

## Was Gaddafi execution a war crime?

Written by By Samuel Olara  
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### **Gaddafi's death raises questions for the ICC over the brutal disregard for the rule of law by his executioners**

Aisha Gaddafi, the daughter of the late Libyan dictator, has officially petitioned the International Criminal Court (ICC) to investigate the circumstances under which her father Col. Muammar Al-Gaddafi and brother Mutassim were killed by forces loyal to the National Transitional Council (NTC), assisted by NATO allies in October 2011; which she said amounted to a war crime.

Aisha, who fled Libya two months before the capture and killing of her father and brother, claims she was caused "severe emotional distress" by the outrageous manner in which her father and brother were killed and thereafter, the treatment of their corpses.

Through her Israeli lawyer, Nick Kaufman, a former senior prosecutor at the ICC and now an international lawyer based in Jerusalem, Aisha wrote to the ICC prosecutor Jose Luis Moreno-Ocampo in December to demand an immediate investigation.

Kaufman wrote: "Gaddafi and his son Mutassim, Aisha's brother, were murdered in the most horrific fashion with their bodies thereafter displayed and grotesquely abused in complete defiance of Islamic law. The images of this savagery were broadcast throughout the world causing my client severe emotional distress."

The events leading up to the execution of Gaddafi were viewed by observers as calculated manoeuvres by NATO to stop the deposed tyrant from crossing over the Libyan boarder; but as the world watched in total bewilderment the final hours of Gaddafi's life unfold piece by piece. It remains unclear whether the circumstances leading to his eventual execution, which have never been fully explained, were planned. Evidence abounds that Gaddafi was captured alive before the vicious brutality and execution.

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The important question thus becomes: Was the UN resolution and NATO intentions, “the protection of civilians” or that of regime change? And was the NTC’s goal freedom and justice or death?

Following his expulsion from Tripoli which signalled the end of his 42 year tyrannical rule, was hunting Gaddafi ever about justice and accountability? If killing is justice, then the NTC’s objective was achieved. But if killing is not justice, then Gaddafi’s death might still have future ramifications for the NTC and more importantly the credibility and standing of the UN in upholding international standards.

Allegedly, we are now in an era or regime of international human rights where all actors on the world stage are obliged to observe, respect and protect these rights and standards. But these rules have been bent or changed to suit certain interests warranting “intervention on humanitarian grounds.”

Undeniably, intervening states deserve credit for stopping the onslaught that would have ensued in Benghazi had Gaddafi carried out his threat of “house to house search of the rats”, but the ripe conditions leading to Gaddafi’s execution were created by abrogating the UN resolution mandating the “protection of civilians” and bringing Gaddafi to account for his crimes.

While the rhetoric of “bringing Gaddafi to justice” was high in the early stages of the war, it quickly turned to “it’s up to Libya what they do with Gaddafi.”

By reversing from the original position, NATO states who carry tremendous power and influence, were, in effect saying: “do as you please.” Never mind the fact that the intervening states are supposedly “the custodians of western democracy and the rule of law,” yet they failed to exert that influence to ensure that Gaddafi was held accountable for his 42 years tyrannical rule and support for terrorist organisations around the world; one has to remember that Gaddafi was linked to almost every rebel organisation under the sun, an exploit that cost millions of lives.

Perhaps even more puzzling was the fact that, the UN led in demanding an immediate investigation into the circumstance leading to Gaddafi’s death but none was instituted and the call somehow went cold with the Gaddafi corpses on display in the meat freezer before their burial “into the annals of history” somewhere in the desert.

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The intervention in Libya was marketed in complete contrast to that in Iraq and Afghanistan. Earlier rhetoric from the UN and NATO suggested that unlike Iraq where regime change was explicitly declared the main objective of the US and her allies; in Libya a form of “quiet diplomacy” was adopted; dressed as UN Resolution 1973 which “only” mandated NATO forces “to protect civilians from Gaddafi.”

It also mandated the immediate implementation of a no fly zone which it said was «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».

In the case of Iraq, the then George Bush administration demonstrated utter contempt for the UN by its refusal to even give prior notification to lead a military invasion with its European allies under a claim to destroy what never existed—Weapons of Mass Destruction.

Having exposed Saddam Hussein to the world in his humiliating moments of capture, the allied governments were instrumental in installing an interim administration that oversaw the trial, conviction and subsequent hanging of the deposed Iraqi leader together with some of his associates.

At the time of passage of the UN Security Council Resolution 1973, President Barack Obama, who was opposed to the invasion of Iraq, is on record declaring that the USA was not interested in following the pattern of Iraq for «regime change in Tripoli»

Yet, that is precisely what the world witnessed as NATO and her allies not only supplied arms, advisors and intelligence to the rebels, but created a condition that led to Gaddafi’s execution without trial.

The circumstances surrounding Gaddafi’s death will continue to raise a lot more questions; with the most important being pertinent concerns over the failure to denounce the brutal disregard for the rule of law by a collection of foreign and local executioners. The ICC has to make a decision whether it pursues Aisha’s request or not, keeping in mind that the trial of her brother Al-Islam Gaddafi is still in the balance.

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On the other hand, the UN needs to understand that its credibility is at stake, for the principles and purposes established in its founding Charter, remain as valid and relevant in their intentions today as they were in 1945. But over the past decades, the UN has shown deficiencies and dysfunctions that are completely at variance with the core values and objectives of forging global understanding, keeping peace, fostering development, protecting and ensuring human rights and human equality.

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