

Implementation of UN Resolution 1973, 2011 in Libya: The Medical and Ethical Concerns

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ABSTRACT The aim of this paper is to highlight some of the medical and ethical challenges that could be experienced by implementers of the United Nations Security Council Resolution, 1973, 2011 in Libya. The paper is written as action research, that is, writing the paper as events unfolded during the Libyan crisis, soon after the passing of UN Security Council Resolution 1973 on Libya. The paper relies on provisions of the United Nations Security Council Resolution 1973 on Libya, print and electronic media reports, speeches made on radio and television, and military action broadcast live on television. The paper looks at the medical and ethical concerns that can arise from the implementation of the United Nations agreement by Member States. It is argued that the civil war in Libya can have negative medical consequences, raise ethical concerns and there could be atrocious casualties among the civilian population if rebels are let loose without the United Nations Security Council controlling their military activities. This paper sees the role of the United Nations Security Council as that of being a mediator or peace-maker and not a comrade-in-arms of rebels, or confederate of rebels or partisan fighter in support of the rebels. The rebels, like anywhere else in the world and by definition, do not belong to legitimate or registered political organisations or entities recognised at international law as authentic. The rebel group in Libya is faceless and there could be criminal and terrorist elements that operate in Libya under the guise of civil protests. It is contended in this paper that NATO should not fight alongside rebels, or take instructions from rebels about which Libyan government military sites to attack because NATO is a professional military organisation that is guided by medical and war ethics. In this context, Member States implementing the United Nations Security Council Resolution 1973, 2011 should seek to protect Libyan civilians and unarmed protesters. The Libyan army and armed rebels should be pushed away from civilians by NATO. Current and future studies could focus on peace initiatives, medical needs, war ethics and the investigation of factors that contribute to the escalation of civil war in Libya.

INTRODUCTION

The United Nations Security Council adopted Resolution 1973, 2011 on 17 March 2011 against the Libyan Head of State and his government. The Libyan government was accused of killing civilians and committing crimes against humanity. In this regard, the Libyan government was considered to be a threat to international peace, security and stability. In a bid to provide immediate protection to civilian populations in Libya, the United Nations Security Council Resolution 1973, 2011, imposed the following measures: immediate cease-fire, complete end to violence and attacks against and abuse of civilians and that the Libyan authorities comply with international law to protect civilians. The resolution authorised Member States to: protect civil-

ians and civilian populated areas from attack by Libyan authorities, impose a “no fly zone” on Libyan army aircraft, enforce an arms embargo against Libya, ban Libyan government flights from taking off, landing or overflying all States’ territories, freeze assets including funds and economic resources which are owned or controlled by Libyan authorities’, impose travel restrictions and asset freeze on designated individuals and entities associated with the Libyan government and the resolution promised to come up with a “panel of experts” for a period of one year to advise the United Nations Security Council Secretary General and the designated Committee on the implementation of the United Nations Security Council Resolution 1973. This paper discusses some of the envisaged medical and ethical challenges that the Member States could face.

Medical Intervention

The United Nations Security Council Resolution 1973, 2011 on Libya does not provide specific medical intervention plans to save civilians

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during the military intervention or military assault on Libya. The “no fly zone” air strike by US and NATO forces is conceptualised in the resolution as an operation that is smart, precise and incident-free. In any military intervention, there should be medical plans to deal with casualties of war. The “no fly zone” is not a new concept in modern warfare. It has been implemented in Iraq from 1991 to 2003 and in Bosnia and Herzegovina from 1993 to 1995 but the enforcement of the “no fly zone” did not achieve much in terms of protecting the civilian populations (Peck 2001). The envisaged medical team in Libya as contemplated in this paper will deal with burns, bleeding, trauma and all forms of injury associated with military assault. The medical unit on the war front is a neutral multi-disciplinary team that treats fighters from both sides and civilians without asking which side the civilians are on (Gross 2004). Civilians who support rebels and those who support government soldiers or international peace-keeping forces should have equal access to medical care on the war front.

The United Nations Security Council Resolution 1973, 2011, mentions the protection of civilians, the safety of delivery of humanitarian assistance and the need for cessation of hostilities in Libya. It indicates that the “no fly zone” does not apply to humanitarian organisations or groups involved in delivering or facilitating the delivery of assistance including medical supplies, food, humanitarian workers and related assistance or evacuating foreign nationals from Libya. There is no express mention, in the terms and conditions of the United Nations Security Council Resolution 1973, 2011, of the appointment of a United Nations medical body that will deal specifically with war casualties. The role of humanitarian medical organisations such as the Red Cross, International Rescue Committee and Doctors Without Borders could have been specified as these organisations play a significant role in medical emergencies, civil wars, uprisings and natural disasters (Arya 2004). The United Nations Security Council Resolution 1973, 2011 does not regard or refer to the Libyan Cabinet as a government but “Libyan authorities” throughout the document. It does not provide adequate information to demonstrate how the international humanitarian organisations would work with the Libyan government or the Libyan Ministry of Health in order to roll out

medical treatment to affected civilian populations. Since NATO and its allies have no ground soldiers in Libya, it is difficult to imagine how medical personnel from humanitarian organisations would be able to extend medical treatment to both rebels and government soldiers injured in the war without prejudice (Gross 2004). The injured government soldiers, rebels and civilians could act violently towards the defenceless medical team out of frustration or hatred of foreigners (Marton 2011). If there is to be effective medical intervention in Libya, military protection of health professionals is required.

The Outbreak of Diseases

The sanctions that are imposed on Libya can result in the outbreak of various diseases in Libya and the population could be exposed to war-related diseases. In countries where sanctions were imposed, there were reports of disease outbreaks such as cholera, dysentery, typhoid, tuberculosis, and malaria (Kotwal et al. 2006). In Iraq and Afghanistan, drug resistant bacteria such as methicillin-resistant staphylococcus aureus, escherichia coli, salmonella, shigella and campylobacter were reported (Co et al. 2011; Meyer et al. 2011). In war situations, children are vulnerable to penetrating-injury and blunt injury (Borgman et al. 2011). Some of the children in civilian communities in Libya could face malnutrition and starvation if the civil war escalates. Malnutrition could affect children’s physical health, mental ability and emotional development. If the war continues, most of the schools will be shut down and children will be exposed to war violence on the streets and they will be vulnerable to diseases associated with the vagaries of war. It is expected that most of the primary health care centres will be closed down in fear of the war because injured government soldiers and rebels could demand treatment or loot medicines in clinics and rural hospitals. Psychosocial problems such as interpersonal violence and posttraumatic stress disorder or “shell shock” can be diagnosed in children and adults exposed to military violence (Rieder and Choonara 2011). The war can destroy health and recreational facilities through acts of sabotage by rebel forces, government forces or occupation forces. In Libya, rebels, government forces and air strikes by NATO will destroy infrastructure because the civil war is

happening in civilian populated areas. Libya is mostly desert, 90% of the country is dry and arid (O'Hara et al. 2006). If most of Libyan land is desert and there are no valleys and forests with thick green vegetation that can be used as cover by soldiers and rebels it then implies that the fighting in Libya will mostly take place in buildings, on rooftops, streets, shopping malls, schools, hospitals and crowded residential areas. The supply of electricity, clean water, fuel, transportation networks and sanitation could be affected by the war in the same manner as what is happening in Afghanistan and Iraq (Weinthal and Troell 2011).

Concern About Weapons of Mass Destruction

The United Nations Security Council Resolution 1973, 2011, on Libya does not highlight the possibility of the Libyan forces using weapons of mass destruction or chemical weapons in a bid to remain in control of the situation. The resolution does not indicate the historical association of Libya with terrorist organisations and its alleged involvement in terrorist activities (Lutterbeck 2009). There could be terrorists from other countries operating from Libya or taking advantage of the uprising or revolutions in the Middle East. As a wilful act, or acting under duress or panic, a terrorist, rebel or soldier could be suicidal and use a nuclear bomb, chemical weapon or fire a nuclear warhead at the enemy or civilian populated areas. Water resources and the environment at large could be poisoned and polluted by the massive bombs dropped by NATO and weapons used by the Libyan army and rebels in civilian populated buildings and open land. There is evidence that Libya has chemical and nuclear weapons (Nguyen 2006). It is reported that Libya has mustard gas, nerve gas, precursor chemicals, and other lethal chemicals that can cause fatalities to human, animal and plant life (Nguyen 2006). The bombings by NATO could hit a site with abandoned or active weapons of mass destruction. These weapons of mass destruction were reported as destroyed by a team of inspectors appointed by the Chemical Weapons Convention in 2004 (Nguyen 2006). However, it was reported that the destruction of weapons of mass destruction in Libya was going to be expensive (Nguyen 2006). This could be a cause for concern to health professionals because some of the weapons of mass destruc-

tion might not have been destroyed even though the US was confident that Libya had complied with the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction in 2004 as a Member State.

Impersonation of Rebels

In regular warfare soldiers are differentiated from civilians by wearing combat uniforms. They drive marked cars that match the colour of the uniform worn by the soldiers. Even the guns they use match the colours of the army to make sure that civilians can distinguish them from the enemy. Rebels usually do not wear uniforms and they can use any car for war or sabotage. The United Nations Security Council Resolution 1973, 2011, indicates that it targets the Libyan army for destruction. NATO and its allies strike army barracks and military sites with weaponry. The ethical concern in this operation is that the Libyan army is trained in both regular and guerrilla warfare. Most of the freedom fighters in Africa were trained in Libya and their liberation movements were regarded as terrorist organisations before independence (Napier 2011). The Libyan army can take off uniforms and impersonate the rebels. The Libyan army can infiltrate the rebels and behave like rebels in their midst. There can be a door-to-door murder of civilians who support the rebels at night. Rebels are not trained soldiers; they can turn their guns on civilians for various reasons. If rebels commit war crimes, there is no accountability because they do not belong to a registered political party or oversight body that regulates and trains them about war ethics. They can fire any weapon they can lay their hands on, be it specified under the United Nations Security Council prohibited weapons list or not (Heilmann 2010).

The Neutrality and Integrity of United Nations Peace-keepers

The role of United Nations Security Council is arguably changing or slowly moving away from the mandate it was popularly known for soon after the Second World War. The United Nations is a neutral body that does not take sides in armed conflict. It is expected that the United Nations Security Council and NATO

should not work with rebels in Africa because rebels by definition are an illegitimate entity, normless, armed and dangerous. Recently, United Nations forces were accused of rape, torture, fathering babies, desertion, pornographic video-taping of women and children in the Democratic Republic of Congo and killing of civilians and militias (Notar 2006). Similar events are reported in Iraq and Afghanistan in which NATO and US forces implementing the United Nations Security Council mandate to protect civilians grossly dehumanise, abuse and kill civilians (Hultman 2010; Sweetser 2008). United Nations peace-keeping forces are accused of attacking government soldiers in Ivory Coast and France is accused by the Ivorian government of meddling in Ivorian affairs for reasons relating to regime change and invading the country to support rebels who control the northern part of Ivory Coast (Conroy 2010). It is not clear whether or not United Nations Security Council Resolution 1975, 2011 on Ivory Coast authorises France and United Nations peace-keepers to partner with rebels and attack the Ivorian army. The rebels in Cote d'Ivoire use diamonds and money they get by force from farmers as land tax to buy guns in the Northern part of Ivory Coast (Chirot 2006). The United Nations should play a mediating role to stop hostilities on both sides and restore civilian life. In both Ivory Coast and Libya, it started as an election dispute and a civilian uprising for democracy but all of a sudden there emerged heavily armed rebels with military tankers, anti-aircraft guns, armoured cars, and all forms of heavy artillery. The war ethical principle of "proportionate use of force" is usually violated in these civil wars. It could be argued that there is good reason to believe that the conflict in Libya and Ivory Coast were pre-planned and premeditated. The demonstrations were more of a provocation for a military engagement than the need to engage government in dialogue for reform or democracy. The United Nations Security Council does not seem to be concerned about informing the international community about the sponsors behind the rebels, their reasons for arming rebels, what they will gain in exchange for supplying weaponry to rebels and explaining to the world the international laws which allow Member States and allies to arm rebels and militarily unseat a government because of internal uprising. It was announced on television and in the electronic and print media

that Libyan funds banked in foreign banks will be accessed by the National Transitional Council but there is no explanation on the section of international law that allows rebels to access financial resources of a country held in other countries for investment (Quinn 2011). If all Libyan financial and capital assets that are invested in other countries are regarded as ill-gotten wealth or capital gained from money laundering it should be explained how the countries that received and held the financial assets in their banks and other financial institutions complied with international law on asset management and the prohibition of money laundering and international fraud. It is a recent development in Africa that the United Nations Security Council allows for the formation of a "parallel government" better known as a "national transitional council" in a country that is experiencing civil unrest. There is no transparency as to how rebels get into a dialogue with representatives of the United Nations Security Council and NATO and where they meet. It is argued in this paper that United Nations Security Council should not give priority to rebels over the sitting government. The priority of United Nations Security Council in Libya should be that of protecting civilians from armed groups, stopping the war, monitoring the cessation of hostilities and working with the sitting government to pave way for democracy, a new political dispensation and a new legal system as decided by the citizens of the country.

The United Nations Security Council is apparently not neutral in Libya considering that it is not restraining rebels from attacking civilian populations and foreign African nationals working in Libya. Most of the buildings in civilian populated areas are razed to the ground by NATO bombings and some towns are left desolate in ruins but there is no strong condemnation that is yet issued by the United Nations Security Council "panel of experts" against NATO and rebels and the promulgation of firm steps towards a ceasefire to prevent further mass killings by parties involved in the civil war. NATO and its allies openly declared that they will fight Libyan forces and support the rebels. Under international law, rebels should not be supported by United Nations organisations because rebels are faceless and could be working for a syndicate of international terrorists (Lyman and Morrison 2004). Rebels are not a legal entity as

there is no statutory body that represents them at law. They deny responsibility for civilian casualties and in most cases, there are counter-accusations to justify the action or deny the scandal (Notar 2006). There is also a tendency in United Nations Security Council approved wars for Member States and the Secretary General of the United Nations to ignore, refuse to acknowledge and recognise the relevance of the laws of the country and court rulings since those countries and their leaders would be branded as “dictatorships”, “rogue states” or “axis of evil” (Pena 2002). There is little reporting on the feelings, opinions and arguments of the affected communities while prominence is given to the local group or rebels that the United Nations Security Council and Coalition forces are proping up. This apparent lack of neutrality creates a great deal of tension and hostility in the communities to such an extent that it would be difficult for medical personnel to work without fear of an attack. The partisan approach to civil wars by implementers of United Nations Security Council Resolutions endangers medical and humanitarian staff. In Libya, at the moment, armed rebels are reported in the media as fighting for a noble cause, friendly to journalists and they are portrayed as people who are not dangerous, harmful, or a threat to civilians. It is seen on television broadcasts that international journalists do their work in the company of rebels or taken war pictures while on the side of rebels but they are not seen with Libyan soldiers or the Libyan police for protection.

Protection of Prisoners of War

In war ethics, before the implementation of a military onslaught against an armed group, there should be a clear plan about the protection of prisoners of war (Mofidi and Eckert 2003). Prisoners of war need medical care and attention (Brittain 2011). Soldiers on both sides are expected to know the ethical principles of a just war and rules of engagement. There should be guidelines and information available to members of the public regarding war casualties, defections, desertions, captives, displaced women and children, protection of civilians, and the protection of animals, birds and the natural environment (Bellamy 2009). In Libya, the United Nations Security Council and NATO are working closely with rebels but the ethical concern is

whether or not NATO has trained the rebels in war ethics. The rebels are reported by the media as people who are not trained soldiers and without a military background. Most of them are said to be teachers, engineers and political activists. In this context, it is unethical for the United Nations Security Council and NATO to use or support untrained people as soldiers to fight a well-trained national army (Bellamy 2009). There is no beneficence on the part of NATO; this is not an act of kindness or desire to do good for others by helping armed civilians to attack soldiers. This is tantamount to deliberate exposure of protesters to death. These armed civilians could be killed in large numbers.

In Libya, as events of the civil war unfold, there is no reliable information about what happens to injured rebels and where they are getting medical treatment or burial assistance. The United Nations Security Council and NATO are silent about the issue of compensation for killed or injured rebels. If NATO and its allies are supporting the rebels, it follows that they should be responsible for the health and welfare of the rebels (Quinn 2011). On the other hand, it is not clear what sort of punishment the rebels mete out to captured Libyan soldiers. There is no information provided by the United Nations Security Council and NATO about where rebels keep the Libyan army soldiers they capture in war. There are no reports about the conduct of rebels towards civilians whom they capture supporting and fighting alongside government soldiers. The “no fly zone” air strikes by NATO hit targets in civilian populated areas, isolated army barracks and Libyan army artillery. After the massive air bombings, rebels rush to attack or “finish off” the injured government soldiers but little information is provided about their co-operation with medical teams or humanitarian workers on the ground; be they from government hospitals or humanitarian organisations. It will be difficult for health personnel to assist injured armed rebels and belligerent Libyan soldiers in hospitals or mobile clinics. The destruction of infrastructure including hospitals and clinics by NATO, Libya forces and rebels can disrupt electricity supply to hospitals. Mortuaries could be congested with rotting corpses and it is not clear how charred human remains are treated or disposed of. The rebels hail the air strikes as helping them to win the war but how they treat casualties still remains unaccounted for by the

implementers of the United Nations Security Council Resolution 1973, 22011. NATO insists that it does not have ground forces to take stock of the effects of the bombardment on civilians and the environment. This approach borders on negligence of military and medical ethics.

Blood Diamonds and Blood Oil in Libya

United Nations Security Council placed an arms embargo on Libya and ordered an inspection of Libyan cargo at seaports, airports, on the high seas and to search vessels and aircraft bound to or from Libya. The Libyan government is not allowed to supply military equipment to other countries, sell, transport, or export goods specified by the United Nations Security Council Resolution 1973. This comes with the designation of members of the Libyan Cabinet and companies that are closely associated with the Libyan government. The listed persons are not allowed to move out of the country or trade with the rest of the world. Business organisations associated with the Libyan government are placed under sanctions.

In this document there is no similar penalty imposed on the rebels. They are not searched and their military activities are not monitored or controlled. The rebels are free to trade and to move freely within the country and out of the country. They can take advantage of the historical blunders of the United Nations Security Council in Africa. They are aware that the media and the US will be more inclined to blame the Libyan government for war atrocities. The rebels in Libya are trading in oil with countries in Asia, Europe and the Middle East to finance the war (Lawder 2011). This is in direct violation of international law on trade embargo in conflict zones (Billon 2008). They are plundering and looting government oil reserves and oil facilities owned by private investors without paying. The rebels are trading in oil because they are not under United Nations Security Council sanctions but the Libyan National Oil Corporation cannot trade because it is under sanctions (Lawder 2011). The United Nations Security Council was accused of turning a blind eye on rebels trading in diamonds to finance civil war in northern Cote d'Ivoire (Chirot 2006). The United Nations Security Council was blamed for allowing United Nations peace-keeping forces to trade and smuggle diamonds in the Democratic Republic

of Congo (Notar 2006). Rebels have used diamonds to fuel civil wars in Angola, Democratic Republic of Congo, Sierra Leone and Ivory Coast (Billon 2008). The Kimberly Process seeks to regulate the use of diamonds in civil wars and thus calls diamonds that are traded by rebels to buy guns that kill civilians "blood diamonds" (Holmes 2007). In this case, the United Nations Security Council should condemn the trade in oil to buy weapons in Libya. The Libyan oil sold by rebels should be called "blood oil" and a trade embargo should be imposed. Vessels and aircraft carrying "blood oil" from Libya should be searched by NATO and the Member States who are implementing the United Nations Security Council Resolution 1973, 2011 in the same manner that they inspect Libyan government cargo. If the United Nations Security Council ignores this concern, it could be accused of playing double-agency, paternalism, lack of transparency, insincerity, dishonest broking and lack of commitment to peace in Africa and the Middle East.

Displacement of Civilian Populations and the Refugee Problem

Civil wars result in displaced civilian populations becoming refugees. When government is paralysed by rebels the provision of travel documents will be curtailed. The displaced populations become illegal immigrants in other countries. Law and order will break down. Rebels can kill fleeing civilians while the demonised police force of the country of the country will be indifferent, incapacitated or too weak to help the people (Bergmann 2011). In Libya, the military, police and the entire civil service are almost incapacitated by NATO bombings and rebel onslaught. Refugees can be involved in interpersonal violence, that is, refugee-on-refugee violence. Rape, HIV infection, murder, and problems of unaccompanied refugee children are common in refugee holding camps (Groark et al. 2011). The holding camps for refugees waiting to be taken out of the country are usually vulnerable to military assault by both government forces and rebels. In the Libyan case, NATO provides air strikes, but not the transportation of refugees. The refugees can be exploited by human traffickers and be shipped to Europe under the cover of darkness in overcrowded and risky boats (Davidson 2010). No one will be re-

sponsible for disasters such as the boat capsizing, gun encounter between smugglers and the navy patrolling the territorial waters or violence perpetrated by boat owners on fleeing civilians or refugees that can result in some refugees being thrown into the sea (Schuster 2011). While most of the foreign workers in Libya got flights back home to Europe, Asia, Middle East, and the US, workers from African countries are mainly portrayed in the media as “mercenaries”, thus exposing them to community violence and xenophobia (Meo 2011). The United Nations Security Council Resolution, 1973, 2011 indicates that it deplors the continuing flows of mercenaries into Libya and it calls upon Member States to prevent the provision of armed mercenary personnel to Libya. African workers in Libya felt humiliated, stigmatised and ostracised by the media through the distorted interpretation of the United Nations Security Council Resolution 1973, 2011. Mercenaries of all races from African countries and overseas-based organisations can easily get into Libya and they either join government forces or rebels taking advantage of the destabilisation and confusion in Libya. Most of the workers from African countries are getting stranded without assistance from their home countries.

CONCLUSION

This paper concludes that the implementation of United Nations Security Council Resolution 1973, 2011 in Libya needs to be improved by investigating the medical and ethical concerns raised in this paper. The military intervention should not worsen the lives of civilians but improve it. The role of NATO should be that of making sure that rebels do not attack government forces and that government forces should abide by the restrictions of the United Nations Security Council Resolution 1973 to protect civilians. NATO should enforce the “no fly zone” mandate and not indiscriminately bombing buildings, civilians and the Libyan armoury. The United Nations Security Council should find ways and means of disarming the rebels. The trade in “blood oil” should be stopped forthwith as this can fuel and prolong the conflict because of the economic gains of war. Current and future studies on military conflict in Libya should focus on cessation of hostilities, medical and ethical implications of war, the develop-

ment of holistic peace initiatives and the promotion of democracy in Africa through peaceful means.

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