

Published on *National Catholic Reporter* (<https://www.ncronline.org>)

August 26, 2011 at 10:07am

Libya needs a diplomatic resolution

by Douglas W. Kmiec



Libyan youths celebrate in Janzour, near Tripoli, Aug. 23. Despite rebel momentum, forces loyal to Muammar Qaddafi remained in the capital, striking back at Libyan rebels in several volatile pockets. (CNS photo/Ismail Zitouny, Reuters)

COMMENTARY

After a week of destruction, violence and death rebel claims that the authoritarian regime of Muammar Qaddafi is at an end remains elusive. As events continue to unfold in Lybia, it is clear that Qaddafi retains the loyalty of local tribes and the fighting in Libya will continue.

For now, the NATO bombing operations is indispensable to the ultimate military success of the rebels in Tripoli or elsewhere in the country. Is there another way out of this messy business? Yes, diplomacy.

A short time back, reflecting on the situation in Libya, the Holy Father repeated what one might hope to be more prominently affirmed by American Catholics, especially those of us who supported Barack Obama for his senatorial opposition to Iraq, namely that: "Violence and hate are always a defeat!" said the Pope. "I therefore make a renewed and heartfelt appeal to all parties to the cause, to initiate a process of peacemaking and dialogue, and to avoid further bloodshed."

My diplomatic life is a limited one, but having spent the last several years as the U.S. Ambassador to the Republic of Malta, the closest European nation to Libya, I know the Libyan people to be generous of heart and ever hopeful for the peace and security desired by us all.

Qaddafi's violent response to the call for political reform was and is unconscionable. Qaddafi's actions necessitated the closing of the U.S. Embassy in Tripoli and the need for my embassy to rescue and evacuate the staff and several hundred other foreign nationals. Since the fighting began, several hundred thousand people have been airlifted to safety into neighboring Tunisia or Egypt.

Qaddafi's perceived instability, and it may be pretextual, together with France's unusually rapid decision to back the rebels even before they were fully identified (and they may not be yet) meant that a "no-fly" zone with supporting military power became the chosen means to end Qaddafi's senseless repression.

Only at the last minute did Qaddafi and his supporters try to negotiate. I know because, as a constitutionally neutral nation, Malta was frequently the recipient of these feelers. Each one, and there were a half dozen or so, were swatted aside by the world community, including the United States.

Apparently, Qaddafi had suckered the world once too often - whether it be his role in the Lockerbie bombing or the bogus health release and insulting heroes-welcome of Al-Megahi who had been convicted of the 1988 destruction of the Pan Am aircraft killing 270, mostly Americans. Qaddafi had zero credibility to ask for another diplomatic go at it.

The sides hardened, but that was then. It remains to be seen how much more death and destruction of Libyans is necessary to protect Libyans. Today, unlike yesterday, that is most unclear. While unclarity is bad for military strategists, it can be a trump card for diplomacy. In Libya's capital of Tripoli, Bishop Giovanni Martinelli has been urging Catholics world-wide to give attention to the papal plea for the violence on all sides to end. Referencing the pope's statement, Martinelli said that it "keeps the possibility of reconciliation alive."

Has the negotiation window reopened? Perhaps. Let's deal with the situation as it exists: Qaddafi remains in power with underlying tribal support, but far more tenuously than he likely anticipated with his usual bluster and bravado; from our side, the rebel-backed government of Libya, the Transitional National Council, has shown itself to be a mixed bag of rebel competencies and opposing tribes, with wild-card rumors of outside terror factions, which in these heightened times of instability can be counted on to sniff around the edges of tumult, especially in the Middle East. Thus far the bombing has assiduously avoided any serious damage to Libya's most bankable asset: its oil operations

What would be the outlines of a deal? Qaddafi steps aside, but is allowed to stay in the country on payment of substantial reparations for his death squad treatment of his political opposition and a promise that he and his immediate family members stay out of politics. The reparations ought not to be difficult for a man who extorted billions from the oil, hotel and retail establishments in his country for the last four decades. The second part - keeping out of his country's political future - is more difficult to enforce, and might be near impossible, except for matters of international criminal justice. No prosecution for now, but violate the no-political interference pledge, and the hammer drops - not just for current crimes, but all of it, Lockerbie bombing and all.

Advertisement

Admittedly, it may still turn the global stomach to even contemplate expending diplomatic effort. Nevertheless, if our goal is a democratic or at least less repressed Libya, we likely need to find a way to save a good portion of the country from its unnecessary destruction.

And who would govern? As President Obama and Secretary of State Clinton have said many times: that is for the Libyan people to decide. It is, even if a newly formed government includes some who today remain loyal to Qaddafi. This is what usually happens after armed conflict: opposing sides, with proper pledges of integrity, become a single body politic.

A diplomatic conclusion could make that possible ? sooner rather than later.

[Douglas W. Kmiec retired as U.S. ambassador to Malta this month. He is the Caruso Family Chair & Professor of Constitutional law at Pepperdine University School of Law in Malibu, Calif.]

Source URL (retrieved on 02/20/2018 - 3:35am): <https://www.ncronline.org/news/world/libya-needs-diplomatic-resolution>

Links:

[1] <https://www.ncronline.org/donate?clickSource=article-end>

[2] <https://www.ncronline.org/node/160616>