

*Article by former UN Legal Counsel Hans Corell in the Swedish daily Expressen on 24 February 2011*

*Translation from the Swedish by the author*

## **A Military Intervention Requires Great Courage <sup>1</sup>**

**A humanitarian intervention in Libya would constitute a great challenge to the members of the UN – also to Sweden, Hans Corell writes**

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Ibrahim Dabbashi, Libya's Deputy Ambassador to the United Nations, yesterday said that he believes that genocide has now commenced in Libya. The question is if the present situation in Libya is such that the UN should take action through humanitarian intervention in accordance with General Assembly resolution 60/1 of September 2005. In this resolution it is said, among other things, that the UN members 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.

In my view it is self-evident that the UN Security Council should now analyze the question of humanitarian intervention. This analysis should be made against the background of the five questions that the High-level Panel on Threats, Challenges and Change formulated in 2004.

According to the Panel, in considering whether to authorise or endorse the use of military force, the Council should always analyse – whatever other considerations it may take into account – the following five basic criteria: (a) the seriousness of the threat, (b) the question of proper purpose, (c) the question whether the action is the last resort, (d) the question whether the means are proportional, and (e) the question whether there is a balance of consequences.

The criterion last mentioned is of particular importance here. What the Panel means is that there should be a reasonable chance of the military action being successful in meeting the threat in question, with the consequences of action not likely to be worse than the consequences of inaction.

This assessment has particular significance to the UN members who consider contributing troops to the operation. If the analysis by the Council is made in a transparent manner, the general public will surely also respect its conclusions.

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<sup>1</sup> Please note that, as customary, the headline and the summary were formulated by the editor.

From what is said appears that it is far from certain that the UN should intervene with armed force in this case. It is probably so that Moammar Gaddafi is guilty of crimes against humanity; this view has been expressed by the UN High Commissioner for Human Rights. By that, one condition for an intervention would be fulfilled.

But when one gets into the five criteria the subject matter immediately becomes more complicated. Here, the analysis by the military advisers will be a determining factor. In what manner does one intervene with armed force against a leader who is surrounded by, at least in part, loyal troops and dwells in the midst of the civilian population in his country?

However, even if clearance would be given on the part of the military, the political assessment remains. Several complicated questions must be answered here: How would, for example, an intervention in Libya be viewed in the Arab world? And will all the five permanent members of the Security Council agree to intervene?

Further: If the fifth criterion above would be fulfilled, are the UN member states prepared to put the necessary troops and materiel at the UN's disposal? I never forget Boutros Boutros-Ghali's desperate calls for assistance to stop the genocide in Rwanda in April 1994. According to the military expertise, 3 500 paratroopers could have stopped the atrocities. No state was prepared to provide such a contingent! Would they be prepared to contribute now?

It is self-evident that I do not have any basis for responding to the question whether humanitarian intervention is the right course at present. However, what must definitely be decided at present are sanctions in order to produce changes. From several quarters one hears demands that the UN should intervene with such measures. Among others, the independent International Crisis Group has published an action plan directed both to the UN and individual member states.

The situation could change, though, if sanctions are not effective and the atrocities take such forms that more forceful action is needed. In such case, the question arises if also Sweden is prepared to contribute to protecting the population from crimes against humanity.

### **Hans Corell**

Hans Corell is Ambassador and former Legal Adviser of the Ministry of Justice and the Ministry for Foreign Affairs, and former Legal Counsel of the UN