

By Laurent Rathborn, UK Defence Forum Researcher

The moral question over how Europe and America should respond to Gaddafi's attack on civilians has been at least partially answered; aircraft from multiple nations are attempting to keep the peace, and so far seem to be succeeding. What happens next, however, depends on a number of factors and the response that NATO forces will adopt in the face of ongoing violence. Unlike Iraq in the mid-90s, this no-fly-zone (NFZ) has been set up right in the middle of a civil war. Legitimised by its bid to throw off a tyrant who, like Saddam Hussein, has little compunction about murdering his own citizens, this is almost a textbook example of an uphill struggle for democratic freedom, supported by a regional body – the Arab League - which asked for outside help in restoring sanity.

Unlike Iraq, where the no-fly zone was imposed after the brunt of the fighting had stopped, this conflict is still hot. Several ways forwards for NATO forces are now possible, but will depend on Gaddafi's next moves. In the immediate term, there must be an active effort to prevent what happened at the end of the first Gulf War; a deliberate punishment of civilians by Saddam's helicopter corps. Whereas all reports indicate that Gaddafi's air forces are now no longer a factor, it will take constant monitoring to ensure that revenge attacks are not perpetrated by ground forces in the future for what NATO is doing in the present.

Libyan government forces have thousands of square miles of desert to hide in, and the language used in Resolution 1973 explicitly forbids foreign occupation. However, as noted by UK government ministers, in strict legal terms, a ground force does not have to be an occupation force. The situation as it exists at the moment is very fluid, and all efforts will be concentrated on stopping government forces punishing civilians and disabling the infrastructure that enables them to do so. Strikes to this effect have already been carried out, but NATO forces will eventually run out of military targets. Once they do, several options may present themselves. The following are listed in order of aggression:

Actively target the Libyan leadership by military means. Emplace a NATO-backed, UN-approved government; Actively target the Libyan leadership in order to place them before the International Criminal Court, which is investigating multiple human rights abuses by the regime; Quarantine the east of the country from government forces via heavy NFZ activity or troop emplacement while seeking a political settlement that may end in partition or the creation of a transitional rebel-led government. Allow the internal prosecution of former regime elements; Continue to quarantine the air and wait for the rebels to win; Retreat, and let affairs come to their own conclusion.

The last of these is unlikely, but is included for the sake of completeness in the light of complaints by the Arab League that the intervention goes too far and was not what it had envisaged when it asked for international help. There are feelings amongst some commentators that those expressing legitimate revolutionary sentiments in Libya have now been disenfranchised by NATO's actions. They miss the more immediate point that people expressing revolutionary sentiments would have been overrun by now without intervention.

Whether the democratic protests and rebel action can still be called legitimate is a talking point for political philosophers; what matters now is what NATO, the democratic rebels, and the Arab League can achieve.

Drawing a comparison with NFZ action in Iraq, however, is only partially helpful. Legality aside, the NFZ over Iraq was preventative in nature; Kurds to the north of the country needed active protection due to the regime's prior behaviour and after the mistake was made of leaving the government with its helicopter contingent, which was instrumental in putting down a nascent revolt. Enforcement of a NFZ came after the fact, when it became clear that the regime would continue to abuse its own population using its remaining air assets.

The revolt is still ongoing; NATO assets are protecting an active revolution, not defending a vulnerable population. This changes the dynamic; force commanders and political leaders cannot wholly claim that NFZ enforcement actions are solely to protect civilians, since those exist on both sides. That government forces are deliberately targeting the innocent has been beyond doubt for a while; that rebel forces may do the same, even by accident, is not beyond imagination, but the overriding priority, at least in the public eye, has been to keep civilian casualties to a minimum. That a democratic revolution is being protected is, morally, the second important part of the action being taken. The Libyan government lost its legitimacy the moment it opened fire on civilians.

The NFZ has done its job in the air, but now faces problems on the ground politically precisely because the situation remains unresolved. It has given the rebels a boost, allowing them to sweep west and retake at least one key town. Whether this was the intent of policy makers must remain unknown, but what is clear is that the situation as it is cannot continue. Decisive action must be taken lest the conflict degenerate into a quagmire with even more killings on both sides, and with the UK having mooted supplying arms to rebel forces, decisions must be made at the political level so as to bring about an end to the conflict as quickly and bloodlessly as possible. The ceasefire that the Vatican and Turkey are proposing, with the former backing it and the latter offering to broker it, will only return the situation to square one and will likely not be heeded by the regime in any case. Ceasefires cannot be externally enforced; they must be voluntary.

Since it is now clear that the regime will not crumble if left to its own devices, reluctantly, then, intervention at some further level may be necessary to prevent both current and future atrocities. It is possible that the rebels will manage to overthrow the regime or force Gaddafi out. With NATO as a barrier force and morale booster, it may capture enough critical infrastructures in the guise of oil towns to leverage a settlement favourable to its terms. However, this is nothing more than hopeful at this stage.

Option 1 will end any notion that Libya's destiny is still in its own hands, and by now has been largely discredited.

Options 2 and 3 present both challenges and opportunities and can to a certain extent be viewed together. Assuming for the moment that this conflict will end in the overthrow of the regime (or risk catastrophic retaliation on civilians and punishment-in-kind of the eastern areas) then the key questions are "How far does NATO go" and "Who gets to prosecute?"

Dealing with the latter question first, on the one hand allowing internal justice (assuming it can be reconstituted at the close of the conflict) to flourish gives legitimacy and closure to any new or interim government. It sends a message that NATO and (possibly) the UN have confidence in the new order and is the fastest way to begin healing. On the other, handing elements over to the ICC for prosecution in the full light of the world stage sends a powerful message to a region currently under massive strain; governments currently oppressing their populaces and not letting legitimate voices being heard will be forced to sit up, listen, and re-examine their options. At a single stroke, reforms demanded by protesters from Bahrain to Syria may suddenly become the only credible way forwards. A two-track prosecution, combining both effects, may also be possible; such a way forward would need an order of magnitude more care taken in the planning, but the payoffs could equally be many.

As to NATO's role in ending the violence, active quarantine over straight boots-on-the-ground intervention may be the more acceptable of two bad options; it allows rebel forces to accomplish their aims, if not completely alone, then significantly so. Quarantine under option 3 does not have to be an occupation force if it is merely assuring the safety of civilians in areas already held by antiauthoritarian forces – much like a UN peacekeeping force. Providing over watch as per option 4 risks accusations of bystander-ism, whereas active intervention, even to capture regime leaders under the benediction of the ICC investigation (and at that point, prosecution with a legal warrant), risks further comments of disenfranchisement, but may equally send a message to other repressive regimes – while at the same time exacerbating existing cleavages within and around the organisation.

By contrast, failure to act further and let internal disagreements stalemate possible solutions could be equally disastrous for NATO itself, suffering a loss of influence and credibility even as internal splits widen to crevasses in policy and co-operation. NATO is variously damned by most of the options it could take, unless its Middle Eastern partners are willing to take on a much more active role militarily and in shaping policy towards the intervention, thereby becoming a source of regional legitimacy.

Some further form of intervention will be needed if sanity is to be restored, and the shape that it takes has the potential to end uncertainty across the Middle East – or deliver a severe blow to NATO's credibility. Option 3, possibly combined with the prosecution option of 2, seems to be the best of a bad bunch, but lacks the unequivocal message-sending potential to the rest of the region. World leaders have made it clear the Gaddafi must go, and go he eventually will; but the nature of his going has the potential to decide much more than the future of Libya.