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Debate: Libya, the resistance, the no-fly zone

On No Fly Zones as a form of External Military Intervention

- Debate - Problems of the Arab and Middle East regions -

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What are the different arguments surrounding the debate on no-fly zones? Should foreign powers ever claim the right to intervene or should the people of a country overthrow their own dictators? Do interventionists not always have ulterior motives that could undermine the people's sovereignty over their struggle and its outcomes

Some important points about “no-fly” zones

- 1) No fly zones really emerged after the end of the Cold War. They can only be applied by certain big powers over another's sovereign territory by either those few big powers on their own or through a cabal or cohort of countries including one or more big powers, or through a UN manipulated by one or more of the P-5.
- 2) There is no international body that is politically and morally impartial that can enforce such a no fly zone anywhere.
- 3) All such no fly zones constitute a violation of the principle of national sovereignty of a country except where the government of the target country formally agrees to it which of course only takes place when that government has already been subjugated and suborned and coerced (e.g. Saddam Hussein's Iraq in the 1990s) to agree to this.
- 4) Imposition of no fly zones have invariably involved armed assaults on ground targets in the country where applied and therefore caused civilian casualties even as such no fly zones have been applied in the name of preventing civilian casualties on a large scale.
- 5) Though the declared purpose of imposing a no fly zone is to ‘prevent large scale civilian deaths and injuries’ by the government of the country so targeted, this is never the fundamental motive of the intervening countries.
- 6) There is and always will be selectivity and hypocrisy in the application of no fly zones. It is not and will not be a consistent or impartially applied policy e.g., who called for or wanted a no fly zone when the Sri Lankan government recently was air bombing the Jaffna region to defeat the LTTE (Liberation Tigers of Tamil Eelam)?
- 7) The principle of not violating and accepting the general inviolability of national territorial sovereignty (which includes respecting that country's air space) is enshrined in the UN Charter and thus in international law with only those exceptions allowed for as is in the UN Charter itself. This universal or near universal consensus legally enshrined is a great democratic achievement and testimony to the great democratic upheavals of the mid-twentieth century and after which were embodied in the great decolonization process which therefore enshrined the formal equality of sovereignty principle.
- 8) The case for violating this principle of national territorial sovereignty (barring the exceptions already allowed for) through imposition of a no fly zone rests on the strength of the moral claim of the need to ‘prevent large scale civilian deaths/injuries.’ Since such civilian casualties can also come about through ground attacks, it follows that the same principle used to justify a no fly zone can and must also be used to justify in certain circumstances forcible military ground interventions in another country. Such justifications can be in the name of pre-emptive prevention, or if such civilian atrocities have already taken place, to prevent further such casualties. The difference between air assaults and ground assaults is, often but not always, a contrast between different degrees of defencelessness of a

targeted civilian population. However, this is not a sufficient justification for proposing a no fly zone but opposing a ground assault. Defencelessness is a function of the overall military balance of forces between the two combating sides which is not decisively or always pivoted on whether one attacks by air rather than on the ground. The latter can also render opposing civilians greatly defenceless depending upon specific circumstances.

9) The crucial question then becomes whether – and if so, under what conditions – is it possible to endorse external military intervention (in whatever form) which while clearly illegal and violative of the principle of respecting national territorial sovereignty is nonetheless justified and should be carried out?

Insofar as we are seeking some normative foundations (related to some notion of the ‘balance of justice’) for whatever position we decide to adopt – for or against such external military intervention – what should these foundations and their related arguments be? In this regard there are, in my view, three basic positions outlined below.

Position I

What is laid down in international law and the UN Charter is to be respected and no other exceptions to be made other than what is already allowed for in that UN Charter, namely a) self-defence against an actual or imminent armed assault by another countries’ official armed forces. b) As a ‘last resort’ measure in the case of a ‘breach of international peace’ when sanctioned by the UNSC after all other efforts have been tried and failed.

The arguments for upholding this position (which would reject the imposition of a no fly zone in what is an internal civil war situation in Libya, and see the UN resolution authorizing it as a fraud and betrayal of the Charter itself) would be on the following lines.

(i) The international order established by the existing consensus or agreed position by all UN member countries and as embodied in that UN Charter/international law would be undermined by allowing further exceptions which do not and cannot have similar consensual agreement by anywhere near as many countries that currently endorse the UN Charter as it stands.

(ii) There will always be selectivity not consistency and therefore hypocrisy and dishonesty in its application.

(iii) The motives of intervening powers are always suspect and have more to do with geo-strategic and other perspectives not overwhelmingly humanitarian ones.

Position II

According to the upholders of this position, fairly frequent external military interventions would be called for in the name of upholding human rights.

(i) Such external military intervention does find sanction in the UN Charter and in the more recent proclamation of the ‘Responsibility to Protect’ since protection of basic human rights is a principle at least on par with that of respect for national sovereignty.

(ii) Even if such intervention is illegal, it is moral and this has priority over legality.

(iii) Outcomes are more important than motives, i.e., positive outcomes of actions trump selfish motivations behind those actions.

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(iv) 'Justice in endings' or ensuring justice in the longer run means a responsibility not just to intervene but if deemed necessary to stay the course for longer periods in order to ensure a stable and enduring situation of justice, i.e, a democratic regime. How long a no fly zone should persist or how long some other form of external military intervention (e.g., a ground invasion as in Afghanistan, Iraq) is to be decided by the intervening force.

(v) Even if such interventions are inconsistent and selective so what? At least in those cases there is a positive outcome which is better than avoiding intervention in the name of being consistent.

Position III

Insofar as we live in a world where different peoples are constituted as separate nations, the normative principle that should guide us is 'respecting the right of a people to overthrow their own tyrant'. That is to say, one must respect the freedom of agency of an oppressed people and not substitute another agency for that. Of course, various forms of intervention and pressure from outside – short of military intervention in any form – are quite alright. These can range from diplomatic pressures to sanctions of all kinds to even provision of arms to the side oppressed. But there should be no substitution and therefore no negation of a people's right to overthrow their own tyrant even in a civil war situation. Hence the overthrow of apartheid must be the work of South Africans themselves, of the Shah of Iran by Iranians, of Stalin or Ceasescu or Marcos similarly by their own peoples. The overthrow of colonial rule e.g. of Britain or France in Algeria (where the French used planes to bombard Algerian villages) must be by the colonized themselves with of course all kinds of solidarity support from the outside short of military invasion.

There are however, two exceptions to this rule.

(i) In a civil war situation where one side calls for external military intervention and gets it, then the other side in response can similarly call for similar external support and intervention. This took place in 1975 in Angola when the US and South African backed UNITA was helped by South African organized 'mercenaries' which then led to the governing MPLA which led the struggle against Portuguese colonialism to call on and get help from intervening Cuban troops.

(ii) To respect a peoples' right to overthrow their own tyrant necessarily presupposes that the people in question can continue to exist and resist. In those very rare cases when the scale of repression in relation to the overall population is such that this 'existence' can be said to be threatened, then external military intervention is called for to prevent this and the motives of the intervening force is of secondary and not decisive consequence. This was the case in East Timor (1975) and in Rwanda (1994) when interventions to prevent such genocide should have taken place but did not, and in 1978 in Kampuchea when it did take place via Vietnam whatever the latter's motives. Genocide is a term used imprecisely and therefore very frequently. The definition in the Convention on Genocide is so loose and imprecise that it covers a range of scenarios from where the existence of a people is threatened in large part or whole but also referring to situations when this is far from the case. To justify intervention in the name of preventing a 'massacre' or 'genocide' can then be raised frequently even when not warranted, at least not warranted by the arguments put forward in this Position III.

Those occasions when a people's existence can be said to be threatened in great part let alone whole, are necessarily very rare. However, what we have had instead are Western-backed and executed external military interventions in the name of preventing massacres or 'genocide' when this should not have been done e.g. in Iraq, Afghanistan, Haiti, Serbia-Kosovo and now Libya. In Bahrain where Saudi troops have invaded, if the other side called for a counter-intervention on its side this would be justified on normative grounds but other more strategic-political considerations come in for assessment and by which one can easily arrive at the view that it is best for the other side not to go in for such a 'counter' military intervention.

This Position III is my position. This is closer to Position I than to Position II which I strongly oppose and reject and

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which is the position of numerous liberal as well as rightwing supporters of US foreign policy who refuse to recognize and oppose the US's fundamentally imperialist character. As such Position III adopts many of the arguments of Position I but is not congruent with it. It is a highly qualified and conditional interventionist position. It follows that I am opposed to imposing a no fly zone of even 'the best kind' on Libya regardless of the fact that any such no fly zone would be a cover up for other imperialist purposes, or would go beyond the UN resolution's ambit. That Resolution itself must be opposed on various grounds including the normative principle embodied in Position III.

Position III is in my view the best of the three positions but it is not without its own ambiguities and moral dilemmas.

(i) There is an inescapable grey area in determining just when a people's existence may have become threatened even if there is very large scale killing of civilians, and therefore at what point would one feel justified in calling for intervention; and then the feeling that since one has ended up wanting such intervention perhaps it should have been called for much earlier!

(ii) Respecting a people's right to overthrow their own tyrant can mean in effect simply being witness to large scale killings and feeling powerless to stop it despite all other solidarity efforts with the oppressed of that country.

(iii) Even if there was a genuinely international and impartial body capable of militarily intervening at early stages of a conflict/civil war, the logic of the normative foundations of this Position III would still argue against such intervention by such a force unless a people's existence was under threat. This particular dilemma is a highly hypothetical one since no such truly impartial force exists or is likely to come into existence in the foreseeable future given the existing realities of imperialism and its cohorts on the ground.

Finally, what of Palestine and, say, a demand for a no fly zone in Gaza and/or the West Bank? Israel has made Gaza a prison which it will bomb from the air but not send in ground troops, whereas in the West Bank it is a physically present as an occupying force. Israel is not engaged in a civil war but is illegally occupying, controlling, oppressing and blockading territories and doing so in part collaboration with the PA. The Palestinians can certainly call for preventing any kind of incursion in the occupied or blockaded territories. So yes, one can support the principle of a no fly zone for Israel over Gaza. But who is going to implement it? Furthermore any such no fly zone to be effective would almost certainly have to attack Israel's air force capacities in Israel itself which would neither be justified (apart from risking civilian casualties) nor strategically sensible. As for the West Bank, should Palestinians call for an intervening force to throw out Israeli forces, this would mean calling for a substitution of their own agency by an external one when their own existence as a people is not threatened. Even expulsion, cruel and unjustified as it is, is not the same as extermination since the people continue to exist and to carry on the struggle. It makes more sense morally and strategically to respect the Palestinian right to fight for their own liberation with, of course, maximum solidarity support from the outside to be carried out in a variety of ways short of direct external military intervention.

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* From TNI.

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