

JUR5570 - International Criminal Law

Spring 2011

On February 23, 2011, the Chief Prosecutor of the [International Criminal Court](#) (ICC) [Luis Moreno-Ocampo](#) addressed the situation in Libya and the possibilities of bringing Muammar al-Gaddafi to justice for possible international crimes:

“The decision to do justice in Libya should be taken by the Libyan people. Currently, Libya is not a State Party to the Rome Statute. Therefore, intervention by the ICC on the alleged crimes committed in Libya can occur only if the Libyan authorities accept the jurisdiction of the Court, (through article 12(3) of the Rome Statute). In the absence of such step, the United Nations Security Council can decide to refer the situation to the Court. The Office of the Prosecutor will act only after either decision is taken.”

Three days later, on February 26, 2011, the UN Security Council adopted Resolution 1970, containing *inter alia* the following language:

“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;”

Answer the following questions:

1. How and when can the UN Security Council refer a situation to the ICC Prosecutor? Discuss the relevant rules under the Rome Statute of the ICC and the UN Charter.
2. Can the UN Security Council instruct the ICC Prosecutor to prosecute Muammar al-Gaddafi?
3. Comment on the following postulate:

“In order to avoid a long lasting war in Libya and thus save thousands of lives, the international community should offer Muammar al-Gaddafi an amnesty and let him go to another country to live in exile there.”

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