

4.6 Mission Notes

Libya

On 10 March 2011, shortly after violence erupted in Libya, UN Secretary-General Ban Ki-moon appointed former Jordanian Foreign Minister Abdel Elah Mohamed Al-Khatib as his Special Envoy to Libya. Al-Khatib was tasked with offering the Secretary-General's good offices, consulting with the Libyan parties, neighboring states, regional organizations and other stakeholders, and exploring how best to resolve the crisis in Libya.¹ That same day, the African Union Peace and Security Council created an Ad-hoc High-Level Committee on Libya to seek a ceasefire and a political solution to the conflict.² Both the UN Special Envoy and the Ad-hoc High-Level Committee on Libya have had to operate amid a range of multilateral and bilateral political mediation efforts, ongoing military action between the Libyan military and opposition forces and NATO-led military operations officially aimed at protecting civilians from government attacks.

BACKGROUND

Following Colonel Muammar Qadhafi's violent crackdown on anti-government protesters in mid-February 2011, the UN Security Council unanimously passed resolution 1970 on 26 February, which imposed an arms embargo, established targeted financial sanctions, called on the Libyan authorities' "responsibility to protect" its population and referred the situation in Libya to the International Criminal Court (ICC) to investigate reports of possible crimes against humanity.



UN Photo/Paulo Filgueiras

Secretary-General Ban Ki-moon (right) is shown in conversation with Abdel-Elah Mohamed Al-Khatib (right, back to camera), his Special Envoy to the Libyan Arab Jamahiriya; B. Lynn Pascoe (left, back to camera), UN Under-Secretary-General for Political Affairs; and Jean Ping (left), Chair of the African Union Commission.

On 17 March, in response to growing domestic, regional and international calls for action, the Security Council passed additional measures in resolution 1973, which called for a no-fly zone over Libya and a ceasefire, strengthened the sanctions regime and established a panel of experts to monitor and document violations of the sanctions. Significantly, resolution 1973 authorized "all necessary measures" to protect civilians in Libya. This was the third time since 2005 that the Security Council invoked the responsibility to protect to enforce the protection of civilians.³ Two days later, on 19 March, US and European forces commenced air strikes against Qadhafi's forces. By 24 March, in conjunction with increasing diplomatic pressure

Special Envoy, Libya

Authorization and Start Date	10 March 2011 (UNSC Letter S/2011/126)
Personal Envoy	Abdel-Elah Mohamed Al-Khatib (Jordan)

Note: The Special Envoy receives funding through extra-budgetary resources.

AU Ad Hoc High-Level Committee on Libya

Authorization Date	10 March 2011 (Peace and Security Council Communiqué (PSC/PR/COMM.2(CCLXV))
Panel Members	Mohamed Ould Abdel Aziz (chair, Mauritania) Amadou Toumani Toure (Mali) Denis Sassou Nguesso (Republic of the Congo) Jacob Zuma (South Africa) Yoweri Museveni (Uganda) Jean Ping (Gabon)

for Colonel Qadhafi to step down, NATO agreed to take full responsibility for the aerial military operations in Libya enforcing the no-fly zone. By the end of March, Jordan, Qatar and the United Arab Emirates were contributing aircraft to the operation.

KEY DEVELOPMENTS

Since the appointment of the special envoy, Al-Khatib has continued to urge full adherence to Security Council resolutions 1970 and 1973, the imposition of a ceasefire that is linked to a political process for the creation of a transitional authority, and full access for all humanitarian assistance. The special envoy has also focused on coordinating the multitude and, at times, overlapping initiatives on Libya by the UN, regional organizations and individual governments. Because of the number of

actors involved and divergent views on resolving the crisis, forging coherence among the messages sent by the international community to both the Libyan government and the opposition National Transitional Council (NTC) has been a particular challenge. However, at the fourth meeting of the international Contact Group in Istanbul, Turkey, on 15 July 2011 participants agreed on the UN's lead mediating role in resolving the crisis in Libya. Significantly, the statement of the Chair of the Contact Group⁴ recognized the NTC as the "legitimate governing authority of Libya."⁵

The special envoy has been operating under difficult conditions and the parties to the conflict remain sharply divided on how to initiate peace negotiations. In an effort to bring the opposing sides closer, Al-Khatib has engaged in discussions with both parties on a general framework for negotiations. While the NTC leadership and the Libyan authorities have agreed on the need for a verifiable ceasefire, they disagree substantially on the future of Colonel Qadhafi and on NATO military operations. The NTC asserts that a ceasefire is necessary but sees Colonel Qadhafi's removal from power as a pre-condition before entering into negotiations, while the Libyan government insists on a ceasefire, including an end to the NATO military operations, as a precondition for negotiations. Al-Khatib, meanwhile, maintains that discussions on a ceasefire and Colonel Qadhafi's possible departure should be part of – and therefore subsequent to – an agreement on a political process. The special envoy has also been recently consulting closely with the African Union and other regional partners to ensure a more coordinated international response to end the fighting in Libya.

The AU's High-Level Committee on Libya, which includes South African president Jacob Zuma, has also played an active role in seeking a negotiated political solution to the conflict by facilitating an inclusive dialogue and the coordination of efforts with AU partners including the League of Arab States (LAS), the Organization of the Islamic Conference (OIC), the European Union and the UN.⁶

On 25 March in Addis Ababa, Ethiopia, a consultative meeting on Libya was held with the AU

The Office of the Special Adviser on the Prevention of Genocide

Established in July 2004, the Office of the Special Adviser on the Prevention of Genocide was created to serve the UN Secretary-General as an early warning mechanism, and to liaise with the UN system on activities that could diminish the prospects of genocide.¹ Led by Special Adviser Francis Deng, and supported by the Special Adviser on the Responsibility to Protect, Edward Luck, the two appointees have been tasked to work together on these interconnected issues.

The proposal by the Secretary-General to institutionalize the collaboration through a joint Office has yet to be approved by the General Assembly's Fifth Committee, the UN's administrative and budgetary apparatus. Intended to strengthen the UN's capacity to anticipate, prevent and respond to situations where there was a threat of mass atrocities, and to enable a broad-based UN response to crises relating to the responsibility to protect (R2P), the proposal caused heated debates during the Committee's December 2010 deliberations.² Discussions on the feasibility of joining the concepts of genocide and R2P under the mandate of one office underlined the highly politicized environment in which administrative and budgetary discussion are being taken and showed that member states continue to have reservations about institutionalizing the concept of R2P.

During 2010-2011, the Office was confronted with a variety of complex country-specific situations, including responding to the outbreak of violence in Kyrgyzstan in June 2010, the inter-group tensions in the lead up to Guinea's November 2010 elections, and the post-electoral crisis in Côte d'Ivoire, where the two special advisers expressed their grave concern about the continuing reports of violent attacks and hate speech directed at specific ethnic and national groups.³

The Office also took a stance in addressing the reports of mass violence from Libya. On 22 February 2011, just one week after the widespread demonstrations against Colonel Qadhafi's regime had begun, Deng and Luck released a statement reiterating the responsibility of states to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The high-profile message also warned that if crimes of such a scale could be confirmed, national leaders should be held accountable.⁴ In the subsequent weeks, these words became an important component of the extensive political initiatives to find a solution to the Libyan conflict. Ultimately, the Security Council was compelled to intervene, and while it is unclear whether the Office's efforts directly influenced the Council's decision, its normative contribution should not be overlooked.

The Advisers' proactive stance on Libya and the international community's response will undoubtedly bring more attention to the Office's work. As a result, the impending challenge for Special Advisers Deng and Luck will be whether they can harness this increased awareness and mobilize appropriate responses to prevent mass atrocities in the future.

1 United Nations. *Letter dated 12 July 2004 from the Secretary-General to the President of the Security Council*, (S/2004/567) (13 July 2004).

2 Global Centre for the Responsibility to Protect, "ACABQ and Fifth Committee negotiations on the Joint Office" Jan 2011, available at <http://www.responsibilitytoprotect.org/GCR2P%20Report%20--ACABQ%20and%20fifth%20Committee%20negotiations%20on%20the%20Joint%20Office.pdf>.

3 United Nations, *Statement attributed to the UN Secretary-General's Special Advisers on the Prevention of Genocide and the Responsibility to Protect on the Situation in Côte d'Ivoire*, 19 January 2011, available at <http://www.un.org/en/preventgenocide/adviser/pdf/OSAPG,%20Special%20Advisers%20Statement%20on%20Cote%20d%27Ivoire,%2019%20Jan%202011.pdf>. This reference to divisive rhetoric is one of the dynamic factors listed in the Office's Analytical Framework (established in 2009), which serves as the basis for the Office's determination of whether the risk of genocide exist in a particular state.

4 United Nations, *UN Secretary-General Special Adviser on the Prevention of Genocide, Francis Deng, and Special Adviser on the Responsibility to Protect, Edward Luck, on the Situation in Libya*, 22 February 2011, available at <http://www.un.org/en/prevent-genocide/adviser/pdf/OSAPG,%20Special%20Advisers%20Statement%20on%20Libya,%2022%20February%202011.pdf>.

High-Level Ad-hoc Committee, members of the AU Peace and Security Council, neighboring countries, African members of the Security Council, the Permanent Five (P5), the EU, LAS, OIC, UN and other interested states.⁷ At the conclusion of the meeting, the African Union announced a “roadmap” that stressed protection of civilians and cessation of hostilities; delivery of humanitarian assistance; initiation of a political national dialogue; establishment and management of an inclusive transitional period; and adoption of political reforms necessary to meet the aspirations of the Libyan people.

On 11 April, the AU High-Level Panel on Libya presented their roadmap to Colonel Qadhafi, which he accepted. The proposal called for an immediate cease-fire, delivery of humanitarian assistance, the protection of foreign nationals, initiation of talks between the opposition and the government and the suspension of NATO airstrikes. The NTC rejected the roadmap, as it did not call for the end of Colonel Qadhafi’s rule.

During the 30 June-1 July AU Summit in Equatorial Guinea – in which both representatives from Qadhafi’s government and the NTC were present – African leaders were unable to come to an agreement on Libya after a series of closed door sessions. Reports indicate that while some member states thought that Colonel Qadhafi should step down immediately, others believed that he should be part of any negotiated solution to the crisis. The NTC’s precondition for an end to Colonel Qadhafi’s rule has not only split consensus among African states, but remains the main obstacle in securing a cease-fire to end the fighting in Libya. The ongoing discord within the AU mirrors that of other multilateral organizations, such as NATO. It also highlights broad, on-going disagreements in the international community about the use of force in Libya and how to deal with Colonel Qadhafi. Indeed, there are various, parallel bilateral diplomatic initiatives aimed at either promoting defections among Qadhafi’s senior leadership, or jumpstarting negotiations between the NTC and the Libyan authorities.

All actors do agree that the UN should have a central post-conflict peacebuilding role, and the UN has begun a contingency planning process for an eventual presence in Libya. The process, led by Special Adviser on Post-Conflict Planning on

Libya, Ian Martin, is designed to strengthen the UN’s knowledge base and lay the analytical ground work for subsequent planning steps. The post-conflict planning brings together UN departments and agencies, as well as the World Bank to consolidate pre-conflict information and identify potential fault lines in the immediate aftermath of the conflict in seven areas: political, security sector, rule of law and human rights, economic recovery, public administration, social services and physical infrastructure. Whether this presence will take the shape of a peacekeeping operation or a political mission will be determined by the realities on the ground and by the form of assistance the Libyan authorities will request. Regardless of its ultimate form, the main task of a UN presence would be to facilitate participation in an inclusive political process for the Libyan people, as well as *inter alia* responding to immediate recovery needs in conflict-affected areas.

CONCLUSION

NATO’s military operations to enforce the no-fly zone over Libya, pursuant to UN Security Council resolution 1973, continues amid shifting political and military objectives. A multitude of multilateral and bilateral diplomatic initiatives to secure a cease-fire and attain a political solution are underway, often working towards cross-purposes. This myriad of mediation efforts has arguably blunted the effectiveness of international efforts, particularly those of the special envoy, protracting the current political stalemate.

It remains to be seen what pressure Special Envoy Al-Khatib, with the support of the international community, can bring to bear on the parties in order to move them toward a cease-fire and indirect talks. After undertaking numerous trips to Libya, meeting with both the NTC leadership and the Libyan government and remaining in frequent contact with both sides, there is little indication that he has been able to bridge their differences.

Currently, the only politically feasible option in the current deadlock over Libya, and one that is recognized by the parties and the international community, is for the UN to have the lead in the international response to a post-conflict Libya.

NOTES

- 1 United Nations, *Letter dated 10 March 2011 from the Secretary-General to the President of the Security Council*, S/2011/126 (11 March 2011).
- 2 African Union. *Communique of the 265th Meeting of the Peace and Security Council*, PSC/PR/COMM.2 (CCLXV) (10 March 2011). The communiqué also condemned the indiscriminate use of force and rejected any foreign military intervention.
- 3 M. Doyle, “The Folly of Protection: Is Intervention Against Qaddafi’s Regime Legal and Legitimate?” *Foreign Affairs*, 20 March 2011, available at <http://www.foreignaffairs.com/articles/67666/michael-w-doyle/the-folly-of-protection>.
- 4 There is no fixed membership of the Contact Group, as it kept increasing in numbers over the past months (some countries/regional organizations have member status, while others have observer status).
- 5 A. Davutoglu, “Fourth Meeting of the Libya Contact Group Chair’s Statement, 15 July 2011, Istanbul” *Republic of Turkey Ministry of Foreign Affairs*, (15 July 2011), available at http://www.mfa.gov.tr/fourth-meeting-of-the-libya-contact-group-chair_s-statement_-15-july-2011_-istanbul.en.mfa.
- 6 The Panel is comprised of five African Presidents: Jacob Zuma of South Africa, Mohamed Ould Abdel Aziz of Mauritania, Yoweri Museveni of Uganda, Amadou Toumani Toure of Mali and Denis Sassou-Nguesso of the Republic of Congo.
- 7 Other interested states included Belgium, Brazil, Canada, Denmark, Germany, India, Italy, Japan, Norway, Portugal, Spain and Turkey; African Union, *Consultative Meeting on the Situation in Libya*, (25 March 2011), available at http://www.au.int/en/sites/default/files/communique_-_Libya__eng_%5B1%5D.pdf.