

Nr. 415E

13.11.2012

BOFAXE



Libya one year after Gaddafi: Still failing international law

Autor / Nachfragen

Dr. Robert Frau

Wiss. Mitarbeiter
Lehrstuhl für öffentliches
Recht, insb. Völkerrecht,
Europarecht und ausländisches
Verfassungsrecht,
Europa-Universität Viadrina
Frankfurt (Oder)

Nachfragen:
frau@europa-uni.de

Webseite

<http://www.ifhv.de>

Fokus

One year after the demise of the Gaddafi-regime, the new authorities fail to apply international law and fail to investigate and prosecute crimes under international law. The United Nations and Human Rights Watch both shed light on the troubling handling of international law by Libya.

Report UN Commission of Inquiry on Libya, 2 March 2012, UN Doc. A/HRC/19/68.

Human Rights Watch, Death of a Dictator – Bloody Vengeance in Sirte, October 2012.

Robert Frau, The Report of the ICIL – An Assessment, DarfurSituation.org Analysis No. 13, 24 May 2012.

Libya's post-revolutionary authorities want to be a new and just government with respect for international law – they are failing miserably. During Libya's civil war in 2011, both sides to the conflict violated international humanitarian and human rights law. Today, one year after the end of major combat in Libya, perpetrators of crimes under international law are only held responsible if it suits the new government. Adherence to international law is arbitrary. Or, in other words, the new government abuses its powers to protect loyal henchmen from punishment. This is obvious from three examples. From the very first day of the conflict, rebel forces from Misrata have targeted the inhabitants of **Tawergha**, believed to be loyal to the Gaddafi regime. This believe was in part based on the ethnic background of most Tawerghans. The people of the city were harassed, arrested and attacked by rebel forces before ultimately driven out of their town. Thus, the rebels' action may be described as ethnic cleansing. However, the National Transitional Council had expressively declined to stop the rebels' actions. In addition, no investigation has been launched and the return of Tawerghans has not been ensured; Tawergha remains an empty city. Second, close to the end of the conflict a large number of bodies were found at the **Mahari Hotel** in Sirte. UN and Human Rights Watch both report that the people were killed on site and that some victims had their hands bound behind their backs. Thus, from the circumstantial evidence follows a reasonable suspicion of unlawful killings. Again, no proceedings have been initiated. Third, **Muammar al-Gaddafi** and his son **Mutassim** were killed on 20 October 2011, along with many of their supporters. The facts leading to their deaths are quite clear from evidence gathered by the UN Commission of Inquiry on Libya and Human Rights Watch: Gaddafi, his son and approximately 200 men fled, were attacked by NATO and split into two groups. Later, both Muammar al-Gaddafi and Mutassim were captured. At the time of capture both were alive and suffered only minor injuries, as is evidenced by video footage. However, a few hours later both were dead. It is highly likely that both were killed while in custody. There are even confessions on videotape. Still, the UN has been reluctant to confirm the deaths as unlawful killings, for reasons unknown. Even if one shares the approach by the UN, there is at least a strong suspicion that crimes have been committed. Again, no national investigation has taken place as of today: Authorities neither gathered evidence, nor interrogated witnesses, let alone did they investigate the incidents at all. Legally speaking this amounts to a violation of human rights law as well as Libya's obligation under Security Council Resolution 1970 (2011), obliging Libya to cooperate with the **International Criminal Court**. Speaking of the ICC, it must be applauded for its commitment to try Saif-al-Islam al-Gaddafi in The Hague. Nonetheless, the ICC's jurisdiction extends to the three examples mentioned. It is very troubling that the ICC is focused only on one side of the conflict and has yet to address crimes committed by former rebel forces. **In conclusion**, Libya is neither willing nor able to investigate and prosecute perpetrators of crimes under international law. Hence, the international community must step in and enforce international humanitarian and human rights law. If not, spring will not remain the last season of the revolution: winter is coming.

Verantwortung

Die BOFAXE werden vom Institut für Friedenssicherungsrecht und Humanitäres Völkerrecht der Ruhr-Universität Bochum herausgegeben: IFHV, NA 02/33, Ruhr-Universität Bochum, 44780 Bochum, Tel.: +49 (0)234/32-27366, Fax: +49 (0)234/32-14208. Die BOFAXE werden vom Deutschen Roten Kreuz unterstützt.

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