calls on* States that have not already done so to consider ratifying the instruments of international humanitarian, human rights and refugee law, and to take appropriate legislative, judicial and administrative measures to implement their obligations under these instruments;

10. *Demands* that all States fully implement all relevant decisions of the Security Council, and in this regard cooperate fully with United Nations peacekeeping missions and country teams in the follow-up and implementation of these resolutions;

11. *Calls upon* all parties concerned to ensure that all peace processes, peace agreements and post-conflict recovery and reconstruction planning have regard for the special needs of women and children and include specific measures for the protection of civilians including (i) the cessation of attacks on civilians, (ii) the facilitation of the provision of humanitarian assistance, (iii) the creation of conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and internally displaced persons, (iv) the facilitation of early access to education and training, (v) the re-establishment of the rule of law, and (vi) the ending of impunity;

12. *Recalls* the prohibition of the forcible displacement of civilians in situations of armed conflict under circumstances that are in violation of parties' obligations under international humanitarian law;

13. *Urges* the international community to provide support and assistance to enable States to fulfil their responsibilities regarding the protection of refugees and other persons protected under international humanitarian law;

14. *Reaffirms* the need to maintain the security and civilian character of refugee and internally displaced person camps, *stresses* the primary responsibility of States in this regard, and *encourages* the Secretary-General where necessary and in the context of existing peacekeeping operations and their respective mandates, to take all feasible measures to ensure security in and around such camps and of their inhabitants;

15. *Expresses its intention* of continuing its collaboration with the United Nations Emergency Relief Coordinator, and *invites* the Secretary-General to fully associate him from the earliest stages of the planning of United Nations peacekeeping and other relevant missions;

16. *Reaffirms* its practice of ensuring that the mandates of United Nations peacekeeping, political and peacebuilding missions include, where appropriate and on a case-by-case basis, provisions regarding (i) the protection of civilians, particularly those under imminent threat of physical danger within their zones of operation, (ii) the facilitation of the provision of humanitarian assistance, and

(iii) the creation of conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and internally displaced persons, and *expresses its intention* of ensuring that (i) such mandates include clear guidelines as to what missions can and should do to achieve those goals, (ii) the protection of civilians is given priority in decisions about the use of available capacity and resources, including information and intelligence resources, in the implementation of the mandates, and (iii) that protection mandates are implemented;

17. *Reaffirms* that, where appropriate, United Nations peacekeeping and other relevant missions should provide for the dissemination of information about international humanitarian, human rights and refugee law and the application of relevant Security Council resolutions;

18. *Underscores* the importance of disarmament, demobilization and reintegration of ex-combatants (DDR) in the protection of civilians affected by armed conflict, and, in this regard, *emphasizes* (i) its support for the inclusion in mandates of United Nations peacekeeping and other relevant missions, where appropriate and on a case-by-case basis, of specific and effective measures for DDR, (ii) the importance of incorporating such activities into specific peace agreements, where appropriate and in consultation with the parties, and (iii) the importance of adequate resources being made available for the full completion of DDR programmes and activities;

19. *Condemns in the strongest terms* all sexual and other forms of violence committed against civilians in armed conflict, in particular women and children, and *undertakes* to ensure that all peace support operations employ all feasible measures to prevent such violence and to address its impact where it takes place;

20. *Condemns in equally strong terms* all acts of sexual exploitation, abuse and trafficking of women and children by military, police and civilian personnel involved in United Nations operations, *welcomes* the efforts undertaken by United Nations agencies and peacekeeping operations to implement a zero-tolerance policy in this regard, and *requests* the Secretary-General and personnel-contributing countries to continue to take all appropriate action necessary to combat these abuses by such personnel, including through the full implementation without delay of those measures adopted in the relevant General Assembly resolutions based upon the recommendations of the report of the Special Committee on Peacekeeping, A/59/19/Rev.1;

21. *Stresses* the importance for all, within the framework of humanitarian assistance, of upholding and respecting the humanitarian principles of humanity, neutrality, impartiality and independence;

22. *Urges* all those concerned as set forth in international humanitarian law, including the Geneva Conventions and the Hague Regulations, to allow full unimpeded access by humanitarian personnel to civilians in need of assistance in situations of armed conflict, and to make available, as far as possible, all necessary facilities for their operations, and to promote the safety, security and freedom of movement of humanitarian personnel and United Nations and its associated personnel and their assets;

23. *Condemns* all attacks deliberately targeting United Nations and associated personnel involved in humanitarian missions, as well as other humanitarian personnel, *urges* States on whose territory such attacks occur to

prosecute or extradite those responsible, and *welcomes* in this regard the adoption on 8 December 2005 by the General Assembly of the Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel;

24. *Recognizes* the increasingly valuable role that regional organizations and other intergovernmental institutions play in the protection of civilians, and *encourages* the Secretary-General and the heads of regional and other intergovernmental organizations to continue their efforts to strengthen their partnership in this regard;

25. *Reiterates* its invitation to the Secretary-General to continue to refer to the Council relevant information and analysis regarding the protection of civilians where he believes that such information or analysis could contribute to the resolution of issues before it, requests him to continue to include in his written reports to the Council on matters of which it is seized, as appropriate, observations relating to the protection of civilians in armed conflict, and encourages him to continue consultations and take concrete steps to enhance the capacity of the United Nations in this regard;

26. *Notes* that the deliberate targeting of civilians and other protected persons, and the commission of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict, may constitute a threat to international peace and security, and, *reaffirms in this regard* its readiness to consider such situations and, where necessary, to adopt appropriate steps;

27. *Requests* the Secretary-General to submit his next report on the protection of civilians in armed conflict within 18 months of the date of this resolution;

28. *Decides* to remain seized of the matter.



General Assembly

Distr.: General
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Original: English

Sixty-third session

Agenda items 44 and 107

Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields

Follow-up to the outcome of the Millennium Summit

Implementing the responsibility to protect

Report of the Secretary-General

Summary

The present report responds to one of the cardinal challenges of our time, as posed in paragraphs 138 and 139 of the 2005 World Summit Outcome: operationalizing the responsibility to protect (widely referred to as “RtoP” or “R2P” in English). The Heads of State and Government unanimously affirmed at the Summit that “each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity”. They agreed, as well, that the international community should assist States in exercising that responsibility and in building their protection capacities. When a State nevertheless was “manifestly failing” to protect its population from the four specified crimes and violations, they confirmed that the international community was prepared to take collective action in a “timely and decisive manner” through the Security Council and in accordance with the Charter of the United Nations. As the present report underscores, the best way to discourage States or groups of States from misusing the responsibility to protect for inappropriate purposes would be to develop fully the United Nations strategy, standards, processes, tools and practices for the responsibility to protect.

This mandate and its historical, legal and political context are addressed in section I of the present report.

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A three-pillar strategy is then outlined for advancing the agenda mandated by the Heads of State and Government at the Summit, as follows:

Pillar one

The protection responsibilities of the State (sect. II)

Pillar two

International assistance and capacity-building (sect. III)

Pillar three

Timely and decisive response (sect. IV)

The strategy stresses the value of prevention and, when it fails, of early and flexible response tailored to the specific circumstances of each case. There is no set sequence to be followed from one pillar to another, nor is it assumed that one is more important than another. Like any other edifice, the structure of the responsibility to protect relies on the equal size, strength and viability of each of its supporting pillars. The report also provides examples of policies and practices that are contributing, or could contribute, to the advancement of goals relating to the responsibility to protect under each of the pillars.

The way forward is addressed in section V. In particular, five points are set out in paragraph 71 that the General Assembly may wish to consider as part of its “continuing consideration” mandate under paragraph 139 of the Summit Outcome. Some preliminary ideas on early warning and assessment, as called for in paragraph 138 of the Summit Outcome, are set out in the annex.

Policy ideas that were proposed during the consultation process and that may merit further consideration by Member States over time appear in bold type, although the Secretary-General does not request the General Assembly to take specific action on them at this point.

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I. Mandate and context

1. The mandate for the present report derives from the following three paragraphs of the 2005 World Summit Outcome:

“138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

“139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

“140. We fully support the mission of the Special Adviser of the Secretary-General on the Prevention of Genocide.”

The General Assembly adopted the Summit Outcome in its resolution 60/1. In paragraph 4 of its resolution 1674 (2006) on the protection of civilians in armed conflict, the Security Council reaffirmed the provisions of paragraphs 138 and 139 of the Summit Outcome regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In the second preambular paragraph of its resolution 1706 (2006) on the crisis in Darfur, the Council recalled its earlier reaffirmation of those provisions.

2. Based on existing international law, agreed at the highest level and endorsed by both the General Assembly and the Security Council, the provisions of paragraphs 138 and 139 of the Summit Outcome define the authoritative framework within which Member States, regional arrangements and the United Nations system and its partners can seek to give a doctrinal, policy and institutional life to the responsibility to protect (widely referred to as “RtoP” or “R2P” in English). The task ahead is not to reinterpret or renegotiate the conclusions of the World Summit but to find ways of implementing its decisions in a fully faithful and consistent manner. The present report, in offering some initial thoughts in that regard, aims to

contribute to a continuing dialogue among Member States, with support from the United Nations Secretariat, on the responsibility to protect.

3. It should be underscored that the provisions of paragraphs 138 and 139 of the Summit Outcome are firmly anchored in well-established principles of international law. Under conventional and customary international law, States have obligations to prevent and punish genocide, war crimes and crimes against humanity. Ethnic cleansing is not a crime in its own right under international law, but acts of ethnic cleansing may constitute one of the other three crimes. The Summit's enunciation of the responsibility to protect was not intended to detract in any way from the much broader range of obligations existing under international humanitarian law, international human rights law, refugee law and international criminal law. It should also be emphasized that actions under paragraphs 138 and 139 of the Summit Outcome are to be undertaken only in conformity with the provisions, purposes and principles of the Charter of the United Nations. In that regard, the responsibility to protect does not alter, indeed it reinforces, the legal obligations of Member States to refrain from the use of force except in conformity with the Charter.

4. The 2005 World Summit was one of the largest gatherings of Heads of State and Government in history. As expected, there were intense and contentious deliberations on a number of issues, including on the responsibility to protect. On some important issues, such as disarmament and the proliferation of weapons of mass destruction, it proved impossible to find consensus language. It is therefore a tribute both to the determination and foresight of the assembled world leaders and to their shared understanding of the urgency of the issue that they were able to agree on such detailed provisions regarding the responsibility to protect. Their determination to move the responsibility to protect from promise to practice reflects both painful historical lessons and the evolution of legal standards and political imperatives.

5. The twentieth century was marred by the Holocaust, the killing fields of Cambodia, the genocide in Rwanda and the mass killings in Srebrenica, the latter two under the watch of the Security Council and United Nations peacekeepers. Genocide, war crimes, ethnic cleansing and crimes against humanity: the brutal legacy of the twentieth century speaks bitterly and graphically of the profound failure of individual States to live up to their most basic and compelling responsibilities, as well as the collective inadequacies of international institutions. Those tragic events led my distinguished predecessor, Kofi Annan, and other world leaders to ask whether the United Nations and other international institutions should be exclusively focused on the security of States without regard to the safety of the people within them. Could sovereignty, the essential building block of the nation-State era and of the United Nations itself, they queried, be misused as a shield behind which mass violence could be inflicted on populations with impunity? How deeply and irreparably had the legitimacy and credibility of the United Nations and its partners been damaged by such revelations? Could we not find the will and the capacity in the new century to do better?

6. Before responding, we should note that the worst human tragedies of the past century were not confined to any particular part of the world. They occurred in the North and in the South, in poor, medium-income and relatively affluent countries. Sometimes they were linked to ongoing conflicts but quite often — including in some of the worst cases — they were not. In retrospect, three factors stand out.

First, in each case there were warning signs. Violence of this magnitude takes planning and preparation, as well as a contributing political, social and economic context. Second, the signals of trouble ahead were, time and again, ignored, set aside or minimized by high-level national and international decision makers with competing political agendas. Third, at times the United Nations — its intergovernmental organs and its Secretariat — failed to do its part. Citing a “lack of resources and political commitment” (see S/1999/1257, enclosure, sect. 1), the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda, commissioned by then Secretary-General Annan, concluded in its report that “the United Nations failed the people of Rwanda during the genocide in 1994” (see S/1999/1257, enclosure, sect. III.18). The report of the Secretary-General on the fall of Srebrenica, while also underscoring “the gulf between mandate and means”, went on to question “the pervasive ambivalence within the United Nations regarding the role of force in the pursuit of peace” and “an institutional ideology of impartiality even when confronted with attempted genocide” (see A/54/549, para. 505). A prime lesson of Srebrenica, the Secretary-General noted, was that “the United Nations global commitment to ending conflict does not preclude moral judgments, but makes them necessary” (see A/54/549, para. 506). Nine years after those sobering reports, many of their institutional recommendations, including on early warning, analysis and training, have not been fully implemented, despite efforts to improve the prevention capacities of the Organization. The United Nations and its Member States remain underprepared to meet their most fundamental prevention and protection responsibilities. We can, and must, do better. Humanity expects it and history demands it.

7. Part of the problem has been conceptual and doctrinal: how we understand the issue and the policy alternatives. Two distinct approaches emerged during the final years of the twentieth century. Humanitarian intervention posed a false choice between two extremes: either standing by in the face of mounting civilian deaths or deploying coercive military force to protect the vulnerable and threatened populations. Member States have been understandably reluctant to choose between those unpalatable alternatives. Meanwhile, Francis Deng, at that time the Representative of the Secretary-General on internally displaced persons, and his colleagues had been refining a conceptually distinct approach centred on the notion of “sovereignty as responsibility”.¹ They underscored that sovereignty entailed enduring obligations towards one’s people, as well as certain international privileges. The State, by fulfilling fundamental protection obligations and respecting core human rights, would have far less reason to be concerned about unwelcome intervention from abroad.

8. Neither concerns about sovereignty nor the understanding that sovereignty implies responsibility are confined to one part of the world.² The evolution of thinking and practice in Africa in that regard has been especially impressive. While the Organization of African Unity emphasized non-intervention, its successor, the African Union, has stressed non-indifference. In 2000, five years before the 2005

¹ Francis M. Deng et al., *Sovereignty as Responsibility: Conflict Management in Africa* (Washington, D.C.: Brookings Institution Press, 1996).

² See, for instance, Edward C. Luck, “The responsible sovereign and the responsibility to protect”, in Joachim W. Müller and Karl P. Sauvant, eds., *Annual Review of United Nations Affairs* (Oxford: Oxford University Press, 2008); and Edward C. Luck, “Sovereignty, choice, and the responsibility to protect”, *Global Responsibility to Protect*, vol. 1, No. 1 (January 2009).

World Summit endorsed the responsibility to protect, the Constitutive Act of the African Union provided, in article 4 (h), for “the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect to grave circumstances, namely: war crimes, genocide, and crimes against humanity”. It made a clear distinction between Member States, which were not to interfere “in the internal affairs of another” (article 4 (g)), and the Union, which could do so in response to the three “grave circumstances” noted above. As concluded by the Independent Inquiry into the actions of the United Nations during the 1994 Rwanda genocide (see S/1999/1257, enclosure, sect. IV.1), the Convention on the Prevention and Punishment of the Crime of Genocide had long since imposed “the responsibility to act”.³

9. Concerns about how to respond to such conscience-shocking events, and better yet to prevent them in the first place, were not confined to Africa or the global South. In 2000, Canada convened an independent International Commission on Intervention and State Sovereignty, co-chaired by Gareth Evans of Australia and Mohamed Sahnoun of Algeria. According to the Commission, “external military intervention for humanitarian protection purposes has been controversial both when it has happened — as in Somalia, Bosnia and Herzegovina and Kosovo — and when it has failed to happen, as in Rwanda”.⁴ The geographically diverse Commission, however, came to understand that protection was neither primarily a military matter nor essentially a contest between State and individual sovereignty. Coining the phrase “responsibility to protect”, the Commission identified a responsibility to prevent, a responsibility to react and a responsibility to rebuild, posing a continuum of graduated policy instruments across that spectrum. Although it addressed the proper authority and rules for the use of force, the report of the Commission highlighted the advantages of prevention through encouraging States to meet their core protection responsibilities. A number of the Commission’s key recommendations were included in the conclusions of the High-level Panel on Threats, Challenges and Change convened in 2004 by then Secretary-General Kofi Annan (see A/59/565 and Corr.1) and in his subsequent report entitled “In larger freedom: towards development, security and human rights for all” (A/59/2005). These reports, in turn, provided material for consideration at the 2005 World Summit.

10. While the approach to the responsibility to protect described in the present report draws from the above-mentioned history in important ways, it has been defined by the provisions of paragraphs 138 and 139 of the Summit Outcome as follows:

(a) As the assembled Heads of State and Government made absolutely clear, the responsibility to protect is an ally of sovereignty, not an adversary. It grows from the positive and affirmative notion of sovereignty as responsibility, rather than from the narrower idea of humanitarian intervention. By helping States to meet their core protection responsibilities, the responsibility to protect seeks to strengthen

³ General Assembly resolution 260 A (III), annex.

⁴ See Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001), p. vii. For an insider account of the work of the Commission and the ideas that shaped it, see Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (Washington, D.C.: Brookings Institution Press, 2008). See also Alex J. Bellamy, *A Responsibility to Protect: the Global Effort to End Mass Atrocities* (Cambridge: Polity Press, 2009).

sovereignty, not weaken it. It seeks to help States to succeed, not just to react when they fail;

(b) The responsibility to protect applies, until Member States decide otherwise, only to the four specified crimes and violations: genocide, war crimes, ethnic cleansing and crimes against humanity. To try to extend it to cover other calamities, such as HIV/AIDS, climate change or the response to natural disasters, would undermine the 2005 consensus and stretch the concept beyond recognition or operational utility;

(c) While the scope should be kept narrow, the response ought to be deep, employing the wide array of prevention and protection instruments available to Member States, the United Nations system, regional and subregional organizations and their civil society partners. To that end, in paragraph 138 of the Summit Outcome, States were called on to use “appropriate and necessary means” to prevent such crimes and their incitement, and the international community was called on to “encourage and help” States to exercise their responsibility and to “support the United Nations in establishing an early warning capability”. In paragraph 139 of the Summit Outcome, reference is made both to “appropriate diplomatic, humanitarian and peaceful means” under Chapters VI and VIII of the Charter and to “collective action” under Chapter VII. Our approach to the responsibility to protect should therefore be both narrow and deep;

(d) The Summit recognized that early warning and assessment was a necessary, though hardly sufficient, ingredient for successful preventive and protective action by Member States, through the United Nations. As asserted in paragraph 138 of the Summit Outcome, the international community should “support the United Nations in establishing an early warning capability”. This would require: (i) the timely flow to United Nations decision makers of accurate, authoritative, reliable and relevant information about the incitement, preparation or perpetration of the four specified crimes and violations; (ii) the capacity for the United Nations Secretariat to assess that information and to understand the patterns of events properly within the context of local conditions; and (iii) ready access to the office of the Secretary-General. Too often, the alarm bells were not sounded at all or they failed to command attention or spur effective action at senior political ranks, whether in the Secretariat or in intergovernmental bodies (see S/1999/1257 and A/54/549). But a pattern of false alarms or, worse, selective reporting could also damage the credibility of the Organization. It is therefore important that early warning and assessment be effected fairly, prudently and professionally, without political interference or double standards.

11. The provisions of paragraphs 138 and 139 of the Summit Outcome suggest that the responsibility to protect rests on the following three pillars:

Pillar one

The protection responsibilities of the State

(a) Pillar one is the enduring responsibility of the State to protect its populations, whether nationals or not, from genocide, war crimes, ethnic cleansing and crimes against humanity, and from their incitement. The latter, I would underscore, is critical to effective and timely prevention strategies. The declaration by the Heads of State and Government in paragraph 138 of the Summit Outcome that “we accept that responsibility and will act in accordance with it” is the bedrock

of the responsibility to protect. That responsibility, they affirmed, lies first and foremost with the State. The responsibility derives both from the nature of State sovereignty and from the pre-existing and continuing legal obligations of States, not just from the relatively recent enunciation and acceptance of the responsibility to protect;

Pillar two

International assistance and capacity-building

(b) Pillar two is the commitment of the international community to assist States in meeting those obligations. It seeks to draw on the cooperation of Member States, regional and subregional arrangements, civil society and the private sector, as well as on the institutional strengths and comparative advantages of the United Nations system. Too often ignored by pundits and policymakers alike, pillar two is critical to forging a policy, procedure and practice that can be consistently applied and widely supported. Prevention, building on pillars one and two, is a key ingredient for a successful strategy for the responsibility to protect;

Pillar three

Timely and decisive response

(c) Pillar three is the responsibility of Member States to respond collectively in a timely and decisive manner when a State is manifestly failing to provide such protection. Though widely discussed, pillar three is generally understood too narrowly. As demonstrated by the successful bilateral, regional and global efforts to avoid further bloodshed in early 2008 following the disputed election in Kenya, if the international community acts early enough, the choice need not be a stark one between doing nothing or using force. A reasoned, calibrated and timely response could involve any of the broad range of tools available to the United Nations and its partners. These would include pacific measures under Chapter VI of the Charter, coercive ones under Chapter VII and/or collaboration with regional and subregional arrangements under Chapter VIII. The process of determining the best course of action, as well as of implementing it, must fully respect the provisions, principles and purposes of the Charter. In accordance with the Charter, measures under Chapter VII must be authorized by the Security Council. The General Assembly may exercise a range of related functions under Articles 10 to 14, as well as under the "Uniting for peace" process set out in its resolution 377 (V). Chapters VI and VIII specify a wide range of pacific measures that have traditionally been carried out either by intergovernmental organs or by the Secretary-General. Either way, the key to success lies in an early and flexible response, tailored to the specific needs of each situation.

12. If the three supporting pillars were of unequal length, the edifice of the responsibility to protect could become unstable, leaning precariously in one direction or another. Similarly, unless all three pillars are strong the edifice could implode and collapse. All three must be ready to be utilized at any point, as there is no set sequence for moving from one to another, especially in a strategy of early and flexible response. With these caveats in mind, some examples of policies and practices that are contributing, or could contribute, to meeting pillars one, two and three are set out in sections II to IV below. The way forward is considered in section V. In particular, five points are set out in paragraph 71 that the General Assembly may wish to consider in its review of the overall strategy set out in the report. Some

initial ideas on early warning and assessment are set out in the annex. Later in 2009, I will submit to the Assembly modest proposals for implementing improvements in the early warning capability of the Organization, as called for in paragraph 138 of the Summit Outcome.

II. Pillar one The protection responsibilities of the State

13. The first three sentences of paragraph 138 of the Summit Outcome capture unambiguously the underlying principle of the responsibility to protect:

“Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it.”

This solemn pledge, undertaken at the Summit level and subsequently adopted by the General Assembly and reaffirmed by the Security Council, is remarkable for its clarity, simplicity, and lack of qualifications or caveats. The peoples of the world fully expect each and every Member State to live up to this commitment at all times because this first pillar of the responsibility to protect, which rests on long-standing obligations under international law, is absolutely essential if the responsibility to protect is to move from the realm of rhetoric to the realm of doctrine, policy and action. When a State is unable to fully meet this responsibility, because of capacity deficits or lack of territorial control, the international community should be prepared to support and assist the State in meeting this core responsibility as needed under pillar two (see sect. III below). The State, however, remains the bedrock of the responsibility to protect, the purpose of which is to build responsible sovereignty, not to undermine it.

14. The responsibility to protect, first and foremost, is a matter of State responsibility, because prevention begins at home and the protection of populations is a defining attribute of sovereignty and statehood in the twenty-first century. Through the wording of paragraph 138 of the Summit Outcome, the assembled Heads of State and Government confirmed these two fundamental truths. They recognized that the international community can at best play a supplemental role. In this area of policy, as in so many others, the United Nations depends on the strength and determination of its sovereign Member States. In an increasingly interdependent and globalized world, they, in turn, need to move from identity-based politics to the effective management, even encouragement, of diversity through the principle of non-discrimination and the equal enjoyment of rights. Responsible sovereignty is based on the politics of inclusion, not exclusion. This entails the building of institutions, capacities and practices for the constructive management of the tensions so often associated with the uneven growth or rapidly changing circumstances that appear to benefit some groups more than others.

15. These principles hold across political and economic systems because this is a matter of values and practice, regardless of a country’s level of economic development. No single part of the world has a monopoly on good ideas or successful practices in this regard. **More research and analysis are needed on why**

one society plunges into mass violence while its neighbours remain relatively stable, and on why it has been so difficult to stem widespread and systematic sexual violence in some places. But it is evident that States that handle their internal diversity well, foster respect among disparate groups, and have effective mechanisms for handling domestic disputes and protecting the rights of women, youth and minorities are unlikely to follow such a destructive path.

16. Respect for human rights, therefore, is an essential element of responsible sovereignty. Having marked the sixtieth anniversary of the Universal Declaration of Human Rights⁵ and of the Convention on the Prevention and Punishment of the Crime of Genocide, Member States may wish to review what more they could do, individually and collectively, to implement their obligations under human rights law and to cooperate with the United Nations human rights mechanisms. States could help to advance the prevention and protection goals relating to the responsibility to protect by working domestically and internationally to advance the broad and vital mandate of the United Nations High Commissioner for Human Rights, as prescribed in General Assembly resolution 48/141 as well as those of the Human Rights Council, the special rapporteurs and the human rights treaty bodies.⁶ **States could also assist the Human Rights Council in sharpening its focus as a forum for considering ways to encourage States to meet their obligations relating to the responsibility to protect and to monitor, on a universal and apolitical basis, their performance in this regard. To that end, the Council's universal periodic review mechanism could be an important instrument for advancing human rights and, indirectly, goals relating to the responsibility to protect.**

17. **States should become parties to the relevant international instruments on human rights, international humanitarian law and refugee law, as well as to the Rome Statute of the International Criminal Court.⁷ But this is just a first step towards full implementation in practice.** These core international standards need to be faithfully embodied in national legislation, so that the four specified crimes and violations and their incitement are criminalized under domestic law and practice. Different segments of society need to be afforded equal access to justice and to judicial redress for violations of their fundamental rights, as part of an overall effort to strengthen the rule of law. Criminal laws, rules and procedures should be

⁵ General Assembly resolution 217 A (III).

⁶ The responsibilities entrusted to the United Nations High Commissioner for Human Rights, under General Assembly resolution 48/141, include "to promote and protect the effective enjoyment by all of all civil, economic, political, and social rights", "to coordinate human rights promotion and protection activities throughout the United Nations system", and "to play an active role in removing the current obstacles and in meeting the challenges to the full realization of all human rights and in preventing the continuation of human rights violations throughout the world". The High Commissioner and the Office of the United Nations High Commissioner for Human Rights provide technical assistance to States and facilitate the work of the special rapporteurs and the treaty monitoring bodies, some of which have particularly relevant mandates, such as the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Human Rights Committee and the Committee on the Elimination of All Forms of Racial Discrimination. The functions of the High Commissioner facilitate use of a variety of means for the purpose of early warning, including advocacy functions and public voice, good offices, and capacity-building, and reporting to intergovernmental bodies, including the Security Council, at its request, or at the request of the Secretary-General on situations and issues of special concern.

⁷ United Nations, *Treaty Series*, vol. 2187, No. 38544.

designed to protect the vulnerable and the disenfranchised, while ensuring that impunity is not accepted either nationally or globally. Particular attention, in this regard, should be paid to preventing sexual and gender-based violence, prosecuting offenders, and implementing gender-responsive justice and security-sector reform measures. Those responsible for law enforcement and judicial processes should be trained in human rights, international humanitarian law and refugee law, as well as in the procedures governing the respective instruments. A lively civil society, an independent press and openness to international and domestic scrutiny can help to correct abuses of the justice system. They can also reduce the likelihood of crimes relating to the responsibility to protect being planned and carried out without a global outcry.

18. As noted above, the obligations of States that underpin pillar one are firmly embedded in pre-existing, treaty-based and customary international law. It is significant that these well-established international crimes and the obligation to punish their perpetrators are reflected in the provisions of the Rome Statute of the International Criminal Court. Focusing on individuals who commit or incite such egregious acts, including the leaders of States or armed groups, the Rome Statute seeks to develop mechanisms and processes for identifying, investigating and prosecuting those most directly responsible for crimes and violations relating to the responsibility to protect, among others. By seeking to end impunity, the International Criminal Court and the United Nations-assisted tribunals have added an essential tool for implementing the responsibility to protect, one that is already reinforcing efforts at dissuasion and deterrence.

19. **States could do more, however, to sharpen the tools for ending impunity. According to the complementarity principle of the Rome Statute, national judicial processes are the first line of defence against impunity. To date, there are 108 States parties to the Rome Statute, but I would encourage additional States to become parties to the Statute and thus to strengthen one of the key instruments relating to the responsibility to protect. National authorities should do their best to assist the International Criminal Court and other international tribunals in locating and apprehending individuals, at whatever level, who are accused of committing or inciting crimes and violations relating to the responsibility to protect.**

20. **Moreover, if principles relating to the responsibility to protect are to take full effect and be sustainable, they must be integrated into each culture and society without hesitation or condition, as a reflection of not only global but also local values and standards.** This should not be an impossible task since no community, society, or culture publicly and officially condones genocide, war crimes, ethnic cleansing or crimes against humanity as acceptable behaviour. On this principle, Member States are united. Although there have been lively debates about how best to implement the responsibility to protect, no Member State has argued against trying to curb abuses of such magnitude or against developing partnerships at the national, regional and global levels to achieve this.

21. Genocide and other crimes relating to the responsibility to protect do not just happen. They are, more often than not, the result of a deliberate and calculated political choice, and of the decisions and actions of political leaders who are all too ready to take advantage of existing social divisions and institutional failures. Events on the scale of the Holocaust, Cambodia in the 1970s and Rwanda in 1994 require

planning, propaganda and the mobilization of substantial human and material resources. They are neither inevitable nor unavoidable. They require permissive conditions, both domestically and internationally. **Even relatively stable, developed and progressive societies need to ask themselves whether they are vulnerable to such events; whether the seeds of intolerance, bigotry and exclusion could take root and grow into something horrific and self-destructive; and whether their social, economic and political systems have self-correcting mechanisms in place to discourage and derail such impulses. Candid self-reflection, searching dialogue among groups and institutions, both domestically and internationally, and periodic risk assessment are needed in both fragile and seemingly healthy societies in all regions of the world. We are all at risk if we believe it could not happen to us.**

22. As part of the process of self-reflection, States can seek, and often have sought, technical assistance from the United Nations, their neighbours, regional organizations, specialized non-governmental organizations or independent experts on the crafting of legislation or the establishment of credible monitoring groups or independent national institutions to help oversee the implementation of relevant international human rights and humanitarian standards. The Office of the United Nations High Commissioner for Human Rights has made a sustained effort to introduce training programmes on human rights reporting, to nurture national human rights institutions and to encourage the independence of those institutions from Governments. Currently, over 150 national human rights institutions are operating around the world. **State-to-State learning processes — often neighbours helping neighbours — have promoted the transfer of best/good practices, such as through the African Peer Review Mechanism under the New Partnership for Africa's Development or through the standards established for gaining membership in the European Union. In those and similar arrangements in other regions, consideration should be given to introducing criteria relating to the responsibility to protect into peer review mechanisms.**

23. Countries that have suffered massive crimes and violations are, understandably, eager to create barriers to their reoccurrence. We need to learn from their mistakes, as well as from the processes of reconciliation, healing and reconstruction that so often follow. We should also learn from countries that have not experienced such traumas, in part because they have developed mechanisms for identifying and managing emerging tensions before they lead to violence. Three examples of such capacities are the Ethnic Relations Commission in Guyana, the National Peace Council in Ghana, and the Political Parties Registration Commission and comprehensive security-sector reform in Sierra Leone.

24. Training, learning and education programmes can help States to help themselves. Since 1996, the International Committee of the Red Cross has established the Advisory Service on International Humanitarian Law, which among other things has encouraged the ratification of humanitarian conventions, facilitated State-to-State learning processes, assisted the incorporation of international humanitarian standards into national law, encouraged States to set up national mechanisms on international humanitarian law, and provided educational materials on these norms and conventions. For instance, working with the Arab League, it helped to draft an Arab model law, while it assisted Bosnia and Herzegovina in developing and implementing a national law on missing persons. Similarly, the International Federation of the Red Cross has conducted the Reducing

Discrimination Initiative since 2001. Among its products have been guidelines for working with the Roma and other marginalized groups in Europe, assisting the most vulnerable populations in Nepal, and facilitating the rehabilitation and reintegration of children associated with armed groups in Sierra Leone, a society that has suffered horrendous crimes against humanity.

25. When aimed at critical actors in society, such as the police, soldiers, the judiciary and legislators, training can be an especially effective tool for prevention purposes. For instance, the Fund for Peace has held a series of training workshops in Uganda on its Conflict Assessment System Tool, designed to help identify early warning indicators, and the Fund expects to extend the workshops to the rest of East Africa. For its part, the Kenyan National Council of Churches has developed a monitoring and reporting system on intra-community violence in the Rift Valley and elsewhere. The Inter-Parliamentary Union and the United Nations Children's Fund (UNICEF) have collaborated on the publication *Child Protection: a Handbook for Parliamentarians*, while the Office of the United Nations High Commissioner for Human Rights has an active publications programme across the human rights spectrum. UNICEF has also worked with a number of Governments, such as Colombia, the Philippines and the Sudan, to address how their judicial systems deal with children formerly associated with armed groups and accused of serious war crimes or other large-scale violations. In Colombia, strengthening the Office of the Ombudsman has helped to address child recruitment and demobilization, gender-based violence in conflict and sexual exploitation related to conflict. The armed forces of Uganda, following United Nations guidelines, have adopted a code of conduct banning the sexual exploitation of women and girls. During the period 2000-2007, the Economic Community of West African States and Save the Children (Sweden) conducted a comprehensive training programme on children's rights and protection before, during and after conflict for the armed forces in the region. Similarly, the United Nations Development Fund for Women worked with the Rwandan Defence Force on training in gender issues and human rights while the Force was preparing its troops for participation in regional peace operations.

26. In all of the discussions of global, regional and national institutions, care should be taken not to lose sight of the individual victims and survivors of such crimes. They need to be supported and encouraged to tell their stories candidly and fully, without fear of retribution or stigmatization. In that regard, women's non-governmental organizations have often played a critical role in engaging and assisting survivors of systematic sexual violence. They deserve our full support.

27. **Similarly, one of the keys to preventing small crimes from becoming large ones, as well as to ending such affronts to human dignity altogether, is to foster individual responsibility. Even in the worst genocide, there are ordinary people who refuse to be complicit in the collective evil, who display the values, the independence and the will to say no to those who would plunge their societies into cauldrons of cruelty, injustice, hatred and violence. We need to do more to recognize their courage and to learn from their actions. States that have suffered such traumas, civil society and international organizations can facilitate the development of national and transnational networks of survivors, so that their stories and lessons can be more widely heard, thus helping to prevent their reoccurrence or repetition elsewhere.**

III. Pillar two International assistance and capacity-building

28. Paragraph 138 of the Summit Outcome asserts that “the international community should, as appropriate, encourage and help States to exercise this [responsibility to protect] responsibility”. Paragraph 139 asserts that “we also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out”. These provisions suggest that this assistance could take one of four forms: (a) encouraging States to meet their responsibilities under pillar one (para. 138); (b) helping them to exercise this responsibility (para. 138); (c) helping them to build their capacity to protect (para. 139); and (d) assisting States “under stress before crises and conflicts break out” (para. 139). While the first form of assistance implies persuading States to do what they ought to do, the other three suggest mutual commitment and an active partnership between the international community and the State.

29. If the political leadership of the State is determined to commit crimes and violations relating to the responsibility to protect, then assistance measures under pillar two would be of little use and the international community would be better advised to begin assembling the capacity and will for a “timely and decisive” response, as stipulated under paragraph 139 of the Summit Outcome (see sect. IV below). However, when national political leadership is weak, divided or uncertain about how to proceed, lacks the capacity to protect its population effectively, or faces an armed opposition that is threatening or committing crimes and violations relating to the responsibility to protect, measures under pillar two could play a critical role in the international implementation of the responsibility to protect. In addition to persuasive measures and positive incentives, pillar two could also encompass military assistance to help beleaguered States deal with armed non-state actors threatening both the State and its population. These measures would supplement the policy tools under pillar one and complement those under pillar three because none of the pillars is designed to work in isolation from the others.

30. Encouraging States to meet their obligations relating to the responsibility to protect could entail confidential or public suasion, education, training and/or assistance. Among those well placed to contribute to such good offices and public diplomacy efforts are regional and subregional mechanisms, the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, the Emergency Relief Coordinator, the Special Adviser on the Prevention of Genocide, other special advisers, special representatives and envoys of the Secretary-General, and ranking officials of the United Nations, its development agencies and the Bretton Woods institutions. When these messages are reinforced by parallel and consistent Member State diplomacy, they will be more persuasive. Dialogue often achieves more than grandstanding, in part because it can provide parties with greater insight into each other’s motivations and intentions.

31. Credibility and consistency count in such situations. Over the years, there have been too many cases in which the public diplomacy of the Secretary-General has not been matched by the willingness of Member States and the Organization’s intergovernmental bodies to give concrete shape to either his promises or his warnings. There is a premium in such matters on candor and pragmatism all around,

given that innocent lives and the reputation of the United Nations itself are on the line.

32. Those contemplating the incitement or perpetration of crimes and violations relating to the responsibility to protect need to be made to understand both the costs of pursuing that path and the potential benefits of seeking peaceful reconciliation and development instead. The contrast could not be starker. The costs to a society of engaging in serious crimes and violations relating to the responsibility to protect can be immense and long-lasting, and not only for its reputation. They can include lost foreign investment, capital flight, reductions in aid and tourism and, for some, losing a place at the table as a member of the international community in good standing. Development efforts can be set back for decades by such traumatic and divisive events. On the other hand, as discussed below, donors should be encouraged to support countries and programmes that seek to enhance the prevention and protection of populations from crimes and violations relating to the responsibility to protect. The difference between the two paths can amount to the choice between national potential preserved or destroyed.

33. Encouragement can also be expressed through dialogue, education and training on human rights and humanitarian standards and norms. For example, an innovative framework established by the Security Council in the context of its resolution 1612 (2005) has permitted high-level dialogue by the Special Representative of the Secretary-General for Children and Armed Conflict and UNICEF on child protection issues. This has led to the release of all children associated with armed groups in Côte d'Ivoire and to reductions in the use of children by parties to the conflicts in Southern Sudan and Sri Lanka. Similarly, the advocacy of the Office of the United Nations High Commissioner for Human Rights (OHCHR), as well as that of various special rapporteurs, has led to the establishment of truth commissions and other transitional justice and accountability mechanisms around the world. These have helped societies not only to address past human rights violations but also to elaborate national agendas for institutional reform. To encourage movement on stalled peace processes, the United Nations Development Programme (UNDP) has supported the efforts of the Woodrow Wilson Center to build leadership capacity in Burundi and the eastern Democratic Republic of the Congo.

34. In its resolutions 1612 (2005) and 1820 (2008), the Security Council underscored that rape and other forms of sexual violence could constitute war crimes, crimes against humanity or constitutive acts with respect to genocide. In its resolution 1820 (2008), the Council recognized that widespread and systematic sexual violence was a security problem that should be monitored by the Council. Systematic sexual violence, without a doubt, can be every bit as destructive to communities as more conventional weapons.

35. The United Nations and its partners have undertaken a range of efforts in recent years to help States exercise their responsibility to protect. With a field presence in some 50 countries, OHCHR has become a global resource for assisting countries in observing their human rights obligations, as well as for monitoring, advocacy and education. Working with Governments and national non-governmental organizations, OHCHR representatives work to strengthen protection capacities, alleviate social tensions and contribute to conflict prevention. The analysis and recommendations produced by the country missions of the special procedures of the Human Rights Council can provide a basis for capacity-building, the alleviation of

conflicts, and the protection of actual and potential victims of serious human rights violations. Less recognized in this context, the work of the Office of the United Nations High Commissioner for Refugees in obtaining grants of asylum and protecting refugees has served numerous potential victims of crimes and violations relating to the responsibility to protect.

36. A United Nations presence has been critical to protecting children in a number of post-conflict situations, such as in northern Uganda, Eastern and Central Africa and in parts of the Sudan. More broadly, child protection issues have gained unprecedented attention through frequent visits by the Special Representative of the Secretary-General for Children and Armed Conflict and open debates in the Security Council on the annual report of the Secretary-General, including its country-specific annexes. The United Nations presence has also helped to incorporate provisions to combat gender-based violence into national penal codes and judicial processes, including in Timor-Leste, Sierra Leone and Kosovo.

37. Beyond the work of the United Nations, the innovative steps taken by some regional or subregional bodies might well be worth emulating in other parts of the world. In 1992, as violence flared in the Balkans, the Organization for Security and Cooperation in Europe established the post of High Commissioner on National Minorities to identify and seek early resolution of ethnic tensions before they could escalate. Described as “an instrument of conflict prevention at the earliest possible stage”, the High Commissioner acts independently, impartially and confidentially. The continuing demand for the services of the High Commissioner by States in the more volatile parts of the region suggests the utility of the methodology and the potential value of its consideration by regional and subregional bodies in other areas of the world. In West Africa, the early warning and early response system of the 15-member Economic Community of West African States reflects a partnership between the intergovernmental body and a civil society network with an emphasis on human security. **These two efforts suggest both the potential value of region-to-region learning processes, perhaps facilitated by the United Nations or external donors, and the importance of adaptation to local conditions and cultures.**

38. As demonstrated by special political missions, such as in Guinea-Bissau and the Central African Republic, it takes considerable skill, experience, local knowledge and courage to enter into a situation of growing ethnic tension with the aim of building cultural and political bridges, mediating differences, disseminating global values and helping to build durable local institutions, all in conditions of uncertain security. Clearly the world has underinvested in preventive capacities, which absorb only a fraction of the costs of the vital post-conflict peace operations of the United Nations. **In that regard, helping to build the civilian capacities of regional and subregional organizations to prevent crimes and violations relating to the responsibility to protect could be a wise investment. A number of useful initiatives along these lines are being considered under the African Union-United Nations 10-year capacity-building programme.⁸**

⁸ For a comprehensive review of prevention, see the report of the Secretary-General entitled “Progress report on the prevention of armed conflict” (A/60/891). For an assessment of possibilities for global-regional cooperation in that regard, see the report of the Secretary-General entitled “A regional-global partnership: challenges and opportunities” (A/61/204-S/2006/590).

39. There is a common element in these diverse efforts to help States help themselves: they largely depend on civilian, not military, expertise and presence. In responding to situations relating to the responsibility to protect, police and civilian components may sometimes be particularly critical given the priority tasks of restoring order to, and rebuilding confidence in, societies undergoing domestic chaos and strife. In that regard, it should be stressed that it is often difficult to identify and mobilize sufficient numbers of police and civilian cadres with the skills and training required to deal with crimes relating to the responsibility to protect, just as it can be hard to find their military counterparts. **There have been a host of proposals by Governments and civil society alike for creating a standing or standby rapid-response civilian and police capacity for such emergencies. I would encourage further creative thinking about such an option and will ensure its careful review by the relevant United Nations officials.**

40. Undoubtedly, as has been said many times, the use of force should be considered a measure of last resort. With the host Government's consent, however, military units have been employed either for a range of non-coercive purposes, such as prevention, protection, peacekeeping and disarmament, or to counter armed groups that seek both to overthrow the Government by violent means and to intimidate the civilian population through random and widespread violence. **Non-state actors, as well as States, can commit egregious crimes relating to the responsibility to protect. When they do, collective international military assistance may be the surest way to support the State in meeting its obligations relating to the responsibility to protect and, in extreme cases, to restore its effective sovereignty.** At such times, the early, targeted and restrained use of international military assets and armed forces may be able to save lives and bring a measure of stability so that diplomacy, domestic political processes, healing and reconciliation can have time and space to operate. Consent-based peacekeeping, of course, is a United Nations innovation and strength, whereas the Organization has undertaken more coercive military operations less frequently and with more mixed results. The same could be said for regional and subregional organizations.

41. The notion of preventive deployment was introduced into the United Nations lexicon in 1992 by then Secretary-General Boutros Boutros-Ghali. In his prescient report entitled "An agenda for peace: preventive diplomacy, peacemaking and peacekeeping" (A/47/277-S/24111), he noted that:

In conditions of crisis within a country, when the Government requests or all parties consent, preventive deployment could help in a number of ways to alleviate suffering and to limit or control violence. Humanitarian assistance, impartially provided, could be of critical importance; assistance in maintaining security, whether through military, police or civilian personnel, could save lives and develop conditions of safety in which negotiations can be held; the United Nations could also help in conciliation efforts if this should be the wish of the partners. (para. 29)

The classic case of preventive deployment by United Nations peacekeepers occurred in the former Yugoslav Republic of Macedonia during the period 1992-1999. The United Nations Protection Force and United Nations Preventive Deployment Force operation, with its mix of military units and civilian police monitors, is widely credited with helping to stabilize a country facing ethnically defined tensions both internally and externally. Thanks to far-sighted leadership that was seeking to

prevent the kinds of upheavals and ethnic violence that had plagued several of its neighbours, the former Yugoslav Republic of Macedonia welcomed a successful combination of United Nations blue helmets and monitoring and mediation by regional organizations. Over the years, Burundi has faced internal pressures much like those of its neighbour, Rwanda. But with the consent of the Government, the deployment of peacekeepers, first by South Africa, then by the African Union and finally the United Nations, has helped to bring some degree of stability to Burundi.

42. In Sierra Leone, the United Nations Mission in Sierra Leone had just started deploying when the forces of the Revolutionary United Front, which had committed particularly vicious and widespread international crimes, broke the peace agreement and mounted a large-scale attack against the population and the Mission. In 2000, with the consent of the Government, a modest British-led intervention force helped to protect Freetown, boost the Mission and restore stability to the beleaguered West African State. Similarly, in the second quarter of 2003, under Security Council resolution 1484 (2003), Operation Artemis, led by the European Union, helped the transition to a more robust mandate for the United Nations Organization Mission in the Democratic Republic of the Congo in Ituri province, an area known for the scale and ferocity of its human rights violations, particularly sexual violence. Each of the above-mentioned four deployments, in the former Yugoslav Republic of Macedonia, Burundi, Sierra Leone and the Democratic Republic of the Congo, predated the acceptance by the 2005 World Summit of the responsibility to protect. Yet they well illustrate the potential value of the consent-based deployment of an international military presence to help prevent the escalation of armed conflict. They also underscore the importance of the timely provision of adequate assets and resources by Member States when the United Nations is mandated to assist a country in fulfilling its responsibility to protect.

43. In States and regions where ethnic tensions run high and deep inequalities among groups persist, it is hard to envision sustainable economic and social development without addressing underlying fissures in the social and political fabric. It is equally difficult to imagine healing such fissures without dealing with the concomitant development deficits. Chronic underdevelopment does not, in and of itself, cause strains among different ethnic, religious or cultural communities. But it can exacerbate the competition for scarce resources and severely limit the capacity of the State, civil society, and regional and subregional organizations to resolve domestic tensions peacefully and fully. On balance, substantial increments in levels of general development assistance could well reduce the aggregate incidence of crimes and violations relating to the responsibility to protect, because some of the worst cases of mass domestic violence have occurred in very poor countries, where the poorest of the poor lack the capacity to resist (the Holocaust and the more recent atrocities in the Balkans, however, attest that poverty is not a necessary condition). **Expanding development assistance to the “bottom billion” would undoubtedly have a net positive effect on preventing crimes and violations relating to the responsibility to protect if such assistance is targeted to give the poor and minority groups a stronger voice in their societies, enhances equality and social justice, raises their education levels and increases their opportunities for meaningful political participation. However, if additional assistance is distributed in a way that exacerbates, rather than narrows, differences in the status and living conditions of rival ethnic, religious or cultural communities within these societies, then the effect would be**

destabilizing and could fuel existing tensions and resentments. Aid programmes therefore need to be sensitive both to conflict and to the responsibility to protect.

44. What is most needed, from the perspective of the responsibility to protect, are assistance programmes that are carefully targeted to build specific capacities within societies that would make them less likely to travel the path to crimes relating to the responsibility to protect. More field-based research is needed to understand fully what works where and why. The United Nations and its Member States should encourage and support geographically broad-based research networks that seek to gain a better understanding, case by case, of why some States have taken one path and other States a different path. To strengthen pillar two, a cumulative process of country-to-country, region-to-region and agency-to-agency learning is needed on prevention, capacity-building and protection strategies in order to gain a keener and more fine-tuned sense of how various strategies, doctrines and practices have fared over the years. Policy, however, cannot wait until the knowledge base is perfected. Experience and common sense suggest that many of the elements of what is commonly accepted as good governance — the rule of law, a competent and independent judiciary, human rights, security sector reform, a robust civil society, an independent press and a political culture that favours tolerance, dialogue and mobility over the rigidities and injustices of identity politics — tend to serve objectives relating to the responsibility to protect as well.

45. In that regard, at least five capacities — drawn from the practice of development assistance and based on requests from Member States themselves — can be identified as critical:

(a) **Conflict-sensitive development analysis.** This involves building the capacity of national institutions to analyse emerging issues and tensions together, as part of development planning, so that the implementation of development programmes helps to ameliorate existing tensions rather than further inflaming them. Nigeria and Indonesia, for instance, have taken significant steps towards acquiring such capacities;

(b) **Indigenous mediation capacity.** This entails forming or strengthening credible institutions and processes, both traditional and modern and in both Government and civil society, that can help find internal solutions to disputes, promote reconciliation and mediate on specific matters. As noted above, institutions established by Guyana, Ghana and Sierra Leone, with assistance from UNDP, show promise in this regard;

(c) **Consensus and dialogue.** This requires building capacities for inclusive and participatory processes of dialogue, and providing neutral spaces and forums for addressing contentious issues through such dialogues. In Latin America in particular, Member States have established spaces for “democratic dialogue” as part of the process of governance;

(d) **Local dispute resolution capacity.** This involves building a peace infrastructure, at both the national and local levels, to address local disputes over land, resources, religion, ethnicity or leadership succession in a sustainable manner before they lead to conflict. Similar capacities helped ensure the successful transition to democracy of South Africa in the early 1990s. During the period of

post-electoral violence in Kenya in early 2008, areas where such capacities had been developed, especially the arid regions of the north and the Coast province, did not witness the same levels of violence as other areas;

(e) **Capacity to replicate capacity.** Finally, the capacities defined above must be absorbed and rooted deeply in societies so that new generations of leaders will have the resources and skills to prevent the kinds of fissures and frustrations that can lead to crimes relating to the responsibility to protect. In that regard, Member States have increasingly requested assistance to develop conflict-resolution programmes in universities and public-service training academies, establish networks of mediators and develop nationwide school curricula so that young people will approach divisive issues differently in the future.

Within the United Nations system, a number of innovative systems have been put in place to better respond to the requests of Member States for assistance in building the five above-mentioned capacities. Among these initiatives are a joint programme of UNDP and the Department of Political Affairs on building national capacities for conflict prevention and the Inter-Agency Framework on Coordination for Preventive Action, which is an informal forum that allows United Nations entities to respond in an integrated manner to such requests from Member States.

46. As demonstrated time and again, an impartial and disciplined security sector is vital for lowering inter-group tensions and preventing widespread violence. **Drawing on their own experience and technical support from bilateral partners and the United Nations system, Member States should continue to strengthen their security sectors so as to provide safe and stable conditions for all their populations, irrespective of identity. By forestalling costly disruptions, this would constitute a significant investment in the development process, in addition to fulfilling the responsibility to protect.**

47. The rule of law is fundamental to preventing the perpetration of crimes relating to the responsibility to protect. **The United Nations system, including through the engagement of donor countries, should increase the rule of law assistance it offers to Member States.** The goals should be to ensure equal access to justice and to improve judicial, prosecutorial, penal and law enforcement services for all. Such steps would make it more likely that disputes within society could be resolved through legal, rather than violent, means. **Donor countries could address the responsibility to protect and human rights considerations in existing assistance programmes, as appropriate, and create new assistance programmes relating to the responsibility to protect, to the extent possible.** In that regard, it should be understood that conditions, circumstances and needs vary from country to country and assistance programmes should be designed in close consultation with the recipient Government and civil society. **The United Nations and regional organizations should undertake region-to-region learning and lessons-learned processes concerning assistance relating to the responsibility to protect, given how new this field is.**

48. Post-trauma peacebuilding offers a critical point for assistance relating to the responsibility to protect. The surest predictor of genocide is past genocide. The work of the Peacebuilding Commission comes at a critical stage in a society's evolution, one where the international community has the best opportunity of making a positive difference. **Possibilities should be explored for greater involvement of the Peacebuilding Commission in helping States to fulfil their**

obligations relating to the responsibility to protect. The Peacebuilding Fund, moreover, could provide a flexible, if modest, source for some funding in emergency situations.

IV. Pillar three Timely and decisive response

49. As the first two sentences of paragraph 139 of the Summit Outcome make unambiguously clear, pillar three is integral to the strategy for fulfilling the responsibility to protect that was agreed upon by the assembled Heads of State and Government. According to the opening sentence, “the international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity”. The wording suggests that the intent is for this to be an ongoing, generic responsibility that employs the kind of peaceful, pacific measures specified in Chapter VI and in Article 52, Chapter VIII. The second sentence of paragraph 139 underscores that a wider range of collective actions, either peaceful or non-peaceful, could be invoked by the international community if two conditions are met: (a) “should peaceful means be inadequate”,⁹ and (b) “national authorities are manifestly failing to protect their populations” from the four specified crimes and violations. In those two cases, paragraph 139 affirms that “we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate”. As I noted in a speech delivered in Berlin, Germany, on 15 July 2008 (see press release SG/SM/11701), the wording of this sentence suggests the need for an early and flexible response in such cases, one both tailored to the circumstances of the situation and fully in accord with the provisions of the Charter.

50. In dealing with the diverse circumstances in which crimes and violations relating to the responsibility to protect are planned, incited and/or committed, there is no room for a rigidly sequenced strategy or for tightly defined “triggers” for action. The threshold for prevention, capacity-building or rebuilding efforts under pillar two would certainly be lower than the threshold for a response under pillar three, namely that “national authorities are manifestly failing to protect their populations” (para. 139 of the Summit Outcome). Similarly, under pillar three, the threshold for Chapter VI measures would be lower than the threshold for enforcement action under Chapter VII, which can only be authorized at the intergovernmental level. The more robust the response, the higher the standard for authorization. **In a rapidly unfolding emergency situation, the United Nations, regional, subregional and national decision makers must remain focused on saving lives through “timely and decisive” action (para. 139 of the Summit**

⁹ This wording would appear to echo the opening wording of Article 42 of the Charter: “should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate . . .”. As at the founding conference in San Francisco, Member States at the 2005 World Summit chose wording to underscore that either the Security Council or the General Assembly, under the “Uniting for peace” procedures, would not and should not wait until all other possible tools had been tried and had failed before considering more robust collective measures.

Outcome), not on following arbitrary, sequential or graduated policy ladders that prize procedure over substance and process over results.

51. The United Nations has a strong preference for dialogue and peaceful persuasion. Therefore, pillar three encompasses, in addition to more robust steps, a wide range of non-coercive and non-violent response measures under Chapters VI and VIII of the Charter. Under the Charter, many of these can be undertaken by the Secretary-General or by regional or subregional arrangements, without the explicit authorization of the Security Council. This was the case in Kenya in early 2008, when for the first time both regional actors and the United Nations viewed the crisis in part from the perspective of the responsibility to protect.

52. Intergovernmental bodies can play pivotal roles in conducting on-site investigations and fact-finding missions. Under Article 34 of the Charter, the Security Council “may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuation of the dispute or situation is likely to endanger the maintenance of international peace and security”. Subject to the provisions of Article 12 of the Charter, the General Assembly can avail itself of similar opportunities in some cases, under the provisions of Articles 11, 13, and 14. Either the Assembly or the Council, for instance, may appoint a fact-finding mission to investigate and report on alleged violations of international law, as the latter did in the case of Darfur. The Human Rights Council may deploy a fact-finding mission, appoint a special rapporteur to advise on the situation or refer the situation to existing special procedures. Parallel instruments and possibilities may exist in a number of regions and subregions.

53. Investigation, of course, is not a substitute for “timely and decisive” protective action (para. 139 of the Summit Outcome) but rather should be seen as an initial step towards it. If undertaken early in a crisis, at the first sign that a State is failing to meet its obligations relating to the responsibility to protect, such on-site missions can also provide opportunities for delivering messages directly to key decision makers on behalf of the larger international community, for example, by trying to dissuade them from destructive courses of action that could make them subject to prosecution by the International Criminal Court or ad hoc tribunals. Such candid messages have been voiced effectively by the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees and the Special Adviser on the Prevention of Genocide, among others, as well as by the office of the Secretary-General. In recent years, the international criminal justice system has made important strides towards ensuring accountability and ending impunity, but more could be done to address perceptions of selectivity and to ensure its global reach.

54. It is now well established in international law and practice that sovereignty does not bestow impunity on those who organize, incite or commit crimes relating to the responsibility to protect. **In paragraph 138 of the Summit Outcome, States affirmed their responsibility to prevent the incitement of the four specified crimes and violations. When a State manifestly fails to prevent such incitement, the international community should remind the authorities of this obligation and that such acts could be referred to the International Criminal Court, under the Rome Statute.** As noted above, in cases of imminent or unfolding violence of this magnitude against populations, this message may be more effectively and

persuasively delivered in person than from afar. Until recently, however, the practice at the United Nations and in many capitals had too often been to ignore or minimize the signs of looming mass murder. The world body failed to take notice when the Khmer Rouge called for a socially and ethnically homogenous Cambodia with a “clean social system”¹⁰ and its radio urged listeners to “purify” the “masses of the people” of Cambodia.¹¹ Nor did it respond vigorously to ethnically inflammatory broadcasts and rhetoric in the Balkans in the early 1990s or in Rwanda in 1993 and 1994 in the months preceding the genocide. Despite several reports during those critical months by the United Nations Assistance Mission in Rwanda and the Special Rapporteur on extrajudicial, arbitrary or summary executions on the incendiary programming of Radio Mille Collines, there was no attempt by the international community to jam those hateful and fateful broadcasts.¹²

55. There is some reason to believe, however, that the United Nations and its Member States have learned some painful, but enduring, lessons from these calamities. It is true that we have yet to develop the tools or display the will to respond consistently and effectively to all emergencies relating to the responsibility to protect, as the tragic events in Darfur, the Democratic Republic of the Congo and Somalia remind us. Nonetheless, when confronted with crimes or violations relating to the responsibility to protect or their incitement, today the world is less likely to look the other way than in the last century. For example, in November 2004, then Special Adviser on the Prevention of Genocide Juan Méndez reminded the authorities in Côte d’Ivoire, where xenophobic hate speech had exacerbated domestic tensions and spurred further violence, that they could be held criminally responsible for the consequences.¹³ The offensive messages soon ceased. Similarly, during the early 2008 post-election violence in Kenya, I urged leaders on all sides, as did my Special Adviser on the Prevention of Genocide, Francis Deng, to call publicly for an end to the violence and to statements inciting violence, noting that political and community leaders could be held accountable for violations of international law committed at their instigation. Live broadcasts were banned during the heat of the crisis, when tensions were running high, and former Secretary-General Kofi Annan, who was mediating the dispute, cautioned Kenyan lawmakers that those engaged in acts of violence could not be allowed to act with impunity. **Leaders everywhere should be reminded that incitement to racial hatred is condemned by the International Convention on the Elimination of All Forms of Racial Discrimination. Because of the typically public and explicit character of such incitement, it should be relatively easy to identify it and to rally international support for efforts to discourage it. Moreover, where the United Nations has a peacekeeping presence or a means of accomplishing this from offshore or from a neighbouring country, it can counter such messages with its own broadcasts and information services** (see S/1999/1257, enclosure, sect. III.6).

56. Talk is not an end in itself, and there should be no hesitation to seek authorization for more robust measures if quiet diplomacy is being used as a

¹⁰ See the report of the Group of Experts for Cambodia (A/53/850-S/1999/231), para. 16.

¹¹ See BBC, *Summary of World Broadcasts*, FE/5813/A3/2, 15 May 1978.

¹² See the report of the Secretary-General on the situation in Rwanda (S/1994/640, para. 11); the report of the Independent Inquiry (S/1999/1257, enclosure, annex I); and the report of the Special Rapporteur on extrajudicial, arbitrary or summary executions (E/CN.4/1994/7/Add.1).

¹³ See statement by the Special Adviser on the Prevention of Genocide, 15 November 2004, available from <http://www.un.org/apps/news/story.asp?NewsID=12527&Cr=ivoire&Cr1=>

delaying tactic when an earlier and more direct response could save lives and restore order. Paragraph 139 of the Summit Outcome reflects the hard truth that no strategy for fulfilling the responsibility to protect would be complete without the possibility of collective enforcement measures, including through sanctions or coercive military action in extreme cases. When a State refuses to accept international prevention and protection assistance, commits egregious crimes and violations relating to the responsibility to protect and fails to respond to less coercive measures, it is, in effect, challenging the international community to live up to its own responsibilities under paragraph 139 of the Summit Outcome. Such collective measures could be authorized by the Security Council under Articles 41 or 42 of the Charter, by the General Assembly under the “Uniting for peace” procedure (see para. 63 below) or by regional or subregional arrangements under Article 53, with the prior authorization of the Security Council.

57. Diplomatic sanctions, if fully and consistently implemented by Member States, provide another way for the international community to underscore the message that committing crimes and violations relating to the responsibility to protect is unacceptable behaviour for a United Nations Member State in the twenty-first century. Leaders responsible for such atrocities, at the very least, should not be welcome among their peers. Nor should they or their countries be eligible for election to leadership posts in subregional, regional or global bodies. **Targeted sanctions, such as on travel, financial transfers, luxury goods and arms, should also be considered by the Security Council, on a case-by-case basis and in cooperation with relevant regional organizations, as appropriate, under Articles 41 and 53 of the Charter and in accordance with paragraph 139 of the Summit Outcome (and in the case of sexual violence, in accordance with the terms contained in Council resolution 1820 (2008)). The General Assembly could also consider such measures under its resolution 377 (V), entitled “Uniting for peace”, although they would then not be legally binding.** While sanctions may be inadequate to stop abuses by a determined authoritarian regime, if applied sufficiently early they can demonstrate the international community’s commitment to meeting its collective responsibilities under paragraph 139 of the Summit Outcome and serve as a warning of possibly tougher measures if the violence against a population persists.

58. **Particular attention should be paid to restricting the flow of arms or police equipment, which could be misused by repressive regimes that are manifestly failing to meet their core responsibilities under paragraph 138 of the Summit Outcome, or in situations where an ongoing conflict threatens to escalate into the perpetration by one side or another of large-scale crimes and violations relating to the responsibility to protect.** While the General Assembly has at times called for arms embargoes, only the Security Council has the authority to make them binding. Under Article 53 of the Charter, regional arrangements may take such enforcement steps with the authorization of the Council. In practice, however, it has not been uncommon for regional or subregional bodies or ad hoc groups of Member States to undertake such measures without formal prior authorization from the Council.

59. States and intergovernmental organizations, of course, are hardly the only influential actors in situations relating to the responsibility to protect, as underscored in the discussion of pillars one and two in sections II and III above. The multiple roles of domestic or transnational civil society in advocacy, early warning,

monitoring, research, training and education are well known and are readily and repeatedly acknowledged in the present report. Less well known is the role of individuals, advocacy groups, women's groups and the private sector in shaping the international response to crimes and violations relating to the responsibility to protect. Like the United Nations itself, international civil society learned lessons from the relatively muted, slow and scattered public response to the genocides in Cambodia and Rwanda. The mass, well organized and highly visible transnational campaigns against the violence in Darfur have demonstrated both the power and the limitations of such movements. They have shown the depth and breadth of public concern over ending the violence against the beleaguered population of Darfur, even as they have highlighted how inadequate our policy tools are and how fleeting is the political will to use them. Over the longer term, however, as noted above, those who would commit crimes and violations relating to the responsibility to protect should consider the enduring and wide-ranging damage such atrocities have both on society and on its capacity to recover. Foreign direct investment, cultural exchanges and tourism may be negatively affected for decades to come since the costs to a country's reputation of such unacceptable behaviour are high and growing. Even if the Security Council does not impose an embargo, individual public and private investors, spurred by non-governmental organizations advocacy networks, are likely to do so instead. Individual financial and trade embargoes may prove far harder to lift without visible and sustainable change within the country concerned.

60. As repeatedly underscored above, there are substantial gaps in capacity, imagination and will across the whole spectrum of prevention and protection measures relating to the responsibility to protect. Nowhere is that gap more pronounced or more damaging than in the realm of forceful and timely response to the most flagrant crimes and violations relating to the responsibility to protect. Here, weaknesses of capacity and the paucity of will, including in many capitals that speak in favour of advancing goals relating to the responsibility to protect, feed off each other in a particularly vicious cycle of hesitation and finger-pointing in the face of unfolding atrocities. Most visibly and tragically, the international community's failure to stem the mass violence and displacements in Darfur, as well as in the Democratic Republic of the Congo and Somalia, has undermined public confidence in the United Nations and our collective espousal of the principles relating to the responsibility to protect. I am firmly convinced that we can and will do better in the future, acting fully within the framework of the Charter and the provisions of paragraphs 138 and 139 of the Summit Outcome.

61. While the first and enduring responsibility resides with each State to meet its obligations relating to the responsibility to protect, when it manifestly fails to do so the Secretary-General bears particular responsibility for ensuring that the international community responds in a "timely and decisive" manner, as called for in paragraph 139 of the Summit Outcome. **For my part, I recognize that, as noted in the report of the Panel on United Nations Peace Operations in a similar context (see A/55/305-S/2000/809), the Secretary-General has an obligation to tell the Security Council — and in this case the General Assembly as well — what it needs to know, not what it wants to hear.** The Secretary-General must be the spokesperson for the vulnerable and the threatened when their Governments become their persecutors instead of their protectors or can no longer shield them from marauding armed groups. **Within the Security Council, the five permanent members bear particular responsibility because of the privileges of tenure and**

the veto power they have been granted under the Charter. I would urge them to refrain from employing or threatening to employ the veto in situations of manifest failure to meet obligations relating to the responsibility to protect, as defined in paragraph 139 of the Summit Outcome, and to reach a mutual understanding to that effect. Across the globe, attitudes have changed in important ways since Cambodia, Rwanda and Srebrenica, raising the political costs, domestically and internationally, for anyone seen to be blocking an effective international response to an unfolding genocide or other high-visibility crime relating to the responsibility to protect. **All Member States, not just the 15 members of the Security Council, should be acutely aware of both public expectations and shared responsibilities. If the General Assembly is to play a leading role in shaping a United Nations response, then all 192 Member States should share the responsibility to make it an effective instrument for advancing the principles relating to the responsibility to protect expressed so clearly in paragraphs 138 and 139 of the Summit Outcome.**

62. As noted above, the credibility, authority and hence effectiveness of the United Nations in advancing the principles relating to the responsibility to protect depend, in large part, on the consistency with which they are applied. This is particularly true when military force is used to enforce them. In that regard, Member States may want to consider the principles, rules and doctrine that should guide the application of coercive force in extreme situations relating to the responsibility to protect. This issue was addressed in the 2001 report of the International Commission on Intervention and State Sovereignty and by my predecessor, Kofi Annan, in his 2005 report entitled "In larger freedom: towards development, security and human rights for all" (see A/59/2005, para. 126).

63. The General Assembly has an important role to play, even under pillar three. Its peace and security functions are addressed in Articles 11, 12, 14, and 15 of the Charter. Article 24 of the Charter confers on the Security Council "primary", not total, responsibility for the maintenance of peace and security, and in some cases the perpetration of crimes relating to the responsibility to protect may not be deemed to pose a threat to international peace and security. Moreover, under the "Uniting for peace" procedure, the Assembly can address such issues when the Council fails to exercise its responsibility with regard to international peace and security because of the lack of unanimity among its five permanent members. Even in such cases, however, Assembly decisions are not legally binding on the parties.

64. **Despite years of study and public discussion, the United Nations is still far from developing the kind of rapid-response military capacity most needed to handle the sort of rapidly unfolding atrocity crimes referred to in paragraph 139 of the Summit Outcome. I appreciate the efforts by a number of Member States to consider the components of such a capacity, including doctrine, training and command-and-control issues. Much more needs to be done, however, to internationalize such efforts and put them in the larger context of finding better ways to protect civilians. The continuing consideration of the latter issue by the Security Council and General Assembly is most timely in that regard.**

65. Better modes of collaboration between the United Nations and regional and subregional arrangements are also needed. Such arrangements need to consider capacity-sharing and not just capacity-building, as is now the case in

mediation support. The African Union-United Nations 10-year capacity-building programme is particularly crucial in that regard. We must redouble our efforts to ensure that it succeeds and that the African Standby Force realizes its full potential. Global-regional collaboration is a key plank of our strategy for operationalizing the responsibility to protect, including for establishing the early warning capability mandated in paragraph 138 of the Summit Outcome, and it deserves our full and unambiguous support.

66. In sum, as the United Nations community comes to articulate and implement a response strategy consistent with both the call in paragraph 139 of the Summit Outcome for “timely and decisive” action and the provisions of the Charter, including its purposes and principles, this will make it more difficult for States or groups of States to claim that they need to act unilaterally or outside of United Nations channels, rules and procedures to respond to emergencies relating to the responsibility to protect. The more consistently, fairly and reliably such a United Nations-based response system operates, the more confidence there will be in the capacity of the United Nations to provide a credible multilateral alternative. This would also help to deter or dissuade potential perpetrators of such crimes and violations.

V. The way forward

67. The present report most certainly will not be the last word on how to operationalize the responsibility to protect. But it does take the critical first step towards turning the authoritative and enduring words of the 2005 World Summit Outcome into doctrine, policy and, most importantly, deeds. It seeks to shorten the road from promise to practice, fully cognizant of the terrible human costs of delay or retreat. The policy ideas presented above seek to realize the full potential of the responsibility to protect within the principles, purposes and provisions of the Charter of the United Nations and paragraphs 138 and 139 of the Summit Outcome, as agreed unanimously at the level of Heads of State and Government. If implemented by Member States, the provisions contained in those documents will permit a robust realization of aspirations relating to the responsibility to protect, so that enthusiasts need not seek to escape the confines of the agreed rules and principles. **Indeed, it would be counterproductive, and possibly even destructive, to try to revisit the negotiations that led to the provisions of paragraphs 138 and 139 of the Summit Outcome. Those provisions represent a remarkably good outcome, which will well serve the ultimate purpose of the responsibility to protect: to save lives by preventing the most egregious mass violations of human rights, while reinforcing the letter and spirit of the Charter and the abiding principles of responsible sovereignty.**

68. The present report outlines a broad-based approach to the prevention and protection responsibilities of Member States, the United Nations, regional and subregional organizations and our civil society partners. It underscores the need both for a cross-sectoral approach and for sharing the burden in a common effort to eliminate, once and for all, the mass atrocity crimes of genocide, war crimes, ethnic cleansing and crimes against humanity. It offers no miracle cures but finds reason for hope in the expressed common goal, the solid foundation of the responsibility to protect in existing international law, and encouraging trends over the past decade and a half towards an aggregate reduction in the incidence of these horrific crimes.

Although ultimately it will be the policies and attitudes of States that will determine whether those positive trends can be sustained, they will find in the United Nations a ready partner. The United Nations and its range of agencies, funds and programmes have in place critical resources, activities and field operations that are already making important contributions to the elimination of these man-made scourges. They could do that much more effectively if goals relating to the responsibility to protect, including the protection of refugees and the internally displaced, were mainstreamed among their priorities, whether in the areas of human rights, humanitarian affairs, peacekeeping, peacebuilding, political affairs or development. Each of these areas of United Nations activity have much to bring to the common effort. The emphasis of the present report is therefore on forging a common strategy rather than on proposing costly new programmes or radically new approaches.

69. To assemble the pieces of this common strategy, however, will require determined and far-sighted leadership, as well as a renewed political commitment. I have long been committed to this goal and will continue to be among its strongest advocates within the Secretariat, with Member States and in public forums. Eliminating mass atrocity crimes will continue to be one of the cardinal objectives of my tenure as Secretary-General. Member States, speaking at the highest level at the 2005 World Summit, have pledged to do their part. This universal commitment has been reaffirmed by the General Assembly and the Security Council. **It is now up to the Assembly, as the world's premier inclusive political forum, to begin the political process of considering the overall strategy outlined in the present report and then, subsequently, of reviewing the modest proposals that I will submit later in 2009 for strengthening the United Nations early warning capacity, as mandated in paragraph 138 of the Summit Outcome, by bolstering the Office of the Special Adviser on the Prevention of Genocide.**

70. It will also be essential to reaffirm the complementary and mutually reinforcing roles of the General Assembly and the Security Council in carrying forward this urgent mandate. Clearly, they have critical responsibilities in that regard, under Chapters IV to VIII of the Charter. Other intergovernmental bodies, such as the Human Rights Council, the Peacebuilding Commission and the Economic and Social Council, can also play important parts in implementing the tasks set out in paragraphs 138 and 139 of the Summit Outcome. In each case, the roles of, and relationships among, the intergovernmental bodies should be guided by the principles, purposes and provisions of the Charter.

71. **I would urge the General Assembly to take the first step by considering carefully the strategy for implementing the responsibility to protect described in the present report.** To that end, I have asked my Special Adviser on these matters, Edward Luck, in close partnership with the Special Adviser on the Prevention of Genocide, Francis Deng, to continue their consultations with Member States and the President of the General Assembly on how best to proceed. I will be actively engaged in that process as well. One possibility would be for the Assembly to debate these proposals at some point in early 2009. **Given that the assembled Heads of State and Government unanimously affirmed the responsibility to protect in 2005, the General Assembly should, in my view, look forward to ways in which the United Nations can best help to ensure the fulfilment of the commitments made. In addition to affirming that decision, the Assembly may wish to:**

- (a) Welcome or take note of the present report;
- (b) Define its “continuing consideration” role as mandated in paragraph 139 of the 2005 World Summit Outcome;
- (c) Address ways to define and develop the partnerships between States and the international community, under pillar two, “International assistance and capacity-building”, of the strategy outlined in the present report;
- (d) Consider whether and, if so, how to conduct a periodic review of what Member States have done to implement the responsibility to protect;
- (e) Determine how best to exercise its oversight of the Secretariat’s efforts to implement the responsibility to protect.

On the latter point, the Assembly’s oversight of the implementation of the agreed strategy could be organized in different ways, depending on the preferences of Member States. The Secretary-General, for example, could submit an annual or biennial report for the next several years on implementation steps relating to the responsibility to protect, given the issue’s wide programmatic and normative dimensions.

72. I look forward to a constructive and interactive dialogue with Member States on my proposals, since the responsibility to protect — and now to deliver — is an idea whose time has come. The alacrity with which public and civil society groups in every part of the world have embraced the responsibility to protect confirms this. In 2005, our leaders charged us with a critical and straightforward task: to make their words come to life and to make the aspirations of people everywhere for a safer, more secure world for “We the peoples” a reality. This is a quest that should unite us, not divide us, for there should be no dissent about the ultimate objectives. I look forward to working with the Member States on this common effort.

Annex

Early warning and assessment

1. Given their magnitude and severity, the preparations for and the incitement and perpetration of crimes and violations relating to the responsibility to protect can best be understood and identified through a range of perspectives. A human rights and humanitarian perspective is essential, of course, but political, security, economic, social and development perspectives are also required for understanding both the pattern of events that could lead to such massive affronts to human dignity and how to forestall them. In that regard, the perspective of the responsibility to protect can also provide an integrated framework for relating the various components of a broad-based United Nations response to such unfolding situations and for gauging their likely course. This would entail utilizing the information gathered and insights gained by existing United Nations entities, not relabeling or duplicating ongoing activities and programmes. In short, the principles relating to the responsibility to protect need to be integrated and mainstreamed in the ongoing work of the Organization. For the responsibility to protect, as well as for the rest of the work of the Organization, teamwork and collaboration must become standard operating procedure, not aspirational goals.

2. Information itself is rarely the missing ingredient. In both Rwanda and Srebrenica, the United Nations had peacekeeping forces and other personnel on the ground, as has been the case in several other places where egregious crimes relating to the responsibility to protect have occurred. Over time, the world body has become an increasingly field-based organization, with a growing array of human rights, humanitarian, development, political, peacekeeping and peacebuilding personnel working with local staff, regional and subregional partners and civil society groups in fragile or war-torn countries. In considering policy options in such varied and sensitive situations, local knowledge and perspectives can be a great asset. United Nations decision-making should be enriched by the input of regional and subregional organizations, whenever possible. The two-way flow of information, ideas and insights between the United Nations and its regional and subregional partners needs to be regularized and facilitated on matters relating to the responsibility to protect, especially with regard to early warning and timely and decisive response.

3. Independent sources of information are plentiful. They include both indigenous and transnational civil society groups, although the former tend to receive too little attention from global decision makers. Among local groups capable of providing timely and sensitive information on evolving conflict situations are grass-roots women's organizations. At the global level, a number of human rights and humanitarian monitoring groups have well developed networks, methodologies and reporting channels. Often they have been the first to sound the alarm in the early stages of atrocity crimes. Such independent reports, whether from local or transnational sources, can help point the way to situations where more United Nations attention is needed or else corroborate or supplement information received through official channels. The United Nations prefers, however, not to act solely on the basis of information received from such independent sources. For sound decision-making, the quality and reliability of the information can matter more than the quantity.

4. To meet the challenge of the responsibility to protect, including the call in paragraph 138 of the 2005 World Summit Outcome for an early warning capability, the United Nations does not need to create new networks that could duplicate existing arrangements for monitoring or information-gathering on the ground. By and large, the diverse channels of information of the United Nations have improved substantially in recent years. Rather than create redundant channels devoted solely to crimes and violations relating to the responsibility to protect, I would therefore ask the relevant line departments, programmes, agencies and inter-agency networks to incorporate considerations and perspectives relating to the responsibility to protect into their ongoing activities and reporting procedures to the extent that their mandates permit. This would have two major benefits. First, adding the perspective of the responsibility to protect to existing perspectives would help the United Nations to anticipate situations likely to involve the perpetration of such crimes and violations by enhancing its ability to identify precursors, recognize patterns, and share, assess and act on relevant information. The wrong questions produce the wrong answers. Second, such a unifying perspective would facilitate system-wide coherence by encouraging more regular dialogue, information-sharing and common analysis among disparate programmes and agencies.

5. An improved information flow alone cannot provide assurance of sound decision-making, much less of the political will for timely and decisive action to implement the decisions taken, as pledged in paragraph 139 of the Summit Outcome. Information is a necessary but hardly sufficient condition for an effective collective response. How the available information is assessed matters a great deal in situations relating to the responsibility to protect, given the patterns of behaviour, action and intent involved in the four specified crimes and violations. Similarly, because the United Nations response could involve a mix of policy tools under Chapters VI, VII and/or VIII of the Charter, and because that mix should be reviewed and adjusted as events evolve on the ground, the decision-making process should be relatively broad-based, inclusive and flexible at both the Secretariat and intergovernmental levels. To ensure system-wide coherence in policymaking within the Secretariat, as well as an early and flexible response tailored to the needs of each situation, an inter-agency and interdepartmental mechanism will be utilized to consider policy options to be presented to me and, through me, to relevant intergovernmental bodies.

6. In the interests of both efficiency and effectiveness, it should be noted that the Special Adviser on the Prevention of Genocide and the Special Adviser to the Secretary-General, whose work includes the responsibility to protect, have distinct but closely related mandates. In 2004, in a letter to the President of the Security Council, then Secretary-General Kofi Annan listed the responsibilities of the Special Adviser on the Prevention of Genocide as follows (see S/2004/567, annex):

(a) To collect existing information, in particular from within the United Nations system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that, if not prevented or halted, might lead to genocide;

(b) To act as a mechanism of early warning to the Secretary-General, and through him to the Security Council, by bringing to their attention situations that could potentially result in genocide;

(c) To make recommendations to the Security Council, through the Secretary-General, on actions to prevent or halt genocide;

(d) To liaise with the United Nations system on activities for the prevention of genocide and work to enhance the United Nations capacity to analyse and manage information regarding genocide or related crimes.

7. I have asked the Special Adviser to the Secretary-General, on the other hand, to develop, in close consultation with the Special Adviser on the Prevention of Genocide, the conceptual, institutional and political dimensions of operationalizing the responsibility to protect, consistent with the provisions agreed in paragraphs 138 and 139 of the Summit Outcome. This has included taking the lead role in preparing the present report. The Summit Outcome affirmed the close relationship between these issues, not only by including genocide as the first of the four crimes and violations encompassed by the responsibility to protect, but also by expressing, in paragraph 140, the full support of the Member States for the mission of the Special Adviser on the Prevention of Genocide, under the provisions relating to the responsibility to protect. In my letter dated 31 August 2007 to the President of the Security Council (S/2007/721), I noted that "for reasons both of efficiency and of the complementarity of their responsibilities, they [the two Special Advisers] will share an office and support staff". The work of the joint office will preserve and enhance existing arrangements, including for capacity-building and for the gathering and analysis of information from the field, while adding value of its own in terms of new arrangements for advocacy, cross-sectoral assessment, common policy, and cumulative learning on how to anticipate, prevent and respond to crises relating to the responsibility to protect. Proposals for the small joint office, to be headed by the Special Adviser on the Prevention of Genocide, will be submitted to the General Assembly once it has had an opportunity to consider the larger policy issues addressed in the present report.

[부록 Ⅲ]
리비아 사태 관련 UN 문서

o UN 안보리 결의 1970 (2011)

United Nations

S/RES/1970 (2011)*



Security Council

Distr.: General
26 February 2011

Resolution 1970 (2011)

**Adopted by the Security Council at its 6491st meeting, on
26 February 2011**

The Security Council,

Expressing grave concern at the situation in the Libyan Arab Jamahiriya and condemning the violence and use of force against civilians,

Deploring the gross and systematic violation of human rights, including the repression of peaceful demonstrators, expressing deep concern at the deaths of civilians, and rejecting unequivocally the incitement to hostility and violence against the civilian population made from the highest level of the Libyan government,

Welcoming the condemnation by the Arab League, the African Union, and the Secretary General of the Organization of the Islamic Conference of the serious violations of human rights and international humanitarian law that are being committed in the Libyan Arab Jamahiriya,

Taking note of the letter to the President of the Security Council from the Permanent Representative of the Libyan Arab Jamahiriya dated 26 February 2011,

Welcoming the Human Rights Council resolution A/HRC/RES/S-15/1 of 25 February 2011, including the decision to urgently dispatch an independent international commission of inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, to establish the facts and circumstances of such violations and of the crimes perpetrated, and where possible identify those responsible,

Considering that the widespread and systematic attacks currently taking place in the Libyan Arab Jamahiriya against the civilian population may amount to crimes against humanity,

Expressing concern at the plight of refugees forced to flee the violence in the Libyan Arab Jamahiriya,

Expressing concern also at the reports of shortages of medical supplies to treat the wounded,

* Second reissue for technical reasons (10 March 2011).

11-24558* (E)



Please recycle The recycling symbol, a triangle of arrows forming a circle.

Recalling the Libyan authorities' responsibility to protect its population,

Underlining the need to respect the freedoms of peaceful assembly and of expression, including freedom of the media,

Stressing the need to hold to account those responsible for attacks, including by forces under their control, on civilians,

Recalling article 16 of the Rome Statute under which no investigation or prosecution may be commenced or proceeded with by the International Criminal Court for a period of 12 months after a Security Council request to that effect,

Expressing concern for the safety of foreign nationals and their rights in the Libyan Arab Jamahiriya,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of the Libyan Arab Jamahiriya.

Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations,

Acting under Chapter VII of the Charter of the United Nations, and taking measures under its Article 41,

1. *Demands* an immediate end to the violence and calls for steps to fulfil the legitimate demands of the population;

2. *Urges* the Libyan authorities to:

(a) Act with the utmost restraint, respect human rights and international humanitarian law, and allow immediate access for international human rights monitors;

(b) Ensure the safety of all foreign nationals and their assets and facilitate the departure of those wishing to leave the country;

(c) Ensure the safe passage of humanitarian and medical supplies, and humanitarian agencies and workers, into the country; and

(d) Immediately lift restrictions on all forms of media;

3. *Requests* all Member States, to the extent possible, to cooperate in the evacuation of those foreign nationals wishing to leave the country;

ICC referral

4. *Decides* to refer the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the Prosecutor of the International Criminal Court;

5. *Decides* that the Libyan authorities shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution and, while recognizing that States not party to the Rome Statute have no obligation under the Statute, urges all States and concerned regional and other international organizations to cooperate fully with the Court and the Prosecutor;

6. *Decides* that nationals, current or former officials or personnel from a State outside the Libyan Arab Jamahiriya which is not a party to the Rome Statute of the International Criminal Court shall be subject to the exclusive jurisdiction of that State for all alleged acts or omissions arising out of or related to operations in the

Libyan Arab Jamahiriya established or authorized by the Council, unless such exclusive jurisdiction has been expressly waived by the State;

7. *Invites* the Prosecutor to address the Security Council within two months of the adoption of this resolution and every six months thereafter on actions taken pursuant to this resolution;

8. *Recognizes* that none of the expenses incurred in connection with the referral, including expenses related to investigations or prosecutions in connection with that referral, shall be borne by the United Nations and that such costs shall be borne by the parties to the Rome Statute and those States that wish to contribute voluntarily;

Arms embargo

9. *Decides* that all Member States shall immediately take the necessary measures to prevent the direct or indirect supply, sale or transfer to the Libyan Arab Jamahiriya, from or through their territories or by their nationals, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial or other assistance, related to military activities or the provision, maintenance or use of any arms and related materiel, including the provision of armed mercenary personnel whether or not originating in their territories, and decides further that this measure shall not apply to:

(a) Supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee established pursuant to paragraph 24 below;

(b) Protective clothing, including flak jackets and military helmets, temporarily exported to the Libyan Arab Jamahiriya by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only; or

(c) Other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee;

10. *Decides* that the Libyan Arab Jamahiriya shall cease the export of all arms and related materiel and that all Member States shall prohibit the procurement of such items from the Libyan Arab Jamahiriya by their nationals, or using their flagged vessels or aircraft, and whether or not originating in the territory of the Libyan Arab Jamahiriya;

11. *Calls upon* all States, in particular States neighbouring the Libyan Arab Jamahiriya, to inspect, in accordance with their national authorities and legislation and consistent with international law, in particular the law of the sea and relevant international civil aviation agreements, all cargo to and from the Libyan Arab Jamahiriya, in their territory, including seaports and airports, if the State concerned has information that provides reasonable grounds to believe the cargo contains items the supply, sale, transfer, or export of which is prohibited by paragraphs 9 or 10 of this resolution for the purpose of ensuring strict implementation of those provisions;

12. *Decides* to authorize all Member States to, and that all Member States shall, upon discovery of items prohibited by paragraph 9 or 10 of this resolution,

seize and dispose (such as through destruction, rendering inoperable, storage or transferring to a State other than the originating or destination States for disposal) items the supply, sale, transfer or export of which is prohibited by paragraphs 9 or 10 of this resolution and decides further that all Member States shall cooperate in such efforts;

13. *Requires* any Member State when it undertakes an inspection pursuant to paragraph 11 above, to submit promptly an initial written report to the Committee containing, in particular, explanation of the grounds for the inspections, the results of such inspections, and whether or not cooperation was provided, and, if prohibited items for transfer are found, further requires such Member States to submit to the Committee, at a later stage, a subsequent written report containing relevant details on the inspection, seizure, and disposal, and relevant details of the transfer, including a description of the items, their origin and intended destination, if this information is not in the initial report;

14. *Encourages* Member States to take steps to strongly discourage their nationals from travelling to the Libyan Arab Jamahiriya to participate in activities on behalf of the Libyan authorities that could reasonably contribute to the violation of human rights;

Travel ban

15. *Decides* that all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals listed in Annex I of this resolution or designated by the Committee established pursuant to paragraph 24 below, provided that nothing in this paragraph shall oblige a State to refuse its own nationals entry into its territory;

16. *Decides* that the measures imposed by paragraph 15 above shall not apply:

(a) Where the Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation;

(b) Where entry or transit is necessary for the fulfilment of a judicial process;

(c) Where the Committee determines on a case-by-case basis that an exemption would further the objectives of peace and national reconciliation in the Libyan Arab Jamahiriya and stability in the region; or

(d) Where a State determines on a case-by-case basis that such entry or transit is required to advance peace and stability in the Libyan Arab Jamahiriya and the States subsequently notifies the Committee within forty-eight hours after making such a determination;

Asset freeze

17. *Decides* that all Member States shall freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities listed in annex II of this resolution or designated by the Committee established pursuant to paragraph 24 below, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and decides further that all

Member States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of the individuals or entities listed in Annex II of this resolution or individuals designated by the Committee;

18. *Expresses* its intention to ensure that assets frozen pursuant to paragraph 17 shall at a later stage be made available to and for the benefit of the people of the Libyan Arab Jamahiriya;

19. *Decides* that the measures imposed by paragraph 17 above do not apply to funds, other financial assets or economic resources that have been determined by relevant Member States:

(a) To be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services in accordance with national laws, or fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen funds, other financial assets and economic resources, after notification by the relevant State to the Committee of the intention to authorize, where appropriate, access to such funds, other financial assets or economic resources and in the absence of a negative decision by the Committee within five working days of such notification;

(b) To be necessary for extraordinary expenses, provided that such determination has been notified by the relevant State or Member States to the Committee and has been approved by the Committee; or

(c) To be the subject of a judicial, administrative or arbitral lien or judgment, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgment provided that the lien or judgment was entered into prior to the date of the present resolution, is not for the benefit of a person or entity designated pursuant to paragraph 17 above, and has been notified by the relevant State or Member States to the Committee;

20. *Decides* that Member States may permit the addition to the accounts frozen pursuant to the provisions of paragraph 17 above of interests or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of this resolution, provided that any such interest, other earnings and payments continue to be subject to these provisions and are frozen;

21. *Decides* that the measures in paragraph 17 above shall not prevent a designated person or entity from making payment due under a contract entered into prior to the listing of such a person or entity, provided that the relevant States have determined that the payment is not directly or indirectly received by a person or entity designated pursuant to paragraph 17 above, and after notification by the relevant States to the Committee of the intention to make or receive such payments or to authorize, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, 10 working days prior to such authorization;

Designation criteria

22. *Decides* that the measures contained in paragraphs 15 and 17 shall apply to the individuals and entities designated by the Committee, pursuant to paragraph 24 (b) and (c), respectively;

(a) Involved in or complicit in ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in the Libyan Arab Jamahiriya, including by being involved in or complicit in planning, commanding, ordering or conducting attacks, in violation of international law, including aerial bombardments, on civilian populations and facilities; or

(b) Acting for or on behalf of or at the direction of individuals or entities identified in subparagraph (a).

23. *Strongly encourages* Member States to submit to the Committee names of individuals who meet the criteria set out in paragraph 22 above;

New Sanctions Committee

24. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council (herein “the Committee”), to undertake to following tasks:

(a) To monitor implementation of the measures imposed in paragraphs 9, 10, 15, and 17;

(b) To designate those individuals subject to the measures imposed by paragraphs 15 and to consider requests for exemptions in accordance with paragraph 16 above;

(c) To designate those individuals subject to the measures imposed by paragraph 17 above and to consider requests for exemptions in accordance with paragraphs 19 and 20 above;

(d) To establish such guidelines as may be necessary to facilitate the implementation of the measures imposed above;

(e) To report within thirty days to the Security Council on its work for the first report and thereafter to report as deemed necessary by the Committee;

(f) To encourage a dialogue between the Committee and interested Member States, in particular those in the region, including by inviting representatives of such States to meet with the Committee to discuss implementation of the measures;

(g) To seek from all States whatever information it may consider useful regarding the actions taken by them to implement effectively the measures imposed above;

(h) To examine and take appropriate action on information regarding alleged violations or non-compliance with the measures contained in this resolution;

25. *Calls upon* all Member States to report to the Committee within 120 days of the adoption of this resolution on the steps they have taken with a view to implementing effectively paragraphs 9, 10, 15 and 17 above;

Humanitarian assistance

26. *Calls upon* all Member States, working together and acting in cooperation with the Secretary General, to facilitate and support the return of humanitarian agencies and make available humanitarian and related assistance in the Libyan Arab Jamahiriya, and requests the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to this paragraph, and expresses its readiness to consider taking additional appropriate measures, as necessary, to achieve this;

Commitment to review

27. *Affirms* that it shall keep the Libyan authorities' actions under continuous review and that it shall be prepared to review the appropriateness of the measures contained in this resolution, including the strengthening, modification, suspension or lifting of the measures, as may be needed at any time in light of the Libyan authorities' compliance with relevant provisions of this resolution;

28. *Decides* to remain actively seized of the matter.

Annex I

Travel ban

1. Al-Baghdadi, Dr Abdulqader Mohammed
Passport number: B010574. Date of birth: 01/07/1950.
Head of the Liaison Office of the Revolutionary Committees. Revolutionary Committees involved in violence against demonstrators.
2. Dibri, Abdulqader Yusef
Date of birth: 1946. Place of birth: Houn, Libya.
Head of Muammar Qadhafi's personal security. Responsibility for regime security. History of directing violence against dissidents.
3. Dorda, Abu Zayd Umar
Director, External Security Organisation. Regime loyalist. Head of external intelligence agency.
4. Jabir, Major General Abu Bakr Yunis
Date of birth: 1952. Place of birth: Jalo, Libya.
Defence Minister. Overall responsibility for actions of armed forces.
5. Matuq, Matuq Mohammed
Date of birth: 1956. Place of birth: Khoms.
Secretary for Utilities. Senior member of regime. Involvement with Revolutionary Committees. Past history of involvement in suppression of dissent and violence.
6. Qadhaf Al-dam, Sayyid Mohammed
Date of birth: 1948. Place of birth: Sirte, Libya.
Cousin of Muammar Qadhafi. In the 1980s, Sayyid was involved in the dissident assassination campaign and allegedly responsible for several deaths in Europe. He is also thought to have been involved in arms procurement.
7. Qadhafi, Aisha Muammar
Date of birth: 1978. Place of birth: Tripoli, Libya.
Daughter of Muammar Qadhafi. Closeness of association with regime.
8. Qadhafi, Hannibal Muammar
Passport number: B/002210. Date of birth: 20/09/1975. Place of birth: Tripoli, Libya. Son of Muammar Qadhafi. Closeness of association with regime.
9. Qadhafi, Khamis Muammar
Date of birth: 1978. Place of birth: Tripoli, Libya.
Son of Muammar Qadhafi. Closeness of association with regime. Command of military units involved in repression of demonstrations.

10. Qadhafi, Mohammed Muammar
Date of birth: 1970. Place of birth: Tripoli, Libya.
Son of Muammar Qadhafi. Closeness of association with regime.
11. Qadhafi, Muammar Mohammed Abu Minyar
Date of birth: 1942. Place of birth: Sirte, Libya.
Leader of the Revolution, Supreme Commander of Armed Forces.
Responsibility for ordering repression of demonstrations, human rights abuses.
12. Qadhafi, Mutassim
Date of birth: 1976. Place of birth: Tripoli, Libya.
National Security Adviser. Son of Muammar Qadhafi. Closeness of association with regime.
13. Qadhafi, Saadi
Passport number: 014797. Date of birth: 25/05/1973. Place of birth: Tripoli, Libya.
Commander Special Forces. Son of Muammar Qadhafi. Closeness of association with regime. Command of military units involved in repression of demonstrations.
14. Qadhafi, Saif al-Arab
Date of birth: 1982. Place of birth: Tripoli, Libya.
Son of Muammar Qadhafi. Closeness of association with regime.
15. Qadhafi, Saif al-Islam
Passport number: B014995. Date of birth: 25/06/1972. Place of birth: Tripoli, Libya.
Director, Qadhafi Foundation. Son of Muammar Qadhafi. Closeness of association with regime. Inflammatory public statements encouraging violence against demonstrators.
16. Al-Senussi, Colonel Abdullah
Date of birth: 1949. Place of birth: Sudan.
Director Military Intelligence. Military Intelligence involvement in suppression of demonstrations. Past history includes suspicion of involvement in Abu Selim prison massacre. Convicted in absentia for bombing of UTA flight. Brother-in-law of Muammar Qadhafi.

Annex II

Asset freeze

1. Qadhafi, Aisha Muammar
Date of birth: 1978. Place of birth: Tripoli, Libya.
Daughter of Muammar Qadhafi. Closeness of association with regime.
2. Qadhafi, Hannibal Muammar
Passport number: B/002210. Date of birth: 20/09/1975. Place of birth: Tripoli, Libya. Son of Muammar Qadhafi. Closeness of association with regime.
3. Qadhafi, Khamis Muammar
Date of birth: 1978. Place of birth: Tripoli, Libya.
Son of Muammar Qadhafi. Closeness of association with regime. Command of military units involved in repression of demonstrations.
4. Qadhafi, Muammar Mohammed Abu Minyar
Date of birth: 1942. Place of birth: Sirte, Libya.
Leader of the Revolution, Supreme Commander of Armed Forces.
Responsibility for ordering repression of demonstrations, human rights abuses.
5. Qadhafi, Mutassim
Date of birth: 1976. Place of birth: Tripoli, Libya.
National Security Adviser. Son of Muammar Qadhafi. Closeness of association with regime.
6. Qadhafi, Saif al-Islam
Passport number: B014995. Date of birth: 25/06/1972. Place of birth: Tripoli, Libya.
Director, Qadhafi Foundation. Son of Muammar Qadhafi. Closeness of association with regime. Inflammatory public statements encouraging violence against demonstrators.



Resolution 1973 (2011)

**Adopted by the Security Council at its 6498th meeting, on
17 March 2011**

The Security Council,

Recalling its resolution 1970 (2011) of 26 February 2011,

Deploring the failure of the Libyan authorities to comply with resolution 1970 (2011),

Expressing grave concern at the deteriorating situation, the escalation of violence, and the heavy civilian casualties,

Reiterating the responsibility of the Libyan authorities to protect the Libyan population and *reaffirming* that parties to armed conflicts bear the primary responsibility to take all feasible steps to ensure the protection of civilians,

Condemning the gross and systematic violation of human rights, including arbitrary detentions, enforced disappearances, torture and summary executions,

Further condemning acts of violence and intimidation committed by the Libyan authorities against journalists, media professionals and associated personnel and *urging* these authorities to comply with their obligations under international humanitarian law as outlined in resolution 1738 (2006),

Considering that the widespread and systematic attacks currently taking place in the Libyan Arab Jamahiriya against the civilian population may amount to crimes against humanity,

Recalling paragraph 26 of resolution 1970 (2011) in which the Council expressed its readiness to consider taking additional appropriate measures, as necessary, to facilitate and support the return of humanitarian agencies and make available humanitarian and related assistance in the Libyan Arab Jamahiriya,

Expressing its determination to ensure the protection of civilians and civilian populated areas and the rapid and unimpeded passage of humanitarian assistance and the safety of humanitarian personnel,

Recalling the condemnation by the League of Arab States, the African Union, and the Secretary General of the Organization of the Islamic Conference of the serious violations of human rights and international humanitarian law that have been and are being committed in the Libyan Arab Jamahiriya,



Taking note of the final communiqué of the Organisation of the Islamic Conference of 8 March 2011, and the communiqué of the Peace and Security Council of the African Union of 10 March 2011 which established an ad hoc High Level Committee on Libya,

Taking note also of the decision of the Council of the League of Arab States of 12 March 2011 to call for the imposition of a no-fly zone on Libyan military aviation, and to establish safe areas in places exposed to shelling as a precautionary measure that allows the protection of the Libyan people and foreign nationals residing in the Libyan Arab Jamahiriya,

Taking note further of the Secretary-General's call on 16 March 2011 for an immediate cease-fire,

Recalling its decision to refer the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the Prosecutor of the International Criminal Court, and *stressing* that those responsible for or complicit in attacks targeting the civilian population, including aerial and naval attacks, must be held to account,

Reiterating its concern at the plight of refugees and foreign workers forced to flee the violence in the Libyan Arab Jamahiriya, *welcoming* the response of neighbouring States, in particular Tunisia and Egypt, to address the needs of those refugees and foreign workers, and *calling on* the international community to support those efforts,

Deploing the continuing use of mercenaries by the Libyan authorities,

Considering that the establishment of a ban on all flights in the airspace of the Libyan Arab Jamahiriya constitutes an important element for the protection of civilians as well as the safety of the delivery of humanitarian assistance and a decisive step for the cessation of hostilities in Libya,

Expressing concern also for the safety of foreign nationals and their rights in the Libyan Arab Jamahiriya,

Welcoming the appointment by the Secretary General of his Special Envoy to Libya, Mr. Abdel-Elah Mohamed Al-Khatib and supporting his efforts to find a sustainable and peaceful solution to the crisis in the Libyan Arab Jamahiriya,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of the Libyan Arab Jamahiriya,

Determining that the situation in the Libyan Arab Jamahiriya continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Demands* the immediate establishment of a cease-fire and a complete end to violence and all attacks against, and abuses of, civilians;

2. *Stresses* the need to intensify efforts to find a solution to the crisis which responds to the legitimate demands of the Libyan people and *notes* the decisions of the Secretary-General to send his Special Envoy to Libya and of the Peace and Security Council of the African Union to send its ad hoc High Level Committee to Libya with the aim of facilitating dialogue to lead to the political reforms necessary to find a peaceful and sustainable solution;

3. *Demands* that the Libyan authorities comply with their obligations under international law, including international humanitarian law, human rights and refugee law and take all measures to protect civilians and meet their basic needs, and to ensure the rapid and unimpeded passage of humanitarian assistance;

Protection of civilians

4. *Authorizes* Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the Secretary-General, to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory, and *requests* the Member States concerned to inform the Secretary-General immediately of the measures they take pursuant to the authorization conferred by this paragraph which shall be immediately reported to the Security Council;

5. *Recognizes* the important role of the League of Arab States in matters relating to the maintenance of international peace and security in the region, and bearing in mind Chapter VIII of the Charter of the United Nations, *requests* the Member States of the League of Arab States to cooperate with other Member States in the implementation of paragraph 4;

No Fly Zone

6. *Decides* to establish a ban on all flights in the airspace of the Libyan Arab Jamahiriya in order to help protect civilians;

7. *Decides further* that the ban imposed by paragraph 6 shall not apply to flights whose sole purpose is humanitarian, such as delivering or facilitating the delivery of assistance, including medical supplies, food, humanitarian workers and related assistance, or evacuating foreign nationals from the Libyan Arab Jamahiriya, nor shall it apply to flights authorised by paragraphs 4 or 8, nor other flights which are deemed necessary by States acting under the authorisation conferred in paragraph 8 to be for the benefit of the Libyan people, and that these flights shall be coordinated with any mechanism established under paragraph 8;

8. *Authorizes* Member States that have notified the Secretary-General and the Secretary-General of the League of Arab States, acting nationally or through regional organizations or arrangements, to take all necessary measures to enforce compliance with the ban on flights imposed by paragraph 6 above, as necessary, and *requests* the States concerned in cooperation with the League of Arab States to coordinate closely with the Secretary General on the measures they are taking to implement this ban, including by establishing an appropriate mechanism for implementing the provisions of paragraphs 6 and 7 above,

9. *Calls upon* all Member States, acting nationally or through regional organizations or arrangements, to provide assistance, including any necessary over-flight approvals, for the purposes of implementing paragraphs 4, 6, 7 and 8 above;

10. *Requests* the Member States concerned to coordinate closely with each other and the Secretary-General on the measures they are taking to implement

paragraphs 4, 6, 7 and 8 above, including practical measures for the monitoring and approval of authorised humanitarian or evacuation flights;

11. *Decides* that the Member States concerned shall inform the Secretary-General and the Secretary-General of the League of Arab States immediately of measures taken in exercise of the authority conferred by paragraph 8 above, including to supply a concept of operations;

12. *Requests* the Secretary-General to inform the Council immediately of any actions taken by the Member States concerned in exercise of the authority conferred by paragraph 8 above and to report to the Council within 7 days and every month thereafter on the implementation of this resolution, including information on any violations of the flight ban imposed by paragraph 6 above;

Enforcement of the arms embargo

13. *Decides that* paragraph 11 of resolution 1970 (2011) shall be replaced by the following paragraph : “Calls upon all Member States, in particular States of the region, acting nationally or through regional organisations or arrangements, in order to ensure strict implementation of the arms embargo established by paragraphs 9 and 10 of resolution 1970 (2011), to inspect in their territory, including seaports and airports, and on the high seas, vessels and aircraft bound to or from the Libyan Arab Jamahiriya, if the State concerned has information that provides reasonable grounds to believe that the cargo contains items the supply, sale, transfer or export of which is prohibited by paragraphs 9 or 10 of resolution 1970 (2011) as modified by this resolution, including the provision of armed mercenary personnel, *calls upon* all flag States of such vessels and aircraft to cooperate with such inspections and authorises Member States to use all measures commensurate to the specific circumstances to carry out such inspections”;

14. *Requests* Member States which are taking action under paragraph 13 above on the high seas to coordinate closely with each other and the Secretary-General and *further requests* the States concerned to inform the Secretary-General and the Committee established pursuant to paragraph 24 of resolution 1970 (2011) (“the Committee”) immediately of measures taken in the exercise of the authority conferred by paragraph 13 above;

15. *Requires* any Member State whether acting nationally or through regional organisations or arrangements, when it undertakes an inspection pursuant to paragraph 13 above, to submit promptly an initial written report to the Committee containing, in particular, explanation of the grounds for the inspection, the results of such inspection, and whether or not cooperation was provided, and, if prohibited items for transfer are found, further requires such Member States to submit to the Committee, at a later stage, a subsequent written report containing relevant details on the inspection, seizure, and disposal, and relevant details of the transfer, including a description of the items, their origin and intended destination, if this information is not in the initial report;

16. *Deplores* the continuing flows of mercenaries into the Libyan Arab Jamahiriya and *calls upon* all Member States to comply strictly with their obligations under paragraph 9 of resolution 1970 (2011) to prevent the provision of armed mercenary personnel to the Libyan Arab Jamahiriya;

Ban on flights

17. *Decides* that all States shall deny permission to any aircraft registered in the Libyan Arab Jamahiriya or owned or operated by Libyan nationals or companies to take off from, land in or overfly their territory unless the particular flight has been approved in advance by the Committee, or in the case of an emergency landing;

18. *Decides that* all States shall deny permission to any aircraft to take off from, land in or overfly their territory, if they have information that provides reasonable grounds to believe that the aircraft contains items the supply, sale, transfer, or export of which is prohibited by paragraphs 9 and 10 of resolution 1970 (2011) as modified by this resolution, including the provision of armed mercenary personnel, except in the case of an emergency landing;

Asset freeze

19. *Decides* that the asset freeze imposed by paragraph 17, 19, 20 and 21 of resolution 1970 (2011) shall apply to all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the Libyan authorities, as designated by the Committee, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, as designated by the Committee, and *decides further* that all States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of the Libyan authorities, as designated by the Committee, or individuals or entities acting on their behalf or at their direction, or entities owned or controlled by them, as designated by the Committee, and directs the Committee to designate such Libyan authorities, individuals or entities within 30 days of the date of the adoption of this resolution and as appropriate thereafter;

20. *Affirms* its determination to ensure that assets frozen pursuant to paragraph 17 of resolution 1970 (2011) shall, at a later stage, as soon as possible be made available to and for the benefit of the people of the Libyan Arab Jamahiriya;

21. *Decides* that all States shall require their nationals, persons subject to their jurisdiction and firms incorporated in their territory or subject to their jurisdiction to exercise vigilance when doing business with entities incorporated in the Libyan Arab Jamahiriya or subject to its jurisdiction, and any individuals or entities acting on their behalf or at their direction, and entities owned or controlled by them, if the States have information that provides reasonable grounds to believe that such business could contribute to violence and use of force against civilians;

Designations

22. *Decides* that the individuals listed in Annex I shall be subject to the travel restrictions imposed in paragraphs 15 and 16 of resolution 1970 (2011), and *decides further* that the individuals and entities listed in Annex II shall be subject to the asset freeze imposed in paragraphs 17, 19, 20 and 21 of resolution 1970 (2011);

23. *Decides* that the measures specified in paragraphs 15, 16, 17, 19, 20 and 21 of resolution 1970 (2011) shall apply also to individuals and entities determined by the Council or the Committee to have violated the provisions of resolution 1970

(2011), particularly paragraphs 9 and 10 thereof, or to have assisted others in doing so;

Panel of Experts

24. *Requests* the Secretary-General to create for an initial period of one year, in consultation with the Committee, a group of up to eight experts (“Panel of Experts”), under the direction of the Committee to carry out the following tasks:

(a) Assist the Committee in carrying out its mandate as specified in paragraph 24 of resolution 1970 (2011) and this resolution;

(b) Gather, examine and analyse information from States, relevant United Nations bodies, regional organisations and other interested parties regarding the implementation of the measures decided in resolution 1970 (2011) and this resolution, in particular incidents of non-compliance;

(c) Make recommendations on actions the Council, or the Committee or State, may consider to improve implementation of the relevant measures;

(d) Provide to the Council an interim report on its work no later than 90 days after the Panel’s appointment, and a final report to the Council no later than 30 days prior to the termination of its mandate with its findings and recommendations;

25. *Urges* all States, relevant United Nations bodies and other interested parties, to cooperate fully with the Committee and the Panel of Experts, in particular by supplying any information at their disposal on the implementation of the measures decided in resolution 1970 (2011) and this resolution, in particular incidents of non-compliance;

26. *Decides* that the mandate of the Committee as set out in paragraph 24 of resolution 1970 (2011) shall also apply to the measures decided in this resolution;

27. *Decides* that all States, including the Libyan Arab Jamahiriya, shall take the necessary measures to ensure that no claim shall lie at the instance of the Libyan authorities, or of any person or body in the Libyan Arab Jamahiriya, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Security Council in resolution 1970 (2011), this resolution and related resolutions;

28. *Reaffirms* its intention to keep the actions of the Libyan authorities under continuous review and underlines its readiness to review at any time the measures imposed by this resolution and resolution 1970 (2011), including by strengthening, suspending or lifting those measures, as appropriate, based on compliance by the Libyan authorities with this resolution and resolution 1970 (2011).

29. *Decides* to remain actively seized of the matter.

Libya: UNSCR proposed designations

<i>Number</i>	<i>Name</i>	<i>Justification</i>	<i>Identifiers</i>
Annex I: Travel Ban			
1	QUREN SALIH QUREN AL QADHAFI	Libyan Ambassador to Chad. Has left Chad for Sabha. Involved directly in recruiting and coordinating mercenaries for the regime.	
2	Colonel AMID HUSAIN AL KUNI	Governor of Ghat (South Libya). Directly involved in recruiting mercenaries.	

<i>Number</i>	<i>Name</i>	<i>Justification</i>	<i>Identifiers</i>
Annex II: Asset Freeze			
1	Dorda, Abu Zayd Umar	Position: Director, External Security Organisation	
2	Jabir, Major General Abu Bakr Yunis	Position: Defence Minister	Title: Major General DOB: --/--/1952. POB: Jalo, Libya
3	Matuq, Matuq Mohammed	Position: Secretary for Utilities	DOB: --/--/1956. POB: Khoms
4	Qadhafi, Mohammed Muammar	Son of Muammar Qadhafi. Closeness of association with regime	DOB: --/--/1970. POB: Tripoli, Libya
5	Qadhafi, Saadi	Commander Special Forces. Son of Muammar Qadhafi. Closeness of association with regime. Command of military units involved in repression of demonstrations	DOB: 25/05/1973. POB: Tripoli, Libya
6	Qadhafi, Saif al-Arab	Son of Muammar Qadhafi. Closeness of association with regime	DOB: --/--/1982. POB: Tripoli, Libya
7	Al-Senussi, Colonel Abdullah	Position: Director Military Intelligence	Title: Colonel DOB: --/--/1949. POB: Sudan

Entities

1	Central Bank of Libya	Under control of Muammar Qadhafi and his family, and potential source of funding for his regime.
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S/RES/1973 (2011)

<i>Number</i>	<i>Name</i>	<i>Justification</i>	<i>Identifiers</i>
2	Libyan Investment Authority	Under control of Muammar Qadhafi and his family, and potential source of funding for his regime.	a.k.a: Libyan Arab Foreign Investment Company (LAFICO) Address: 1 Fateh Tower Office, No 99 22nd Floor, Borgaida Street, Tripoli, Libya, 1103
3	Libyan Foreign Bank	Under control of Muammar Qadhafi and his family and a potential source of funding for his regime.	
4	Libyan Africa Investment Portfolio	Under control of Muammar Qadhafi and his family, and potential source of funding for his regime.	Address: Jamahiriya Street, LAP Building, PO Box 91330, Tripoli, Libya
5	Libyan National Oil Corporation	Under control of Muammar Qadhafi and his family, and potential source of funding for his regime.	Address: Bashir Saadwi Street, Tripoli, Tarabulus, Libya



Resolution 2009 (2011)

**Adopted by the Security Council at its 6620th meeting, on
16 September 2011**

The Security Council,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of Libya,

Reaffirming its previous resolutions 1674 (2006) and 1894 (2009) on the protection of civilians in armed conflict, 1612 (2006), 1882 (2009), 1998 (2011) on children in armed conflict, and 1325 (2000), 1820 (2008), 1888 (2009) 1889 (2009), and 1960 (2010) on women, peace and security,

Recalling its decision to refer the situation in Libya to the Prosecutor of the International Criminal Court, and the importance of cooperation for ensuring that those responsible for violations of human rights and international humanitarian law or complicit in attacks targeting the civilian population are held accountable,

Strongly condemning all violations of applicable human rights and international humanitarian law, including violations that involve unlawful killings, other uses of violence against civilians, or arbitrary arrests and detentions, in particular of African migrants and members of minority communities,

Also strongly condemning sexual violence, particularly against women and girls, and the recruitment and use of children in situations of armed conflict in contravention of applicable international law,

Considering that the voluntary and sustainable return of refugees and internally displaced persons will be a critical factor for the consolidation of peace in Libya,

Stressing that national ownership and national responsibility are key to establishing sustainable peace and the primary responsibility of national authorities in identifying their priorities and strategies for post-conflict peace-building,

Recalling the letter of the Secretary-General of 7 September 2011 (S/2011/542) and *welcoming* his intention to dispatch, at the request of the Libyan authorities, an initial deployment of personnel, to be led by a Special Representative of the Secretary-General,



Taking note of the letter of 14 September 2011 from Dr. Mahmoud Jibril, Prime Minister of the National Transitional Council of Libya, to the Secretary-General,

Expressing its gratitude to the Secretary-General's Special Envoy to Libya, Mr. Abdel-Elah Mohamed Al-Khatib, for his efforts to find a sustainable and peaceful solution in Libya,

Reaffirming that the United Nations should lead the effort of the international community in supporting the Libyan-led transition and rebuilding process aimed at establishing a democratic, independent and united Libya, *welcoming* the contributions in this regard of the Secretary-General's 26 August high-level meeting of regional organisations and the 1 September Paris Conference, and *welcoming also* the efforts of the African Union, Arab League, European Union and the Organization of the Islamic Cooperation,

Expressing concern at the proliferation of arms in Libya and its potential impact on regional peace and security,

Recalling its resolutions 1970 (2011) of 26 February 2011 and 1973 (2011) of 17 March 2011,

Recalling its determination to ensure that assets frozen pursuant to resolutions 1970 (2011) and 1973 (2011) shall as soon as possible be made available to and for the benefit of the people of Libya, *welcoming* steps taken by the Committee established pursuant to resolution 1970 (2011) and Member States in this regard, and *underscoring* the importance of making these assets available in a transparent and responsible manner in conformity with the needs and wishes of the Libyan people,

Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations,

Acting under Chapter VII of the Charter of the United Nations, and taking measures under its Article 41,

1. *Takes note* of the developments in Libya, *welcomes* the improved situation there, and *looks forward* to stability in Libya;
2. *Looks forward* to the establishment of an inclusive, representative transitional Government of Libya, and *emphasises* the need for the transitional period to be underpinned by a commitment to democracy, good governance, rule of law and respect for human rights;
3. *Emphasises* the importance of promoting the equal and full participation of women and minority communities in the discussions related to the political process in the post-conflict phase;
4. *Welcomes* the statements of the National Transitional Council appealing for unity, national reconciliation and justice, and its call for Libyans of all beliefs and backgrounds to refrain from reprisals, including arbitrary detentions;
5. *Encourages* the National Transitional Council to implement its plans to:
 - (a) protect Libya's population, restore government services, and allocate Libya's funds openly and transparently;

- (b) prevent further abuses and violations of human rights and international humanitarian law and to put an end to impunity;
 - (c) ensure a consultative, inclusive political process with a view to agreement on a constitution and the holding of free and fair elections;
 - (d) ensure the safety of foreign nationals in Libya, particularly those who have been threatened, mistreated and/or detained; and
 - (e) prevent the proliferation of man-portable surface-to-air missiles, small arms and light weapons, and meet Libya's arms control and non-proliferation obligations under international law;
6. *Notes* the National Transitional Council's calls to avoid acts of reprisals including against migrant workers;
7. *Calls upon* the Libyan authorities to promote and protect human rights, including those of people belonging to vulnerable groups, to comply with their obligations under international law, including international humanitarian law and human rights law, and *calls for* those responsible for violations, including sexual violence, to be held accountable in accordance with international standards;
8. *Strongly urges* the Libyan authorities to ensure the protection of diplomatic personnel and premises in accordance with Vienna Convention on Diplomatic Relations of 1961;
9. *Expresses* its resolve to assist the people of Libya to achieve these goals, and *urges* all Member States to assist the people of Libya as appropriate;
10. *Urges* all Member States to cooperate closely with the Libyan authorities in their efforts to end impunity, in accordance with Libya's international obligations;
11. *Calls upon* the Libyan authorities to comply with the international obligations of Libya, including obligations set forth in the Charter of the United Nations, in accordance with international law, and *further calls upon* the Libyan authorities to honour extant contracts and obligations, in accordance with this and other relevant resolutions, and the law applicable to such contracts and obligations;

UN Mandate

12. *Decides* to establish a United Nations Support Mission in Libya (UNSMIL), under the leadership of a Special Representative of the Secretary-General for an initial period of three months, and *decides further* that the mandate of UNSMIL shall be to assist and support Libyan national efforts to:
- (a) restore public security and order and promote the rule of law;
 - (b) undertake inclusive political dialogue, promote national reconciliation, and embark upon the constitution-making and electoral process;
 - (c) extend state authority, including through strengthening emerging accountable institutions and the restoration of public services;
 - (d) promote and protect human rights, particularly for those belonging to vulnerable groups, and support transitional justice;
 - (e) take the immediate steps required to initiate economic recovery; and

(f) coordinate support that may be requested from other multilateral and bilateral actors as appropriate;

Arms Embargo

13. *Decides* that the measure imposed by paragraph 9 of resolution 1970 (2011) shall also not apply to the supply, sale or transfer to Libya of:

(a) arms and related materiel of all types, including technical assistance, training, financial and other assistance, intended solely for security or disarmament assistance to the Libyan authorities and notified to the Committee in advance and in the absence of a negative decision by the Committee within five working days of such a notification;

(b) small arms, light weapons and related materiel, temporarily exported to Libya for the sole use of United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, notified to the Committee in advance and in the absence of a negative decision by the Committee within five working days of such a notification;

Asset Freeze

14. *Decides* that the Libyan National Oil Corporation (LNOC) and Zueitina Oil Company shall no longer be subject to the asset freeze and other measures imposed in paragraphs 17, 19, 20 and 21 of resolution 1970 (2011) and paragraph 19 of resolution 1973 (2011);

15. *Decides* to modify the measures imposed in paragraphs 17, 19, 20 and 21 of resolution 1970 (2011) and paragraph 19 of resolution 1973 (2011) with respect to the Central Bank of Libya, the Libyan Arab Foreign Bank (LAFB), the Libyan Investment Authority (LIA), and the Libyan Africa Investment Portfolio (LAIP) as follows:

(a) funds, other financial assets and economic resources outside of Libya of the entities mentioned in this paragraph above that are frozen as of the date of this resolution pursuant to measures imposed in paragraph 17 of resolution 1970 (2011) or paragraph 19 of resolution 1973 (2011) shall remain frozen by States unless subject to an exemption as set out in paragraphs 19, 20 or 21 of that resolution or paragraph 16 below;

(b) except as provided in (a), the Central Bank of Libya, the LAFB, the LIA, and the LAIP shall otherwise no longer be subject to the measures imposed in paragraphs 17 of resolution 1970 (2011), including that States are no longer required to ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of these entities;

16. *Decides* that in addition to the provisions of paragraph 19 of resolution 1970 (2011), the measures imposed by paragraph 17 of that resolution, as modified by paragraph 15 above and paragraph 19 of resolution 1973 (2011), do not apply to funds, other financial assets or economic resources of the Central Bank of Libya, the LAFB, the LIA and the LAIP provided that:

(a) a Member State has provided notice to the Committee of its intent to authorize access to funds, other financial assets, or economic resources, for one or

more of the following purposes and in the absence of a negative decision by the Committee within five working days of such a notification:

- (i) humanitarian needs;
 - (ii) fuel, electricity and water for strictly civilian uses;
 - (iii) resuming Libyan production and sale of hydrocarbons;
 - (iv) establishing, operating, or strengthening institutions of civilian government and civilian public infrastructure; or
 - (v) facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya;
- (b) a Member State has notified the Committee that those funds, other financial assets or economic resources shall not be made available to or for the benefit of the individuals subject to the measures imposed in paragraph 17 of resolution 1970 (2011) or paragraph 19 of resolution 1973 (2011);
- (c) the Member State has consulted in advance with the Libyan authorities about the use of such funds, other financial assets, or economic resources; and
- (d) the Member State has shared with the Libyan authorities the notification submitted pursuant to this paragraph and the Libyan authorities have not objected within five working days to the release of such funds, other financial assets, or economic resources;

17. *Calls upon* States to exercise vigilance when acting pursuant to paragraph 16 above and to give due consideration to the use of international financial mechanisms to promote transparency and prevent misappropriation, in light of the challenges that yet remain for the Libyan authorities;

18. *Requests* the International Monetary Fund and the World Bank to work with the Libyan authorities on an assessment of Libya's public financial management framework, which would recommend steps to be taken by Libya to ensure a system of transparency and accountability with respect to the funds held by Libyan governmental institutions, including the LIA, LNOC, LAFB, LAIP and Libyan Central Bank, and *further requests* that the Committee be informed of the results of that assessment;

19. *Directs* the Committee, in consultation with the Libyan authorities, to review continuously the remaining measures imposed by resolutions 1970 (2011) and 1973 (2011) with respect to the Central Bank of Libya, the LAFB, the LIA and the LAIP, and *decides* that the Committee shall, in consultation with the Libyan authorities, lift the designation of these entities as soon as practical to ensure the assets are made available to and for the benefit of the people of Libya;

No Fly Zone and Ban on Flights

20. *Takes note* of the improved situation in Libya, *emphasises* its intention to keep the measures imposed by paragraphs 6 to 12 of resolution 1973 (2011) under continuous review and *underlines* its readiness, as appropriate and when circumstances permit, to lift those measures and to terminate authorization given to Member States in paragraph 4 of resolution 1973 (2011) in consultation with the Libyan authorities;

21. *Decides* that the measures in paragraph 17 of resolution 1973 (2011) shall cease to have effect from the date of this resolution;

Cooperation and Reporting

22. *Requests* the Secretary-General to report on implementation of this resolution in 14 days from adoption, and every month thereafter, or more frequently as he sees fit;

23. *Decides* to remain actively seized of the matter.



Security Council

Distr.: General
27 October 2011

Resolution 2016 (2011)

**Adopted by the Security Council at its 6640th meeting,
on 27 October 2011**

The Security Council,

Recalling its resolutions 1970 (2011) of 26 February 2011, 1973 (2011) of 17 March 2011, and 2009 (2011) of 16 September 2011,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of Libya,

Taking note of the National Transitional Council's "Declaration of Liberation" of 23 October 2011 in Libya,

Looking forward to a future for Libya based on national reconciliation, justice, respect for human rights and the rule of law,

Reiterating the importance of promoting the full and effective participation of members of all social and ethnic groups, including the equal participation of women and minority communities in the discussions related to the post-conflict phase,

Recalling its decision to refer the situation in Libya to the Prosecutor of the International Criminal Court, and the importance of cooperation for ensuring that those responsible for violations of human rights and international humanitarian law or complicit in attacks targeting the civilian population are held accountable,

Reiterating that the voluntary and sustainable return of refugees and internally displaced persons will be an important factor for the consolidation of peace in Libya,

Expressing concern at the proliferation of arms in Libya and its potential impact on regional peace and security, and also *expressing* its intention expeditiously to address that issue further,

Expressing grave concern about continuing reports of reprisals, arbitrary detentions, wrongful imprisonment and extrajudicial executions in Libya,

Reiterating its call to the Libyan authorities to promote and protect human rights and fundamental freedoms, including those of people belonging to vulnerable groups, to comply with their obligations under international law, including international humanitarian law and human rights law, and *urging* respect for the



human rights of all people in Libya, including former officials and detainees, during and after the transitional period,

Recalling its decisions in resolution 2009 (2011) to:

(a) Modify the provisions of the arms embargo imposed by paragraph 9 of resolution 1970 to provide for additional exemptions,

(b) Terminate the asset freeze imposed by paragraphs 17, 19, 20 and 21 of resolution 1970 (2011) and paragraph 19 of resolution 1973 (2011) with respect to the Libyan National Oil Corporation and Zueitina Oil Company, and to modify the asset freeze imposed by paragraphs 17, 19, 20 and 21 of resolution 1970 (2011) and paragraph 19 of resolution 1973 (2011) with respect to the Central Bank of Libya, the Libyan Arab Foreign Bank, the Libyan Investment Authority, and the Libyan Africa Investment Portfolio, and

(c) Cease the measures imposed by paragraph 17 of resolution 1973 (2011),

Recalling also its intention to keep the measures imposed by paragraphs 6 to 12 of resolution 1973 (2011) under continuous review and to lift, as appropriate and when circumstances permit, those measures and to terminate authorization given to Member States in paragraph 4 of resolution 1973 (2011), in consultation with the Libyan authorities,

Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations,

Acting under Chapter VII of the Charter of the United Nations,

1. *Welcomes* the positive developments in Libya which will improve the prospects for a democratic, peaceful and prosperous future there;

2. *Looks forward* to the swift establishment of an inclusive, representative transitional Government of Libya, and *reiterates* the need for the transitional period to be underpinned by a commitment to democracy, good governance, rule of law, national reconciliation and respect for human rights and fundamental freedoms of all people in Libya;

3. *Strongly urges* the Libyan authorities to refrain from reprisals, including arbitrary detentions, *calls upon* the Libyan authorities to take all steps necessary to prevent reprisals, wrongful imprisonment and extrajudicial executions, and *underscores* the Libyan authorities' responsibility for the protection of its population, including foreign nationals and African migrants;

4. *Urges* all Member States to cooperate closely with the Libyan authorities in their efforts to end impunity for violations of international human rights and international humanitarian law;

Protection of Civilians

5. *Decides* that the provisions of paragraphs 4 and 5 of resolution 1973 (2011) shall be terminated from 23.59 Libyan local time on 31 October 2011;

No-Fly Zone

6. *Decides also* that the provisions of paragraphs 6 to 12 of resolution 1973 (2011) shall be terminated from 23.59 Libyan local time on 31 October 2011;
 7. *Decides* to remain actively seized of the matter.
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[부록 IV]
코트디부아르 사태 관련 UN 문서



Resolution 1933 (2010)

Adopted by the Security Council at its 6350th meeting, on 30 June 2010

The Security Council,

Recalling its previous resolutions, in particular resolutions 1924 (2010), 1911 (2010), and 1893 (2009), and the statements of its President relating to the situation in Côte d'Ivoire, and resolution 1885 (2009) on the situation in Liberia,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, and recalling the importance of the principles of good-neighbourliness, non-interference and regional cooperation,

Recalling that it endorsed the Agreement signed by President Laurent Gbagbo and Mr. Guillaume Soro in Ouagadougou on 4 March 2007 ("the Ouagadougou Political Agreement", S/2007/144), and that it welcomed the four subsequent Supplementary Agreements,

Recalling again that in its resolution 1721 (2006), it notably endorsed the decision of the African Union Peace and Security Council on the mandate of the Head of State, and *recalling* further that in the statement of its President dated 28 March 2007 (S/PRST/2007/8), it endorsed the Ouagadougou Political Agreement, including its Chapter V on the institutional executive framework, and that this Agreement provided for a period of ten months for the holding of the presidential elections,

Expressing again its appreciation to President Blaise Compaoré of Burkina Faso ("the Facilitator") for his critical role and his continued efforts to support the peace process in Côte d'Ivoire, in particular through the Ouagadougou Political Agreement follow-up mechanisms, commending and encouraging the continued efforts of the African Union and the Economic Community of West African States ("ECOWAS") to promote peace and stability in Côte d'Ivoire, and reiterating its full support for them,

Stressing the need for the Council to pursue a rigorous, strategic approach to peacekeeping deployments, the substantial engagement in which is more likely to lead to a sustainable peace when the parties to a conflict abide by their commitments and obligations, *welcoming* the intention of the Secretary-General to keep all peacekeeping operations under close review and *noting* the importance of contingency planning,



Reiterating its strong condemnation of any attempt to destabilize the peace process, in particular by force, and expressing its intention to examine without delay the situation should any such attempt take place,

Having taken note of the Secretary-General's report dated 20 May 2010 (S/2010/245),

Noting again with concern, in spite of the sustained efforts to improve the overall human rights situation, the persistence of reported human rights and humanitarian law violations against civilians in different parts of the country, including numerous acts of sexual violence met with impunity, stressing that the perpetrators must be brought to justice, reiterating its firm condemnation of all violations of human rights and international humanitarian law in Côte d'Ivoire, and recalling its resolutions 1325 (2000), 1820 (2008), 1888 (2009) and 1889 (2009) on women, peace and security, its resolutions 1612 (2005) and 1882 (2009) on children and armed conflict and its resolutions 1674 (2006) and 1894 (2009) on the protection of civilians in armed conflicts,

Determining that the situation in Côte d'Ivoire continues to pose a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

("Supporting the Ouagadougou political process and a credible electoral process")

1. *Recalls* that the last presidential elections in Côte d'Ivoire were held on 22 October 2000, and *expresses its deep concern* at the continuing delays in the electoral process and the absence of a time frame for the holding of open, free, fair and transparent elections in Côte d'Ivoire and *stresses* that the events of February 2010 showed how fragile and unstable the situation remains;

2. *Urges* the relevant Ivorian stakeholders to ensure the publication of the final voters list without further delay, on the basis of the provisional list published in November 2009 and certified by the Special Representative of the Secretary-General, to announce the official date of the first round of the presidential election and to meet their commitments in full, *stresses* that it will hold the Ivorian parties fully accountable and *notes* the joint statement issued on 2 May 2010 by the Prime Minister and the President of the Independent Electoral Commission and the work undertaken on a part of the provisional voters list;

3. *Reiterates* its determination to bring its full support to a credible electoral process in Côte d'Ivoire, and *stresses* that the publication of a final voters list certified by the Special Representative of the Secretary-General is crucial for the holding of open, free, fair and transparent elections as well as for the completion of the disarmament and reunification processes, as highlighted by the Secretary-General in his report S/2010/245;

4. *Reiterates further* that the Special Representative of the Secretary-General shall certify that all stages of the electoral process provide all the necessary guarantees for the holding of open, free, fair and transparent presidential and legislative elections in accordance with international standards and *reaffirms* its full support to the Special Representative of the Secretary-General in his certification role;

5. *Stresses* that it will base its assessment of the electoral process on the certification that will be prepared by the Special Representative consistent with the five-criteria framework referred to in document S/2008/250 and after inclusive contacts with all stakeholders in Côte d'Ivoire, including civil society;

6. *Reiterates* the importance of the inclusive participation of Ivorian civil society in the electoral process, and of ensuring the equal protection of and respect for the human rights of every Ivorian as they relate to the electoral system, and in particular respect for freedom of opinion and expression, and removing obstacles and challenges to women's participation and full involvement in public life;

7. *Urges* again the political parties to comply fully with the Code of Good Conduct for elections, which they signed under the auspices of the Secretary-General, *recalls* the importance for the public throughout the country to have access to pluralistic and diverse information through the media and *urges* further all relevant Ivorian stakeholders to allow equitable and broader access to media and in particular the Ivorian authorities to allow equitable access to State media;

8. *Expresses its concerns* at the delays encountered in deploying and operationalizing the mixed units of the Integrated Command Centre responsible to secure the elections and *urges* the Ivorian parties to take concrete steps in this regard;

9. *Urges* the Government of Côte d'Ivoire to provide the operators involved in the electoral process with the necessary support, and encourages the international community to continue its support to the electoral process, including, with the agreement of the Ivorian authorities, by providing electoral observation capacity and related technical assistance;

10. *Urges* every Ivorian to refrain from any call for hatred, intolerance and violence, *notes* with interest that in his report (S/2010/245) the Secretary-General encouraged the Security Council to impose targeted sanctions against media actors who fan political tension and incite violence and *reiterates* that it is fully prepared to impose targeted measures pursuant to paragraphs 6 and 20 of resolution 1893 (2009), including among other things against persons who are determined to be a threat to the peace and national reconciliation process in Côte d'Ivoire or to be publicly inciting hatred and violence;

11. *Urges again* the Ivorian parties, with the support of the United Nations Operation in Côte d'Ivoire (UNOCI) as applicable, to make further concrete progress, before and after the elections, to advance the reunification and disarmament processes, including by covering the expenses required for these processes as set out in the framework of the Ouagadougou Political Agreement;

12. *Stresses* that the identification process is key to the long-term stability of the Côte d'Ivoire and *calls again upon* the Ivorian parties to continue the identification operations, including after the elections;

13. *Condemns* the persistence of reported human rights violations, in particular sexual violence, and *calls* upon all Ivorian parties, with the continued support of UNOCI, to ensure the protection of civilians, especially women, children and displaced persons, to fully implement the recommendations of its working group on Children and Armed Conflict in Côte d'Ivoire (S/AC.51/2008/5), notably to adopt and implement a national action plan to address sexual violence, and to

ensure that rule of law is strengthened and that all reported abuses are investigated and those responsible for such violations be brought to justice, *calls further* upon all parties to take appropriate measures to refrain from, prevent and protect civilians from all forms of sexual violence and *reaffirms* paragraphs 14 to 17 of its resolution 1880 (2009);

14. *Urges* the signatories of the Ouagadougou Political Agreement to work towards a sustainable solution for the voluntary return, reinstallation, reintegration and security of displaced persons, including by addressing land tenure issues, with the support of the United Nations system, and to fulfil in this regard their commitments in accordance with the Ouagadougou Political Agreement and their obligations under international law;

15. *Requests* UNOCI, when implementing paragraph 16 below, to prioritize the consolidation of the stability of the country, including as determined in paragraph 16 b below, and the establishment of the final voters list, which is crucial for the peace process as a whole;

(“Mandating the United Nations Operations in Côte d’Ivoire”)

16. *Decides* that, in order to support the parties to implement the Ouagadougou Political Agreement more effectively, UNOCI shall have the following mandate from the date of adoption of this resolution until 31 December 2010:

Contributing to the consolidation of the stability of the country

(a) *Monitoring the armed groups*

- To observe and monitor the implementation of the Ouagadougou Political Agreement of March 2007 as far as the armed groups are concerned, to prevent, within its capabilities and its areas of deployment, any hostile action, including against civilians, and to investigate and report on any act of violence committed by the Ivorian parties to the Ouagadougou Political Agreement,
- To support the Integrated Command Centre (ICC) through continued technical advice, training and logistical support and to participate in the patrols of the ICC mixed units in sensitive areas,
- To liaise with the National Armed Forces of Côte d’Ivoire (FANCI) and the military elements of the Forces nouvelles, in coordination with the French forces, in order to promote mutual trust among all the Ivorian forces involved and to ease tensions,
- To assist the Government of Côte d’Ivoire in monitoring the borders, with particular attention to any crossborder movement of combatants or transfer of arms and to the situation of Liberian refugees in close coordination with the United Nations Mission in Liberia,
- To support, in coordination with the Ivorian authorities, the provision of security for members of the Government of Côte d’Ivoire and key political stakeholders, in view of the preparation and the holding of the elections,

(b) Protection of civilians

- To protect, without prejudice to the primary responsibility of the Ivorian authorities, civilians under imminent threat of physical violence, within its capabilities and its areas of deployment, including in high risk areas identified by UNOCI on the basis of the comprehensive protection of civilians strategy and the threat assessment referred to in the report of the Secretary-General (S/2010/245),
- To work closely with humanitarian agencies, particularly in relation to areas of tensions and of return of displaced persons, to exchange information on possible outbreaks of violence and other threats against civilians in order to respond thereto in a timely and appropriate manner,

(c) Monitoring of the arms embargo

- To monitor the implementation of the measures imposed by paragraph 7 of resolution 1572 (2004), in cooperation with the Group of Experts established under resolution 1584 (2005), including by inspecting, as they deem it necessary and when appropriate without notice, all weapons, ammunition and related materiel regardless of location, consistent with its resolution 1893 (2009),
- To collect, as appropriate, arms and any related materiel brought into Côte d'Ivoire in violation of the measures imposed by paragraph 7 of resolution 1572 (2004), and to dispose of such arms and related materiel as appropriate,

(d) Public information

- To promote the peace process arising from the Ouagadougou Political Agreement throughout the territory of Côte d'Ivoire through the Mission's public information capacity, in particular its radio broadcasting capability through UNOCI FM,
- To encourage the Ivorian mass media and the main political actors to fully implement the Code of Good Conduct for elections that the Ivorian parties have signed under the auspices of the Secretary-General as well as to sign up and adhere to the Code of Good Conduct for the media,
- To monitor any public incidents of incitement to hatred, intolerance and violence, to bring to the attention of the Council all individuals identified as instigators of political violence, and to keep the Committee established under resolution 1572 (2004) regularly informed of developments in this regard,

(e) Assistance in the field of human rights

- To contribute to the promotion and protection of human rights in Côte d'Ivoire, with special attention to violations committed against children and women and to all forms of sexual violence, to monitor, help investigate and report on human rights and humanitarian law violations with a view to ending impunity, including as called for in resolutions 1612 (2005) and 1882 (2009), to support the efforts all parties should take pursuant to paragraph 13 above, to bring to the attention of the Council all individuals identified as perpetrators of serious human rights violations and to keep the Committee established under resolution 1572 (2004) regularly informed of developments in this regard,

(f) Support for humanitarian assistance

- To facilitate the free flow of people, goods and humanitarian assistance, inter alia, by contributing to enhance security and taking into account the special needs of vulnerable groups, especially women, children, elderly people, persons with disabilities and displaced persons,

Contributing to the electoral process and to the identification of the population

(g) Support for the organization of open, free, fair and transparent elections

- To provide, within its capabilities and its areas of deployment, technical and logistical support to the Independent Electoral Commission which is responsible for the preparation and the holding of the elections, including to enable the Independent Electoral Commission to continue the appeals process, to distribute the provisional and the final voters lists, to sensitize the media, to distribute identity cards and voters cards and to distribute and secure sensitive electoral materiel, notably ballot papers,
- To work with all relevant actors in implementing the agreed security plan for the elections, and, in particular, to contribute to securing the high risks areas where voting is to take place,
- To ensure the coordination of international observers, and to contribute to their security, within its capabilities and areas of deployment,
- To provide to the Special Representative of the Secretary-General the necessary assistance to fulfil his role of certification of the electoral process consistent with paragraph 4 above,
- To monitor the implementation of the Code of Good Conduct for elections and the efforts of the Ivorian authorities in guaranteeing an equitable access to public media, in particular in the electoral context, and to keep the Committee regularly informed of the situation,
- To regularly inform the Security Council of any threat to the electoral process, as defined in paragraph 11 of its resolution 1911 (2010) and to bring to its attention all individuals identified as responsible for such a threat,

(h) Operations of identification of the population

- To contribute, within its capabilities and its areas of deployment, to the support provided by the United Nations country team and other relevant actors to the process of identification of the population,

Contributing to the other remaining tasks of the peace process

(i) Disarmament, demobilization, storage of weapons and reintegration of former combatants of the two parties and members of militias

- To support the Integrated Command Centre in conducting the processes of:
 - disarmament and secure storage of weapons of former combatants of the two parties,
 - demobilization of the former combatants of Forces nouvelles,
 - disarmament, storage of weapons and dismantling of militias,

- To assist the Ivorian authorities in particular in moving forward with the implementation of planned training of the former combatants of the Forces nouvelles selected to join the ranks of the future National Army who are to be cantoned in Bouake, Korhogo, Man and Seguela, including in the area of human rights and international humanitarian law,
 - To contribute to the reintegration of former combatants and members of militias and to encourage donors to continue to support initiatives in this regard,
- (j) Support to redeployment of Ivorian state administration and Justice throughout the country
- To support, within its capabilities and its areas of deployment, enhancing the security conditions to enable the Ivorian Government and UN agencies to identify and implement peacebuilding priorities throughout the country,
 - To assist the Government of Côte d'Ivoire in conjunction with relevant regional organizations in re-establishing the authority of the judiciary and the rule of law throughout Côte d'Ivoire,
- (k) Reform of the security sector
- To advise the Government of Côte d'Ivoire, as appropriate, on security sector reform and the organization of the future National Army, including on establishing an effective vetting mechanism, in accordance with international standards,
 - To contribute, as appropriate, to the development by the Ivorian authorities of the capacities of the police and gendarmerie, in particular through crowd control training, and to restoring their presence throughout Côte d'Ivoire,
- Other tasks*
- (l) Facilitation
- To coordinate with the Facilitator and his Special Representative in Abidjan, to assist them in the conduct of the facilitation, as needed and appropriate and within available means, including by providing logistical support to the office of the Special Representative,
- (m) Protection of United Nations personnel
- To protect United Nations personnel, installations and equipment, and ensure the security and freedom of movement of United Nations personnel;
17. *Authorizes* UNOCI to use all necessary means to carry out its mandate, within its capabilities and its areas of deployment;
18. *Calls upon* all parties to cooperate fully in the operations of UNOCI and of the French forces which support it, in particular by guaranteeing their safety, security and freedom of movement with unhindered and immediate access, as well as associated personnel, throughout the territory of Côte d'Ivoire, to enable them to fully carry out their mandates;

19. *Decides* that UNOCI will comprise a maximum of 7392 authorized military personnel, maintaining the current combined total authorized strength at 8650 personnel, including a maximum of 7200 troops and staff officers and 192 military observers, and a maximum of 1250 police personnel and 8 seconded customs officers;

20. *Expresses* its intention to consider raising for a limited period of time, prior to and after the elections, the level of authorized military and police personnel up to a total of no more than 500 additional personnel, and *requests* the Secretary-General in this regard to continue to update it on his technical analysis in a timely manner for its consideration;

21. *Welcomes* the intention expressed by the Secretary-General in paragraphs 97 and 99 of his report S/2010/245 to reconfigure UNOCI to increase its presence in the identified high risk areas and to strengthen the capabilities of its force reserve;

22. *Requests* the Secretary-General to continue to include in his reports relevant information on progress on the promotion and protection of human rights and international humanitarian law as well as on the strengthening of the rule of law, including on ending impunity in Côte d'Ivoire, with special attention to violence committed against children and women, and on progress on gender mainstreaming throughout UNOCI and all other aspects relating to the situation of women and girls, especially in relation to the need to protect them from sexual and gender-based violence and consistent with its resolutions 1325 (2000), 1612 (2005), 1820 (2008), 1882 (2009), 1888 (2009) and 1889 (2009);

23. *Requests* the Secretary-General to continue to take the necessary measures to ensure full compliance in UNOCI with the United Nations zero-tolerance policy on sexual exploitation and abuse and to keep the Council informed, and *urges* troop-contributing countries to take appropriate preventive action including pre-deployment awareness training, and other action to ensure full accountability in cases of such conduct involving their personnel;

24. *Decides* to extend until 31 December 2010 the authorization the Security Council provided to the French forces in order to support UNOCI, within the limits of their deployment and their capabilities;

25. *Underscores* the importance that the military and police concepts of operations and the rules of engagement be brought fully in line with the provisions of this resolution, in particular paragraphs 15 to 19 above, and *requests* the Secretary-General to report on them to the Security Council and to Troop and Police Contributing Countries;

26. *Requests* the Secretary-General to monitor progress on the achievement of the existing benchmarks and to prepare a new set of benchmarks for a possible drawdown of the force, taking fully into account the necessary consolidation of the stability of the country;

27. *Underscores* the importance that the Ivorian security forces, in order to use only appropriate and proportionate force while maintaining public order, be equipped with appropriate crowd control equipment, consistent with the arms embargo imposed by paragraph 7 of resolution 1572 (2004) and the exemption procedure set out in paragraph 8 alinea b and e of resolution 1572 (2004);

28. *Requests* the Secretary-General to inform it of the publication of the final voters list and to provide to it a midterm report no later than 22 October 2010 and a full report no later than 30 November 2010 on the situation on the ground, the implementation of this resolution, and on the revised benchmarks referred to in paragraph 26 above and which includes possible adjustments in UNOCI's structure and strength and *requests further* the Secretary-General to submit to it recommendations in this regard as appropriate;

29. *Expresses its intention* to review the mandate, structure and strength of UNOCI, the authorization provided to the French forces which support it and the benchmarks referred to in paragraph 26 above by 31 December 2010, and to consider all options including those listed in the Secretary-General's report of 20 May 2010 (S/2010/245), in light of the consolidation of the stability of the situation, the implementation of the key steps of the peace process, the status of elections, and the political will demonstrated by the Ivorian parties;

30. *Decides* to remain actively seized of the matter.



Resolution 1967 (2011)

**Adopted by the Security Council at its 6469th meeting, on
19 January 2011**

The Security Council,

Recalling its previous resolutions, in particular resolution 1962 (2010), 1951 (2010), 1946 (2010), 1942 (2010) and 1933 (2010) and statements of its President relating to the situation in Côte d'Ivoire and in the subregion,

Recalling the letter of Secretary-General dated 7 January 2011 (S/2011/5) which recommended the temporary deployment of an additional 2,000 military personnel to the United Nations Operation in Côte d'Ivoire (UNOCI), until 30 June 2011, in addition to the temporary military and police capabilities authorized by resolution 1942 (2010),

Recalling the inter-mission cooperation arrangements provided for in paragraphs 4 to 6 of Security Council resolution 1609 (2005) and in paragraph 6 of resolution 1938 (2010) and recalling paragraph 7 of resolution 1962 (2010) and its intention to consider authorizing the Secretary-General to redeploy further troops, as may be needed, between the United Nations Mission in Liberia (UNMIL) and UNOCI on a temporary basis,

Commending the initiatives of the Secretary-General and reaffirming its full support for his Special Representative in Côte d'Ivoire to carry out his mandate in view of resolving the situation peacefully,

Expressing deep concern over the continued violence and human rights violations in Côte d'Ivoire, including against United Nations (UN) peacekeepers and civilians and *stressing* that those responsible for crimes against United Nations personnel and civilians must be held accountable,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to authorize, as recommended by the Secretary-General in his letter dated 7 January 2011 (S/2011/5), the deployment of an additional 2,000 military personnel to UNOCI until 30 June 2011;

2. *Decides* to authorize, as recommended by the Secretary-General in his letter dated 7 January 2011 (S/2011/5), to extend up to 30 June 2011 the temporary additional military and police capabilities authorized by resolution 1942 (2010);



3. *Decides* to authorize the Secretary-General, further to resolution 1951 (2010) and paragraph 6 of resolution 1962 (2010), to extend by up to four additional weeks the temporary redeployment from UNMIL to UNOCI of three infantry companies and one aviation unit comprised of two military utility helicopters;
4. *Decides* to authorize the transfer, on a temporary basis and pursuant to paragraphs 4 and 6 of Security Council resolution 1609 (2005), of three armed helicopters with crews from UNMIL to UNOCI for a period of four weeks, as recommended by the Secretary-General in his letter dated 7 January 2011 (S/2011/5) and requests the Secretary-General to keep it informed of efforts made in this regard;
5. *Decides* to authorize the deployment of 60 formed police unit personnel to meet threats posed by unarmed crowds, as recommended by the Secretary-General in his letter dated 7 January 2011 (S/2011/5), which will replace 60 United Nations police officers;
6. *Requests* the Secretary-General to include a review of the temporary personnel deployments as set out in paragraphs 1, 2 and 5 above in his midterm review due no later than 31 March 2011;
7. *Decides* to authorize the immediate deployment of the additional capacities as set out in paragraphs 1, 4 and 5 above and *requests* the support of troop- and police-contributing countries in that regard;
8. *Reiterates* its authorization and its full support given to the Special Representative of the Secretary-General to use all necessary means to carry out UNOCI's mandate, including protection of civilians and to ensure its freedom of movement, within its capabilities and its areas of deployment;
9. *Demands* that all parties abide scrupulously by their obligation to respect the safety of UNOCI and other UN personnel and ensure that the freedom of movement of UNOCI and French Forces which support it, is fully respected, with unhindered and immediate access throughout the territory of Côte d'Ivoire, including to all the administrative and State bodies, and further *urges* that the ongoing blockade around the Golf Hotel be lifted without delay;
10. *Demands* without prejudice to freedom of expression an immediate halt to the use of media, especially Radiodiffusion Télévision Ivoirienne (RTI), to propagate false information and to incite hatred and violence, including against the UN and particularly UNOCI;
11. *Reiterates* its readiness to impose measures, including targeted sanctions against those who obstruct the work of UNOCI, as underlined in UN Security Council resolutions 1946 (2010) and 1962 (2010);
12. *Decides* to remain actively seized of the matter.



Security Council

Distr.: General
30 March 2011

Resolution 1975 (2011)

**Adopted by the Security Council at its 6508th meeting,
on 30 March 2011**

The Security Council,

Recalling its previous resolutions, in particular resolutions 1572 (2004), 1893 (2009), 1911 (2010), 1924 (2010), 1933 (2010), 1942 (2010), 1946 (2010), 1951 (2010), 1962 (2010), 1967 (2011), 1968 (2011) and the statements of its President relating to the situation in Côte d'Ivoire, and resolution 1938 (2010) on the situation in Liberia,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, and *recalling* the importance of the principles of good-neighbourliness, non-interference and regional cooperation,

Reiterating its strong desire that the post-electoral crisis in Côte d'Ivoire be resolved peacefully and require an overall political solution that preserves democracy and peace and promotes lasting reconciliation among Ivoirians,

Commending the constructive efforts of the African Union High-level Panel for the resolution of the crisis in Côte d'Ivoire and *reiterating* its support to the African Union and the Economic Community of West African States (ECOWAS) for their commitment to resolve the crisis in Côte d'Ivoire,

Welcoming the decision of the Peace and Security Council of the African Union adopted at its 265th meeting at the level of Heads of State and Government, held on 10 March 2011 in Addis Ababa, which reaffirms all its previous decisions on the rapidly deteriorating post-electoral crisis facing Côte d'Ivoire since the second round of the presidential election, on 28 November 2010, which recognize the election of Mr Alassane Dramane Ouattara as the President of the Republic of Côte d'Ivoire,

Welcoming the political initiatives and noting the communiqué and the resolution on Côte d'Ivoire adopted by the Authority of Heads of State and Government of ECOWAS on 24 March 2011,

Expressing grave concern about the recent escalation of violence in Côte d'Ivoire and the risk of relapse into civil war and *urging* all parties to show utmost restraint to prevent such outcome and to resolve their differences peacefully,



Condemning unequivocally all provocative action and statements that constitute incitement to discrimination, hostility, hatred and violence made by any party,

Condemning the serious abuses and violations of international law in Côte d'Ivoire, including humanitarian, human rights and refugee law, *reaffirming* the primary responsibility of each State to protect civilians and *reiterating* that parties to armed conflicts bear the primary responsibility to take all feasible steps to ensure the protection of civilians and facilitate the rapid and unimpeded passage of humanitarian assistance and the safety of humanitarian personnel, *recalling* its resolutions 1325 (2000), 1820 (2008), 1888 (2009) and 1889 (2009) on women, peace and security, its resolution 1612 (2005) and 1882 (2009) on children and armed conflict and its resolution 1674 (2006) and 1894 (2009) on the protection of civilians in armed conflicts,

Welcoming the Human Rights Council resolution A/HRC/16/25 of 25 March 2011, including the decision to dispatch an independent international commission of inquiry to investigate the facts and circumstances surrounding the allegations of serious abuses and violations of human rights committed in Côte d'Ivoire following the presidential elections of 28 November 2010,

Stressing that those responsible for such serious abuses and violations, including by forces under their control, must be held accountable,

Reaffirming that it is the responsibility of Côte d'Ivoire to promote and protect all human rights and fundamental freedoms, to investigate alleged violations of human rights and international law and to bring to justice those responsible for such acts,

Considering that the attacks currently taking place in Côte d'Ivoire against the civilian population could amount to crimes against humanity and that perpetrators of such crimes must be held accountable under international law and noting that the International Criminal Court may decide on its jurisdiction over the situation in Côte d'Ivoire on the basis of article 12, paragraph 3 of the Rome Statute,

Determining that the situation in Côte d'Ivoire continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Urges* all the Ivorian parties and other stakeholders to respect the will of the people and the election of Alassane Dramane Ouattara as President of Côte d'Ivoire, as recognized by ECOWAS, the African Union and the rest of the international community, *expresses* its concern at the recent escalation of violence and *demand*s an immediate end to the violence against civilians, including women, children and Internally displaced persons;

2. *Calls upon* all parties to pursue the overall political solution of the African Union and, in this regard, *welcomes* the decision of the African Union Peace and Security Council Summit of 10 March to appoint a High Representative for the implementation of the overall political solution and calls upon all parties to fully cooperate with him;

3. *Condemns* the decision of Mr. Laurent Gbagbo not to accept the overall political solution proposed by the High-Level panel put in place by the African Union, and *urges* him to immediately step aside;

4. *Urges* all Ivorian State institutions, including the Defence and Security Forces of Côte d'Ivoire (FDSCI), to yield to the authority vested by the Ivorian people in President Alassane Dramane Ouattara, *condemns* the attacks, threats, acts of obstructions and violence perpetrated by FDSCI, militias and mercenaries against United Nations personnel, obstructing them from protecting civilians, monitoring and helping investigate human rights violations and abuses, *stresses* that those responsible for such crimes under international law must be held accountable and *calls upon* all parties, in particular Mr. Laurent Gbagbo's supporters and forces, to fully cooperate with the United Nations Operation in Côte d'Ivoire (UNOCI) and cease interfering with UNOCI's activities in implementation of its mandate;

5. *Reiterates* its firm condemnation of all violence committed against civilians, including women, children, internally displaced persons and foreign nationals, and other violations and abuses of human rights, in particular enforced disappearances, extrajudicial killings, killing and maiming of children and rapes and other forms of sexual violence;

6. *Recalls* its authorization and *stresses* its full support given to the UNOCI, while impartially implementing its mandate, to use all necessary means to carry out its mandate to protect civilians under imminent threat of physical violence, within its capabilities and its areas of deployment, including to prevent the use of heavy weapons against the civilian population and requests the Secretary-General to keep it urgently informed of measures taken and efforts made in this regard;

7. *Calls upon* all parties to cooperate fully in the operation of UNOCI and French forces which support it, in particular by guaranteeing their safety, security and freedom of movement with unhindered and immediate access throughout the territory of Côte d'Ivoire, to enable them to fully carry out their mandate;

8. *Calls upon* all parties to fully cooperate with the independent international commission of inquiry put in place by the Human Rights Council on 25 March 2011 to investigate the facts and circumstances surrounding the allegations of serious abuses and violations of human rights committed in Côte d'Ivoire following the presidential elections of 28 November 2010, and *requests* the Secretary-General to transmit this report to the Security Council and other relevant international bodies;

9. *Condemns* the use of Radiodiffusion Télévision Ivoirienne (RTI) and other media to incite discrimination, hostility, hatred and violence, including against UNOCI, as well as acts of intimidation and violence against journalists, and *calls for* the lifting of all restrictions placed on the exercise of the right of freedom of expression in Côte d'Ivoire;

10. *Expresses* deep concern about the increasing number of internally displaced persons and Ivorian refugees, especially in Liberia, caused by the crisis in Côte d'Ivoire, and *calls on* all Ivorian parties to cooperate fully with United Nations agencies and other actors working to enhance access to humanitarian aid to refugees and internally displaced persons;

11. *Reiterates* its longstanding demand that Mr. Laurent Gbagbo lift the siege of Golf Hotel without delay;

12. *Decides* to adopt targeted sanctions against those individuals who meet the criteria set out in resolution 1572 (2004) and subsequent resolutions, including those individuals who obstruct peace and reconciliation in Côte d'Ivoire, obstruct the work of UNOCI and other international actors in Côte d'Ivoire and commit serious violations of human rights and international humanitarian law, and therefore *decides* that the individuals listed in Annex I of this resolution shall be subject to the financial and travel measures imposed by paragraphs 9 to 11 of resolution 1572 (2004), and *reaffirms* its intention to consider further measures, as appropriate, including targeted sanctions against media actors who meet the relevant sanctions criteria, including by inciting publicly hatred and violence;

13. *Decides* to remain actively seized of the matter.

Annex I

Targeted sanctions

1. Laurent Gbagbo
 Date of birth: 31 May 1945
 Place of birth: Gagnoa, Côte d'Ivoire
 Former President of Côte d'Ivoire: obstruction of the peace and reconciliation process, rejection of the results of the presidential election.
2. Simone Gbagbo
 Date of birth: 20 June 1949
 Place of birth: Moossou, Grand-Bassam, Côte d'Ivoire
 Chairperson of the Parliamentary Group of the Ivorian Popular Front (FPI): obstruction of the peace and reconciliation process, public incitement to hatred and violence.
3. Désiré Tagro
 Passport number: PD – AE 065FH08
 Date of birth: 27 January 1959
 Place of birth: Issia, Côte d'Ivoire
 Secretary-General in the so-called “presidency” of Mr. Gbagbo: participation in the illegitimate government of Mr. Gbagbo, obstruction of the peace and reconciliation process, rejection of the results of the presidential election, participation in violent repressions of popular movements.
4. Pascal Affi N'Guessan
 Passport number: PD-AE 09DD00013.
 Date of birth: 1 January 1953
 Place of birth: Bouadriko, Côte d'Ivoire
 Chairman of the Ivorian Popular Front (FPI): obstruction of the peace and reconciliation process, incitement to hatred and violence.
5. Alcide Djédjé
 Date of birth: 20 October 1956
 Place of birth: Abidjan, Côte d'Ivoire
 Close advisor to Mr. Gbagbo: participation in the illegitimate government of Mr. Gbagbo, obstruction of the peace and reconciliation process, public incitement to hatred and violence.



Resolution 2000 (2011)

Adopted by the Security Council at its 6591st meeting, on 27 July 2011

The Security Council,

Recalling its previous resolutions, in particular resolutions 1933 (2010), 1942 (2010), 1951 (2010), 1962 (2010), 1967 (2011), 1968 (2011), 1975 (2011), 1980 (2011), 1981 (2011), and 1992 (2011) and the statements of its President relating to the situation in Côte d'Ivoire, and resolution 1938 (2010) on the situation in Liberia,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, and recalling the importance of the principles of good-neighbourliness, non-interference and regional cooperation,

Welcoming the report of the Secretary-General of 24 June 2011 (S/2011/387) and taking note of its recommendations, including of the assessment mission that deployed to Côte d'Ivoire from 1 to 14 May 2011,

Welcoming the progress towards restoring stability and peace in Côte d'Ivoire following the inauguration of Alassane Dramane Ouattara as President of the Republic of Côte d'Ivoire on 21 May 2011,

Commending President Ouattara's commitment and initiatives to promote dialogue, justice and reconciliation, including the establishment of the Dialogue, Truth and Reconciliation Commission, and *calling upon* all the Ivorian actors to work together in their efforts for the stabilization and reconstruction of the country,

Taking note that the Prosecutor of the International Criminal Court has requested authorization from the Pre-Trial Chamber to open an investigation into war crimes and crimes against Humanity in Côte d'Ivoire since 28 November 2010, on the basis of the declaration lodged by Côte d'Ivoire accepting the jurisdiction of the Court, pursuant to article 12, paragraph 3, of the Rome Statute,

Taking note of President Ouattara's request that President Blaise Compaoré of Burkina Faso ("The Facilitator"), continue to assist the Ivorian Government in implementing the unfinished aspects of the peace process and Ouagadougou Agreements,

Expressing its concern about the continuing precarious and volatile security situation and *recalling* that the Ivorian Government bears primary responsibility for ensuring peace, stability and the protection of the civilian population in Côte d'Ivoire,

Taking note of the establishment of the Forces républicaines de Côte d'Ivoire (FRCI) by a decree issued by President Ouattara on 17 March, replacing the former Forces de sécurité et de défense de Côte d'Ivoire (FDSCI), and *stressing* the need for an inclusive process of security sector reform,

Taking note of the remaining high risk of a relapse into renewed armed conflict and attacks against the civilian population, notably by ex-Republican Guards soldiers, militias, mercenaries, escaped prisoners and other illegal armed elements as referred to in the report of the Secretary General (S/2011/387),

Recalling that the last legislative elections were held on 10 December 2000 and *emphasizing* that the holding of credible, free and fair legislative elections is critical for the full restoration of constitutional order in Côte d'Ivoire, national reconciliation and inclusive governance,

Stressing the importance of an inclusive participation of the Ivorian civil society, men and women alike, in the electoral process, and of ensuring the equal protection of and respect for human rights of all Ivorian stakeholders as they relate to the electoral system, and in particular respect for freedom of opinion and expression,

Strongly condemning the atrocities, serious human rights abuses and violations as well as violations of international humanitarian law that occurred throughout the post-elections crisis, including extrajudicial killing, maiming, arbitrary arrest and abduction of civilians, enforced disappearances, acts of revenge, sexual and gender-based violence, including against children, and the alleged recruitment and use of children in the conflict throughout the country and particularly in Abidjan and the west,

Strongly condemning also the attacks and harassment against United Nations Personnel that occurred during the post-electoral crisis and *reiterating* that these acts constitute violations of international law,

Stressing the importance to investigate alleged human right abuses and violations committed by all parties, further *reaffirming* that those responsible for such abuses and violations, regardless of their affiliation, must be held accountable, and *welcoming* President Ouattara's commitment in this regard,

Taking note of the report (A/HRC/17/48) and recommendations of the International Commission of Inquiry established by resolution 16/25 (2011) of the Human Rights Council,

Commending the African Union and the Economic Community of West African States (ECOWAS) for their efforts during the post-elections crisis and *encouraging* them to remain committed in support of the stabilization of the situation in Côte d'Ivoire and the implementation of the outstanding tasks of the peace process,

Commending the contribution of troop- and police-contributing countries and donors to United Nations Operation in Côte d'Ivoire (UNOCI),

Recalling its resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), and 1960 (2010) on women, peace and security, its resolutions 1612 (2005), 1882 (2009), and 1998 (2011) on children and armed conflict, and its resolutions 1674 (2006) and 1894 (2009) on the protection of civilians in armed conflicts, and

reiterating the vital role of women in conflict resolution and peacebuilding and their key role in re-establishing the fabric of societies recovering from conflict,

Determining that the situation in Côte d'Ivoire continues to pose a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to extend the mandate of UNOCI until 31 July 2012;
2. *Decides* that the authorized strength of UNOCI's military component shall remain at 9,792 personnel, comprising of 9,600 troops and staff officers, including 2,400 additional troops authorized by resolutions 1942 (2010) and 1967 (2011), and 192 military observers;
3. *Decides* that the authorized strength of UNOCI's police component shall remain at 1,350 personnel, and *decides* further to maintain the 8 customs officers previously authorized;
4. *Decides* to authorize an increase of the individual police personnel by 205 advisers, with the appropriate skills, who should be experts in the specialized areas identified in the Secretary General's report, to be accommodated through appropriate adjustments to the military and police strength of the Mission, within the authorized strength of military and police personnel of UNOCI;
5. *Decides* that the additional 2,000 troops authorized by resolution 1967 (2011) and the additional 400 troops and 100 police authorized by resolution 1942 (2010) are necessary for the stabilization of Côte d'Ivoire, including the establishment of a security environment conducive to the legislative elections;
6. *Reiterates* that, pursuant to paragraph 4 of resolution 1933 (2010) and previous resolutions, the Special Representative of the Secretary-General shall certify that all stages of the upcoming legislative elections provide all the necessary guarantees for open, free, fair and transparent elections, in accordance with international standards and the agreed criteria;
7. *Decides* that UNOCI shall have the following mandate:

Protection and security

(a) *Protection of civilians*

- To protect, without prejudice to the primary responsibility of the Ivorian authorities, the civilian population from imminent threat of physical violence, within its capabilities and areas of deployment,
- To revise the comprehensive strategy for the protection of civilians and to coordinate with the United Nations protection of civilians strategy in liaison with the United Nations country team, to take into account the new realities on the ground and the specific needs of vulnerable groups, and to include measures to prevent gender-based violence pursuant to resolution 1960 (2010) and resolution 1882 (2009),
- To work closely with humanitarian agencies, particularly in relation to areas of tensions and of return of displaced persons, to collect information on and identify potential threats against the civilian population, as well as reliable

information on violations of international humanitarian and human rights law, bring them to the attention of the Ivorian authorities as appropriate, and to take appropriate action in accordance with the United Nations system-wide protection strategy in harmonization with UNOCI's protection strategy,

- To monitor and report on violations and abuses against vulnerable populations, including children in line with resolution 1612 (2005), 1882 (2009) and 1998 (2011) and contribute to efforts to prevent such violations and abuses,

(b) Address remaining security threats and border-related challenges

- To continue to support, within its existing authorities, capabilities, and its areas of deployment, the national authorities in stabilizing the security situation in the country,
- To continue to monitor and deter the activities of militias, mercenaries and other illegal armed groups consistent within its existing mandate to protect civilians, and to keep the Council regularly informed of developments in this regard,
- To support the Government in monitoring and addressing cross-border security and other challenges along its borders and in border areas, notably with Liberia, with particular attention to the cross-border movement of armed elements and weapons and, to this end, to coordinate closely with the United Nations Mission in Liberia (UNMIL) with a view to further inter-mission cooperation, such as undertaking joint patrols and contingency planning where appropriate and within their mandates and capabilities,
- To liaise with the FRCI in order to promote mutual trust among all elements composing the FRCI,
- To support, in coordination with the Government, the provision of security for members of the Government of Côte d'Ivoire and key political stakeholders, including in view of the preparation and the holding of the upcoming legislative elections,

(c) Monitoring of the arms embargo

- To monitor the implementation of the measures imposed by paragraph 7 of resolution 1572 (2004), in cooperation with the Group of Experts established under resolution 1584 (2005), including by inspecting, as they deem it necessary and when appropriate without notice, all weapons, ammunition and related materiel regardless of location, consistent with its resolution 1980 (2011),
- To collect, as appropriate, arms and any related materiel brought into Côte d'Ivoire in violation of the measures imposed by paragraph 7 of resolution 1572 (2004), and to dispose of such arms and related materiel as appropriate,

(d) Collection of weapons

- To continue to assist the national authorities, including the National Commission to fight against the Proliferation and Illicit Traffic of Small Arms and Light Weapons, in collecting, registering, securing and disposing of weapons and in clearing explosive remnants of war, as appropriate, in accordance with resolution 1980 (2011),

- To support the Government in coordination with other partners to develop and implement community weapons collection programs, which should be linked to community violence reduction and reconciliation,
- To coordinate, with the Government in ensuring that the collected weapons are not disseminated or re-utilized outside a comprehensive national security strategy, as referred to in point (f) below,

(e) *Disarmament, demobilization and reintegration programme (DDR)*

- To assist the Government, in close coordination with other international and bilateral partners, in developing and implementing without delay a new national programme for the disarmament, demobilization and reintegration of combatants and dismantling of militias and self-defence groups, that includes clear individual criteria and is tailored to the new context, taking into account the rights and needs of the different categories of persons to be disarmed, demobilized and reintegrated, including children and women,
- To continue to support the registration and screening of former combatants,
- To support the disarmament and repatriation of foreign armed elements, where relevant in cooperation with UNMIL and United Nations country teams in the region,

(f) *Reconstitution and reform of security and rule of law institutions*

- To assist the Government in conducting, without delay and in close coordination with other international partners, a sector-wide review of the security institutions and in developing a comprehensive national security strategy and plans for their reform, taking also into account the national DDR programme,
- Under the leadership of the Ivorian Government and in close cooperation with international stakeholders, to support effective coordination, transparency and harmonization of efforts, as well as a clear division of tasks and responsibilities, by all international partners involved in assisting the security sector reform (SSR) process, and to report to the Council, when appropriate, on developments in the SSR process,
- To advise the Government of Côte d'Ivoire, as appropriate, on security sector reform and the organization of the future National Army, to facilitate the provision of, within its current resources, as requested by the Government and in close coordination with other international partners, training in human rights, child protection and protection from sexual- and gender-based violence to the security and law enforcement institutions, as well as support for capacity development through technical assistance, co-location and mentoring programmes for the police, gendarmerie, justice and corrections officers and to contribute to restoring their presence throughout Côte d'Ivoire and to offer support with regard to the development of a sustainable vetting mechanism for personnel that will be absorbed in security sector institutions,
- To support the Government's development and implementation of a national justice sector strategy as well as the development and implementation of a multi-year joint United Nations justice support programme in order to develop the police, judiciary, prisons and access to justice in Côte d'Ivoire, as well as

the initial emergency rehabilitation of relevant infrastructure and the provision of equipment, within existing resources and in coordination with international partners,

- To support, within its current resources and in collaboration with the broader United Nations system, reconciliation, including the establishment and functioning of mechanisms to prevent, mitigate or resolve conflict, in particular at the local level, as well as to foster social cohesion,

(g) Support for efforts to promote and protect human rights

- To contribute to the promotion and protection of human rights in Côte d'Ivoire, with special attention to grave violations and abuses committed against children and women, notably sexual and gender-based violence, in close coordination with the Independent Expert established under the Human Rights Council's resolution A/HRC/17/27,
- To monitor, help investigate, and report publicly and to the Council, on human rights and humanitarian law violations with a view to preventing violations, developing a protecting environment and ending impunity, and, to this end, to strengthen its human rights monitoring, investigation and reporting capacity,
- To bring to the attention of the Council all individuals identified as perpetrators of serious human rights violations and to keep the Committee established pursuant to resolution 1572 (2004) regularly informed of developments in this regard,
- To support the efforts of the Ivorian Government in combating sexual and gender-based violence, including through contributing to the development of a nationally owned multisectoral strategy in cooperation with UN Action Against Sexual Violence in Conflict entities, to appoint Women Protection Advisers and to ensure gender expertise and training, as appropriate and from within existing resources, in accordance with resolutions 1888 (2009), 1889 (2009) and 1960 (2011),

(h) Support humanitarian assistance

- To continue to facilitate unhindered humanitarian access and to help strengthening the delivery of humanitarian assistance to conflict-affected and vulnerable populations, notably by contributing to enhance security conducive to this delivery,
- To support the Ivorian authorities in preparing for the voluntary, safe and sustainable return of refugees and displaced persons in cooperation with relevant humanitarian organizations, and in creating security conditions conducive to it,

Peace and electoral process

(i) Support for the organization and conduct of open, timely, free, fair and transparent legislative elections,

- To promote an inclusive political process and support the creation of a political environment conducive to the upcoming elections, including in coordination with efforts undertaken by ECOWAS and the African Union,

- To support the organization and conduct of open, free, fair and transparent legislative elections, provide appropriate logistical and technical assistance and assist the Government to put in place effective security arrangements,
- To provide technical and logistical support to assist the Independent Electoral Commission in completing outstanding tasks prior to the holding of the legislative elections and to facilitate, as required, consultations between all political stakeholders as well as with the Independent Electoral Commission to this end,
- To undertake the coordination of international observers and to contribute to their security, within its capabilities and areas of deployment,
- To provide the Special Representative of the Secretary-General the necessary assistance to fulfil his role of certifying the legislative elections consistent with paragraph 6 above, taking into account the specificity of legislative elections,

(j) *Public information*

- To continue to closely monitor the Ivorian media and continue to facilitate providing assistance, as appropriate, to media and regulatory bodies, consistent with its mandate,
- To continue to use UNOCI's broadcasting capacity, through ONUCI FM, to contribute to the overall effort to create a peaceful environment, including for the legislative elections,
- To encourage the Ivorian mass media and the main political actors to fully implement the Code of Good Conduct for elections that the Ivorian parties have signed under the auspices of the Secretary-General as well as to sign up and adhere to the Code of Good Conduct for the media,
- To monitor any public incidents of incitement to hatred, intolerance and violence, and bring to the attention of the Council all individuals identified as instigators of political violence, and to keep the Committee established under resolution 1572 (2004) regularly informed of developments in this regard,

(k) *Redeployment of State administration and the extension of State authority throughout the country*

- To support the Ivorian authorities to extend and re-establish effective State administration and strengthen public administration in key areas throughout the country, at the national and local levels, as well as the implementation of the unfinished aspects of the Ouagadougou Agreements as they relate to the reunification of the country,

(l) *Facilitation*

- To coordinate with the Facilitator and his Special Representative in Abidjan, to assist the Government in the implementation of the outstanding tasks of the peace process, as needed and within available means, including by providing logistical support to the office of the Special Representative as appropriate,

(m) *Protection of United Nations personnel*

– To protect United Nations personnel, installations and equipment, and ensure the security and freedom of movement of United Nations personnel,

8. *Decides* to continue its authorization given to UNOCI to use all necessary means to carry out its mandate, within its capabilities and its areas of deployment, pursuant to resolutions 1933 (2010) and 1962 (2010);

9. *Welcomes* the establishment of the Dialogue, Truth and Reconciliation Commission by a decree issued by President Ouattara on 13 May 2011, *encourages* the Government to ensure that the Commission becomes fully operational as soon as possible, and further *calls upon* the United Nations system to support its work, with a view to ensuring that it will function in a manner consistent with Côte d'Ivoire's international obligations;

10. *Calls upon* the Government to take the necessary steps to re-establish and reinforce relevant institutions, including the judiciary, police and corrections services, and further to ensure the effective protection of human rights and accountability for all perpetrators of human rights violations and abuses in Côte d'Ivoire;

11. *Calls upon* the Government to ensure that the conditions of protection and detention of former President Gbagbo, his wife, former officials and any other detainees are in line with international obligations, including with regard to access by relevant organizations with a mandate to monitor detention centres, and fulfil their prosecutions and trials in accordance with international obligations relating to due process and fair trial requirements;

12. *Calls upon* UNOCI, where consistent with its existing authorities and responsibilities, to support national and international efforts to bring to justice perpetrators of grave violations of human rights and international humanitarian law in Côte d'Ivoire;

13. *Urges* all parties to cooperate fully with the operations of UNOCI and of the French Forces, which support it, in particular by ensuring their safety, security and freedom of movement with unhindered and immediate access throughout the territory of Côte d'Ivoire to enable them to fully carry out their mandates;

14. *Calls upon* the United Nations Country Team to contribute to the planning and the implementation of microprojects, in consultation with the Government and close collaboration with the United Nations Development Programme (UNDP) and interested international partners, to provide sustainable alternative livelihoods for some former combatants, as part of the socio-economic reintegration component of the national DDR programme;

15. *Encourages* ECOWAS to develop, with the support of the United Nations Office for West Africa (UNOWA), a subregional strategy to address the threat of the cross-border movements of armed groups and weapons as well as illicit trafficking, with the assistance of UNOCI and UNMIL, as appropriate;

16. *Calls upon* the Government and all international partners, including private companies, involved in assisting the Government in the reform of the security sector, to comply with the provisions of resolution 1980 (2011) and to coordinate their efforts with a view to promoting transparency and a clear division of labour among all international partners;

17. *Decides* to extend until 31 July 2012 the authorization that the Security Council provided to the French Forces in order to support UNOCI, within the limits of their deployment and their capabilities;

18. *Requests* the Secretary-General to provide to it a midterm report no later than 31 December 2011 and a final report no later than 30 June 2012 on the situation on the ground and the implementation of this resolution, and further *requests* the Secretary-General to regularly brief and inform it on the significant events of the electoral process, including on UNOCI's support to this process;

19. *Requests* the Secretary-General to submit to it, through the midterm report referred to in paragraph 18 above or through a special report no later than 31 March 2012, taking into account the holding of the upcoming legislative elections as well as the prevailing security challenges and progress in rebuilding national capacities, recommendations on possible adjustments in UNOCI's structure and strength;

20. *Decides* to remain seized of the matter.

연구총서

2009-01	북한 비핵화를 위한 한·미 전략적 협력에 관한 연구	전성훈	7,500원
2009-02	세계경제위기와 미·중관계 변화 연구: 북한 핵문제에 미치는 영향	황병덕, 신상진	9,000원
2009-03	북한의 국력 평가 연구	전현준 외	10,000원
2009-04	북한경제의 시장화 실태에 관한 연구	임강택	9,000원
2009-05	21세기 한국의 동아시아국가들과 전략적 협력 강화방안	여인곤 외	10,000원
2009-06	북한체제 전환을 위한 전략적 과제와 한국의 동북아 4국 협력전략	배정호 외	10,000원
2009-07	북한 '변화'의 재평가와 대북정책 방향	박형중 외	10,000원
2009-08	북한 개방 유도 전략 목표, 기본방향 및 단계별 과제	최진욱 외	10,000원
2009-09	북한주민 인권의식 고취를 위한 전략적 인권외교의 방향	홍우택 외	6,500원
2009-10	통일대비 북한토지제도 개편방향 연구	허문영 외	9,000원
2009-11	북한인권 침해구조 및 개선전략	이금순, 김수암	7,500원
2009-12	통일대계 탐색연구	조민 외	8,000원
2009-13	Modernization and Opening-Up of North Korean Economy: Roles and Efforts of Neighboring Countries	김규륜 외	7,500원
2009-15	Peace-Keeping on the Korean Peninsula: The Role of Commissions	Gabriel Jonsson	20,000원
2010-01	북한 핵 보유 고수 전략의 도전과 대응	박형중 외	9,500원
2010-02	탈사회주의 경제이행 국가의 권력구조 유형과 개혁 경로: 포스트-김정일 체제에 대한 시사점	최진욱, 김진하	8,000원
2010-03	북한 개방화와 인권개선 방안연구	김국신, 김연수, 서보혁	7,000원
2010-04	북한의 체제위기와 사회갈등	조한범, 양문수, 조대엽	7,500원
2010-05	오바마 행정부 출범 이후 동북아전략 환경의 변화와 한국의 동북아 4국 통일외교전략	배정호 외	12,500원
2010-06	북한주민 인권의식 실태연구	이금순, 전현준	8,500원
2010-07	리진·선봉지역 물류분야 남북 협력방안 연구	김영윤, 추원서, 임을출	8,000원
2010-08	민족공동체 통일방안의 새로운 접근과 추진방안: 3대 공동체 통일구상 중심	박종철 외	11,500원
2010-09	통일한국의 정치체제	허문영 외	6,000원
2010-10	북한 핵에 대한 억지방향 연구	홍우택	5,000원
2010-11	북한의 포스트 김정일체제 전망	정영태 외	11,000원
2010-12	북한 주민의 의식과 정체성: 자아의 독립, 국가의 그늘, 욕망의 부상	조정아 외	17,000원
2010-13	북·중 경제관계와 남북경협의 대북 파급효과 비교분석	최수영	7,500원
2010-14	East Asian Community Building: Issue Areas and Perspectives of Regional Countries	김규륜 외	10,000원

2010-15(I)	신아시아 외교와 새로운 평화의 모색 I	김규륜 외	13,000원
2010-15(II)	신아시아 외교와 새로운 평화의 모색 II	김규륜 외	13,000원
2011-01	제2차 핵안보정상회의와 북한 핵문제	전성훈	14,500원
2011-02	북한군의 기강 해이에 관한 연구	이교덕 외	11,000원
2011-03	통일 진입과정에서의 북한 재건 방향	최진욱, 김진하	5,500원
2011-04	북한의 부문별 조직실태 및 조직문화 변화 종합연구	정영태	16,000원
2011-05	북한형사재판제도 연구: 특징과 실태	이규창, 정광진	8,000원
2011-06	북한주민의 삶의 질: 실태와 인식	김수암 외	12,000원
2011-07	한반도 평화와 북한 비핵화: 협력적 위협감축(CTR)의 적용방안	박종철 외	10,000원
2011-08	대북한 핵협상 전략구상방향	홍우택 외	6,000원
2011-09	중국의 부상에 대한 북한의 인식과 대응	허문영, 마민호	10,000원
2011-10	북한 핵의 국제정치와 한국의 대북 핵전략	배정호 외	11,000원
2011-11	평화통일을 위한 통일외교 전략	박영호 외	13,500원
2011-12(I)	중국의 G2 부상과 한반도 평화통일 추진전략 제1부	황병덕 외	15,500원
2011-12(II)	중국의 G2 부상과 한반도 평화통일 추진전략 제2부	황병덕 외	13,500원
2011-12(III)	중국의 G2 부상과 한반도 평화통일 추진전략 제3부	황병덕 외	18,000원

학술회의총서

2009-01	북핵 문제 해결 방향과 북한 체제의 변화 전망		6,500원
2009-02	북핵 일괄타결(Grand Bargain)방안 추진방향		5,500원
2010-01	이명박 정부 2년 대북정책 성과 및 향후 추진방향		8,000원
2010-02	독일 통일 20년과 한반도 통일비전		6,000원
2010-03	분단관리에서 통일대비로		5,500원
2010-04	독일 통일 20년과 한국의 통일대비		7,000원
2011-01	한반도 통일비전과 국제협력		4,000원
2011-02	제1차 사이오 인권포럼-북한인권 실상과 개입방안		8,500원

협동연구총서

2009-15-01	북한개발지원의 포괄적 추진방안(총괄보고서)	임강택 외	8,500원
2009-15-02	북한개발지원의 이론과 포괄적 전략	박형중 외	10,000원
2009-15-03	북한개발지원의 쟁점과 해결방안	김정수 외	10,000원
2009-15-04	북한개발지원을 위한 국제협력 방안	장형수 외	10,000원
2009-15-05	북한개발지원체제의 구축방안	이종무 외	9,000원
2009-15-06	지방자치단체의 북한개발지원 전략과 접근방법	양현모 외	10,000원
2009-16-01	복잡계 이론을 통한 북한의 정상국가화 방안 연구 (총괄보고서)	김국신 외	6,000원
2009-16-02	북한체제의 행위자와 상호작용	이교덕 외	8,000원
2009-16-03	북한 계획경제의 변화와 시장화	이 석 외	9,000원
2009-16-04	탈냉전 이후 국제관계와 북한의 변화	민병원 외	8,000원

2009-17-01	비핵·개방·3000 구상: 추진전략과 실행계획(총괄보고서)	여인곤 외	7,500원
2009-17-02	이명박 정부의 대북정책 및 추진환경과 전략	박종철 외	8,000원
2009-17-03	비핵·개방·3000 구상: 한반도 비핵화 실천방안	조민 외	9,000원
2009-17-04	비핵·개방·3000 구상: 북한의 개방화 추진방안	함택영 외	7,500원
2009-17-05	비핵·개방·3000 구상: 남북경제공동체 형성방안	조명철 외	7,000원
2009-17-06	비핵·개방·3000 구상: 행복공동체 형성방안	이금순 외	7,500원
2010-14-01	북한정보체계 실태조사(총괄보고서)	황병덕 외	12,000원
2010-14-02	북한정보체계 실태조사(上)	황병덕 외	14,000원
2010-14-03	북한정보체계 실태조사(下)	황병덕 외	13,000원
2010-15-01	이명박 정부 외교안보통일정책의 세부 실천방안 (총괄보고서)	여인곤 외	9,000원
2010-15-02	이명박 정부 외교안보통일정책의 추진환경 및 전략과 실천방안	박영호 외	9,500원
2010-15-03	이명박 정부 대북통일정책의 세부실천방안	허문영 외	7,000원
2010-15-04	이명박 정부 외교정책의 세부실천방안(1): 협력 네트워크 외교 분야	남궁영 외	7,500원
2010-15-05	이명박 정부 외교정책의 세부 실천방안(2): 포괄적 실리외교 분야	전재성 외	9,500원
2010-15-06	이명박 정부 안보정책의 세부 실천방안	이수훈 외	7,500원
2010-16-01	북한의 정상국가화 지원방안 연구(총괄보고서)	이교덕 외	7,000원
2010-16-02	북한의 정치부문 정상국가화 지원방안	전현준 외	7,500원
2010-16-03	북한 시장 진화에 관한 복잡계 시뮬레이션	조정아 외	14,000원
2010-16-04	북한의 정상국가화를 위한 국제사회의 지원방안	민병원 외	7,500원
2011-14-01	북한정보관리체계 개선방안(총괄보고서)	황병덕 외	14,500원
2011-14-02	북한정보관리체계 개선방안(上)	황병덕 외	13,000원
2011-14-03	북한정보관리체계 개선방안(中)	황병덕 외	12,000원
2011-14-04	북한정보관리체계 개선방안(下)	황병덕 외	13,500원
2011-15-01	북한 경제발전을 위한 국제협력 프로그램 연구: 국제사회의 경험 분석(총괄보고서)	임강택, 이상연	11,000원
2011-15-02	부패의 개념과 실태 및 반부패 개혁	박형중 외	10,000원
2011-15-03	체제전환국의 시장 - 민주제도 건설 지원	박영호, 캐스린버티니, 린리	13000원
2011-15-04	국제사회의 개발지원전략과 협력체계 연구	장형수, 김석진, 김정수	9,500원
2011-15-05	수원국의 역량발전을 위한 개발협력 전략과 사례	이종무, 김태균, 송정호	9,500원
2011-15-06	인프라 개발을 위한 국제협력 사례와 시사점	이상준, 남경민, 임을출	9,000원

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통일정책연구, 제18권 1호 (2009)	10,000원
<i>International Journal of Korean Unification Studies</i> , Vol. 18, No. 1 (2009)	20,000원

통일정책연구, 제18권 2호 (2009)		10,000원
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<i>International Journal of Korean Unification Studies</i> , Vol. 19, No. 2 (2010)		20,000원
통일정책연구, 제20권 1호 (2011)		10,000원
<i>International Journal of Korean Unification Studies</i> , Vol. 20, No. 1 (2011)		20,000원
통일정책연구, 제20권 2호 (2011)		10,000원

북한인권백서

북한인권백서 2009	이금순 외	10,000원
<i>White Paper on Human Rights in North Korea 2009</i>	이금순 외	20,000원
북한인권백서 2010	박영호 외	20,000원
<i>White Paper on Human Rights in North Korea 2010</i>	박영호 외	20,000원
북한인권백서 2011	김국신 외	17,500원
<i>White Paper on Human Rights in North Korea 2011</i>	김국신 외	17,500원

기타

2009 Lee Myung-bak Government's North Korea Policy	Suh, Jae-Jean	5,500원
2009 김정일 현지도도 동향 1994-2008		15,000원
2009 The U.S.-ROK Alliance in the 21st Century	Bae, Jung-Ho, Abraham Denmark	10,000원
2009 북한의 주요현안과 한-미 전략적 공조	배정호	10,000원
2009 오바마 행정부의 출범에 따른 미-중관계의 변화와 한반도	배정호	10,000원
2010 김정일 현지도도 동향 1994-2009		15,000원
2010 2010 독일통일백서		13,000원
2010 21세기 러시아의 국가전략과 한-러 전략적 동반자관계		10,500원
2010 Russian National Strategy and R.O.K.-Russian Strategic Partnership in the 21st Century		13,500원
2010 NPT 체제와 핵안보		13,000원
2010 Nuclear Security 2012: Challenges of Proliferation and Implication for the Korean Peninsula		15,000원
2010 통일 환경 평가(통일대계 연구 2010-01)	박종철 외	18,000원
2010 통일비전 개발(통일대계 연구 2010-02)	조민 외	12,000원
2010 독일의 평화통일과 통일독일 20년 발전상(통일대계 연구 2010-03)	황병덕 외	16,000원
2010 사회주의 체제전환 이후 발전상과 한반도통일-중국, 베트남 및 중동부 유럽 국가들의 사회주의 체제전환 중심 (통일대계 연구 2010-04)	황병덕 외	15,000원
2010 전환기의 북한과 통일담론(통일대계 연구 2010-05)	배정호 편저	11,000원

2010	한반도 통일과 주변 4국(통일대계 연구 2010-06)	최진욱 편저	11,000원
2010	Korean Unification and the Neighboring Powers (통일대계 연구 2010-07)	최진욱 편저	13,000원
2011	통일대비를 위한 북한변화 전략(통일대계연구 2011-01-1)	박형중 외	17,000원
2011	북한 변화를 위한 한-중 협력방안(통일대계연구 2011-01-2)	임강택, 김철, 민해봉	6,500원
2011	남북 친화력 확대 방안(통일대계연구 2011-02)	조 민 외	6,000원
2011	통일대비를 위한 국내과제(통일대계연구 2011-03)	박종철 외	13,000원
2011	통일외교 과제와 전략(통일대계연구 2011-04)	최진욱 외	13,000원
2011	US-China Relations and Korean Unification (Grand Plan for Korean Unification 2011-05)	최진욱 편저	12,000원
2011	통일 비용·편익 연구의 새로운 접근: 포괄적 연구요소의 도입과 대안의 모색 (통일 비용·편익 종합연구 11-01)	김규륜 외	19,000원
2011	체제전환 비용·편익 사례연구(통일 비용·편익 종합연구 11-02)	조한범 외	10,500원
2011	통일 비용·편익 추계를 위한 북한 공식경제부문의 실태 연구 (통일 비용·편익 종합연구 11-03)	임강택, 양문수, 이석기	9,500원
2011	2011년 통일에측시계구축	박영호, 김형기	7,500원
2011	한반도 통일과 동북아 4국의 입장과 역할	배정호 외	6,500원
2011	Korean Unification and the Positions and Roles of the Four Neighboring Powers	배정호 편	8,500원
2011	중국의 부상에 따른 동북아 전략환경의 변화와 한반도	배정호 편	12,000원
2011	2011 Unification Clock: When We See a Unified Korea? Park Young-Ho, Kim Hyeong Ki		4,000원
2011	알기쉬운 통일교육 12주제	허문영 외	15,000원

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2009	통일환경 및 남북한 관계 전망: 2009~2010	7,000원
2010	통일환경 및 남북한 관계 전망: 2010~2011	7,000원

통일정세분석

비매출

2008-12	한-러 정상회담 결과분석	여인곤
2009-01	2009년 북한 신년 공동사설 분석	최진욱, 전현준, 정영태, 조정아, 최수영, 박영호, 박형중
2009-02	하반기('08년 7월~12월) 북한의 정세 분석	최진욱, 임순희, 전현준, 정영태, 조정아, 최수영
2009-03	북한의 대남 비방 공세의 의도와 전망	최진욱, 전현준, 정영태
2009-04	북한의 제12기 최고인민회의의 대의원 선거 결과 분석	전현준
2009-05	2008년 북-중무역의 주요 특징	임강택, 박형중
2009-06	북한 최고인민회의의 제12기 제1차 회의 결과 분석	최수영, 정영태
2009-07	한-미 정상회담 결과분석	김국신
2010-01	2010년 북한 신년 공동사설 분석	임강택 외

2010-02	북한 최고인민회의 제12기 제2차 회의 결과 분석	최수영
2010-03	김정일 방중과 중국의 전략외교	배정호, 박영호, 전병곤
2010-04	2010상반기 북한정세 분석 보고서	정영태, 이교덕, 최수영, 임순희, 조정아
2010-05	독일통일 20주년 조망: 독일통일이 한반도 통일에 주는 시사점	황병덕
2010-06	야로슬라블 한-러 정상회담 결과 분석	여인곤
2010-07	북한 3대 세습 후계구도 분석 및 정책변화 전망	김진하
2011-01	2011년 북한 신년 공동사설 분석	최진욱 외
2011-02	미·중 정상회담의 의미와 한국의 전략적 고려사항	배정호 외
2011-03	2011년 미·중 정상회담 평가: 동북아 및 한반도에서의 함의	황병덕 외
2011-04	2009년 헌법 개정 이후 북한 노동법제 동향	이규창
2011-05	최근 북한 주민의 의식변화와 정책적 시사점	임순희
2011-06	최고인민회의 제12기 제4차 회의 결과 분석	임강택, 최진욱
2011-07	중동 민주화 혁명과 한반도 전략적 함의	배정호, 박영호, 박재적, 이기현
2011-08	북한의 여성권·아동권 관련 법 제정 동향	임순희, 김수암, 이규창
2011-09	상반기 북한정세 분석 보고서	최진욱, 임강택, 임순희, 정영태, 김진하, 한기범

KINU정책연구시리즈

2009-01	신평화구상 실현을 위한 전략과 과제	김규륜 외
2009-02(I)	접경지역의 평화시대 조성을 통한 남북교류 활성화 방안(I): 접경지역 평화적 이용을 위한 이론적 검토와 사례연구	손기웅 외
2009-02(II)	접경지역의 평화시대 조성을 통한 남북교류 활성화 방안(II): 접경지역 평화적 이용을 위한 기존제안 검토	손기웅 외
2009-03	대북정책의 대국민 확산방안	조한범 외
2009-04	통일 예측 시계 구축	박영호, 김지희
2009-05	북핵일지 1955-2009	조민, 김진하
2009-06	미국 대북방송 연구: 운용실태 및 전략을 중심으로	이원웅
2010-01	한반도 녹색성장을 위한 남북한 산림협력 법제 개선방안 예비연구	이규창
2010-02	2010년 통일예측시계	박영호 외
2010-03	북한 경제개발계획 수립방안 연구: 베트남 사례를 중심으로	임강택 외
2010-04(III)	접경지역의 평화시대 조성을 통한 남북교류 활성화 방안(III): 정책제안	손기웅 외
2010-04(IV)	접경지역의 평화시대 조성을 통한 남북교류 활성화 방안(IV): 2010년 「코리아 접경포럼」 자료집	손기웅 외
2011-01	재스민혁명의 분석과 북한에 대한 시사점	박종철 외
2011-02	창지투(長吉圖) 선도구와 북한나선특별시, 러시아 극동지역 간 경제협력 과제	림금숙
2011-03	6자회담과 남북관계: 전망과 대책	박종철 외
2011-04	보호책임(R2P)의 이론 및 실행, 그리고 한반도에서의 함의: 리비아 및 코트디부아르 사태를 중심으로	조정현
2011-05	남북러 가스관 사업의 효과, 쟁점, 과제	이윤식
2011-06	DMZ 총람: 개요, 정치·군사적 현황	손기웅 외
2011-07	DMZ 평화적 이용의 국가적 의미	손기웅 외

북한인권: 국제사회 동향과 북한의 대응

2009	북한인권: 국제사회 동향과 북한의 대응, 제4권 1호	박영호, 이금순, 김수암, 홍우택
2009	북한인권: 국제사회 동향과 북한의 대응, 제4권 2호	박영호, 이금순, 김수암, 홍우택
2010	북한인권: 국제사회 동향과 북한의 대응, 제5권 1호	김국신, 김영윤, 전현준, 이금순, 이규창
2010	북한인권: 국제사회 동향과 북한의 대응, 제5권 2호	김국신, 전현준, 이금순, 이규창
2011	북한인권: 국제사회 동향과 북한의 대응, 제6권 1호	김수암, 전현준, 이규창
2011	북한인권: 국제사회 동향과 북한의 대응, 제6권 2호	김수암, 김국신, 이규창

Studies Series

2009-01	The Evaluation of Regime Stability in North Korea:Scenario Workshop Choi Jin Wook, Kim Kook Shin, Park Hyeong Jung, Cheon Hyun Joon, Cho Jeong Ah Cha Moon Seok, Hyun Sung Il
2009-02	Developing Inter-Korean Economic Relations for the 'Advancement of the Korean Peninsula' Lim Kang Teag, Kim Kyu Ryoon, Jang Hyung Soo, Cho Han Bum, Choi Tae Uk
2009-03	The Everyday Lives of North Koreans Cho Jeong Ah, Suh Jae Jean, Lim Soon Hee, Kim Bo Geun, Park Young Ja
2009-04	North Korea's Regime Maintenance Policy Since the Kim Jong-il Regime and Prospects for Change Chon Hyun Joon, Jeung Young Tae, Choi Soo Young, Lee Ki Dong
2010-01	Strategy for Encouraging North Korean Opening: Basic Direction and Sequential Tasks Choi Jin Wook, Lee Kyo Duk, Cho Jeong Ah, Lee Jin Yeong, Cha Moon Seok
2010-02	Unification Clock: Predicting Korean Unification Park Young Ho
2011-01	A New Approach to the National Community Unification Formula Park Jong Chul, Hong Woo Taek, Lee Kyu Chang, Kim Philo, Chun Chae Sung, Cho Seong Ryoul, Hong Ihk Pyo, Hwang Sun Hye

기타

2010	2010 Unification Clock: When Will We see a Unified Korea	Park Young Ho
2010	In Search of New Peace on the Korean Peninsula	Kim Kyu-Ryoon

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