

## **INTERNATIONAL JUSTICE AND POLITICS IN LIBYA: A LOST OPPORTUNITY FOR THE INTERNATIONAL CRIMINAL COURT AND FOR A LASTING PEACE IN LYBIA**

**Laura GUERCIO\***

**ABSTRACT:***Libya is in a state of civil war, with rival militias battling for control of different parts of the country. In the three years since Muammar Gaddafi was toppled by Libyan rebels and Nato airstrikes, fighting between militia has plunged the country into civil war and seen Tripoli fall to Islamists. The involvement of Qatar, Egypt and the UAE risks a wider regional war . The daily situation appears so far from the so said Arab's Spring perspectives and illusions that in Libya involved the International Criminal Court also.*

*In fact, in a dramatic turn of events, both extraordinary and brutal, the beginning of 2011 pushed the excesses of the Arab Spring in Libya onto the agenda of the ICC. The effects of the Court on developments in conflict and post-conflict Libya speak to the sharp tensions between the pursuit of justice and the politics of law.*

*The situation in Libya is remarkable for the way peaceful protests deteriorated into indiscriminate bloodshed as well as the clarity and extent of the threat to civilian lives by the Gaddafi regime.*

*War crimes; attacks against civilians; mass rapes: this is a synthesis - if you can summarize- of the several and serious human rights violations perpetrated during the revolt against the Gaddafi regime in Libya, a very important country for the Mena area.<sup>1</sup>*

*After forty-two years of oppression and nine months of revolution, Libya liberated itself from Muammar Gaddafi's reign on October 23, 2011. In February 2011, the people of Libya rose up against their government, led by Muammar Gaddafi, who responded with anger, violence, and mass murder. For the following months, armed conflict pervaded Libya that threw into chaos. Libyans finally came face to face with the opportunity so to turn the page on their oppressed past and to begin a new chapter as a free and democratic society.*

*The Libya case, under examination before the International Criminal Court, the African Court on Human and Peoples' rights, and the national courts in Libya, is certainly an exemplary case for the international justice development.*

*This is for the countless challenges, innovations and issues characterizing the Libya case, but also for the shortcoming of the international justice, later resulting purely instrumental for political strategies and interests which have nothing to do with the justice aims.*

---

\* Phd Researcher University of Genoa, ITALY.

<sup>1</sup> This representative series of crimes were denounced in First Report of the Prosecutor of the International Criminal Court to the UN Security Council pursuant to UNSC RESOLUTION 1970 (2011) May 4, 2011 , par. 25 and 26. See also "Head of the Executive Committee of the TNC-Libya Mahmoud Jibril meets the ICC Prosecutor", ICCOTP-20110629-PR691. Available at: [www.icc.cpi.int](http://www.icc.cpi.int)

*In the Lybia case many unimportant challenges were lost by the International Criminal Court, but also by all the international political system, for the achievement of a clearer and more effective international criminal justice. For the first time the International Justice could assume the role of instrument for conflict resolutions: but it lost this opportunity. For the first time it could clarify the concept of country "ability", condition sine qua non for the supremacy of the national justice: but it lost this opportunity also. For the first time the international justice could have the opportunity of promoting solutions to ensure a widest applicability and lasting respect for Justice through the approach of a "positive complementarity" in favor of the States willing to uphold the national justice, but unable to do so in accordance with appropriate standards: but it lost also this opportunity. The International Criminal Court could face all these significant and important challenges and opportunities not only for the Lybia case, but for the general human rights protection system.*

**KEYWORDS:** *civil war, human rights violations, the ICC's intervention in Lybia, lack of cooperative justice*

**JEL CODE:** *K1*

---