

# USE FORCE TO STOP THE BARREL BOMBS

On issues of morality, legality, practicality, and responsibility

By Kellie Strøm, London, 30 April 2014

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This week's BBC News story on the ongoing bombing of Syria's civilians by the Assad regime is just the latest of countless reports. The bombing continues daily even if many Western news outlets now report it infrequently. For anyone who wants to know more about how the bombs are impacting men, women, and children, there are more than enough gruesome images of severed arms and legs, of children with their skulls split open, all available just a few clicks away.

A cooler assessment of the bombing's impact is available in counts of lives taken, in counts of attacks, and in counts of refugee flow increases.

The Violations Documentation Center in Syria<sup>(1)</sup> today lists 10,365 individuals killed in air attacks since the start of the conflict, 9,892 of them civilians, 1,656 of them under 18, and of those 1,150 children up to the age of 12. This is a minimum count of confirmed killed, not an estimate of the true total. The numbers will likely be higher by the time you click a link.

Of the over 10,000 individual killings by aircraft documented by the VDC, 2,887 took place since the start of this year, a rate of over 700 confirmed killed by air attacks per month.

Just looking at numbers killed doesn't take account of the horrific scale of injuries. One doctor from Aleppo describes 40 to 50 injuries from one barrel bomb attack as the norm, an overwhelming escalation compared to his earlier experiences with mortar attacks that might injure 7 or 8.<sup>(2)</sup>

Since February 22nd when the United Nations Security Council passed Resolution 2139, which amongst other things demanded an end to air attacks on civilians,<sup>(3)</sup> activists have logged at least 1,029 reported air attacks by Assad's forces.<sup>(4)</sup>

In February, UNHCR reported aid workers as saying the aerial bombing of Aleppo was causing one of the largest flows of refugees of the war, as many as 500,000.<sup>(5)</sup> And the bombing has now continued for a further two months. The total number of refugees registered with UNHCR is now over 2.6 million.<sup>(6)</sup>

Most recently there have been many reports of chlorine being used in barrel bombs, turning them into crude chemical weapons. While the 21 deaths in 14 attacks cited in a report by The Telegraph<sup>(7)</sup> is a fraction of the number killed by the more usual non-CW air attacks, the chlorine bombs represent a clear breach of the Chemical Weapons Convention, signed by Syria last September, as well as being a breach of UNSC Resolution 2139 in common with the rest of the air attacks, and a crime under international humanitarian law.

To some, all this is enough to make a case for military intervention. Others doubt whether intervention can be effective, or believe it would be illegal, or think it would be impractical or prohibitively expensive, or think that it is not the responsibility of Western nations.

## MORAL GROUNDS

I've previously argued<sup>(8)</sup> that the likely risk of civilians being killed in a military intervention is massively outweighed by the number of lives being taken by Assad's air attacks. That case is even stronger now.

In NATO's seven-month Libya air campaign, investigations by The New York Times, Human Rights Watch, and Amnesty, counted between 40 and 115 civilians possibly killed by NATO aircraft.<sup>(9)</sup> While it is right that NATO should be fully accountable to those it was tasked to protect, this number is a fraction of the number now being killed per month by air attacks in Syria: a minimum of over 700 every month as cited earlier.

Military action to disable Assad's air force, more limited in aims and targets than NATO's Libya campaign, would therefore most likely prevent very many more civilian deaths and injuries than it might cause.

When the Libya intervention is discussed, objectors point to the fact that Libya is still unstable to argue that military intervention was a failure. NATO's mission was to protect civilians during the conflict, not establish stable government; nonetheless one can favourably compare Libya's postwar instability with the situation in Syria. In all of 2013 there were reportedly 643 violent deaths in Libya.<sup>(10)</sup> In Syria death tolls are now in excess of 200 daily according to the UN Secretary-General's March report.<sup>(11)</sup>

So much safer does Libya seem than Syria that the UNHCR has registered 17,589 Syrian refugees in Libya.<sup>(12)</sup>

It's also sometimes argued that war in Mali was a result of the Libya intervention, and thus demonstrates the folly of intervention in Syria. This ignores both the history of conflict in Mali<sup>(13)</sup> and the scale of the ongoing destabilisation in Lebanon and Iraq that is directly connected with allowing Syria's war to rage on.

Military action against Assad's air force would not in itself be likely to end the war, nor would it ensure a stable future for Syrians or their neighbours, but it would almost certainly prevent a big portion of the further suffering now promised to them. For those with the military means to act, there is a moral imperative to do so.

## LEGAL GROUNDS

Indiscriminate bombing of civilian areas is prohibited under international humanitarian law.<sup>(14)</sup>

The recent use of chlorine bombs violates the Chemical Weapons Convention, to which Syria is a signatory.<sup>(15)</sup>

UN Security Council Resolution 2139 on Syria "demands that all parties immediately cease all attacks against civilians, as well as the indiscriminate employment of weapons in populated areas, including shelling and aerial bombardment, such as the use of barrel bombs..."<sup>(3)</sup>

The Assad regime is therefore clearly, deliberately, continuously violating international law. But would a targeted military action to disable Assad's air force also violate international law? Not according to UK Government legal opinion.

Minister of State Hugh Robertson reaffirmed in January that under certain circumstances the UK Government regards humanitarian intervention as legal even without a UN Security Council resolution. <sup>(16)</sup> Those circumstances were defined in a Foreign and Commonwealth Office note circulated to NATO allies in October 1998 prior to the Kosovo intervention, as follows:

Security Council authorisation to use force for humanitarian purposes is now widely accepted (Bosnia and Somalia provided firm legal precedents). A UNSCR would give a clear legal base for NATO action, as well as being politically desirable.

But force can also be justified on the grounds of overwhelming humanitarian necessity without a UNSCR. The following criteria would need to be applied:

- (a) that there is convincing evidence, generally accepted by the international community as a whole, of extreme humanitarian distress on a large scale, requiring immediate and urgent relief;
- (b) that it is objectively clear that there is no practicable alternative to the use of force if lives are to be saved;
- (c) that the proposed use of force is necessary and proportionate to the aim (the relief of humanitarian need) and is strictly limited in time and scope to this aim—ie it is the minimum necessary to achieve that end. It would also be necessary at the appropriate stages to assess the targets against this criterion.

In a parliamentary debate on the Kosovo intervention in 1999, <sup>(17)</sup> UK Defence Minister George Robertson declared that:

We are in no doubt that NATO is acting within international law. Our legal justification rests upon the accepted principle that force may be used in extreme circumstances to avert a humanitarian catastrophe. Those circumstances clearly exist in Kosovo.

The use of force in such circumstances can be justified as an exceptional measure in support of purposes laid down by the UN Security Council, but without the Council's express authorisation, when that is the only means to avert an immediate and overwhelming humanitarian catastrophe.

The current situation in Syria is similar in that narrowly targeted military action to stop aerial attacks would clearly be in support of the purposes of Resolution 2139, even though that resolution doesn't expressly authorise the use of force.

## PRACTICAL OPTIONS

A patrolled No-Fly Zone such as was implemented over Bosnia, and later over northern and southern Iraq, would be an expensive open-ended commitment.<sup>(18)</sup> It would also require the kind of capability to suppress enemy air defences only held by the US, so would not be an option without active US participation.

Use of Patriot missiles in Turkey has been proposed by some, but they're better suited to defend against missile attack and can't be safely used against enemy aircraft if friendly aircraft are operating in the same space.<sup>(19)</sup>

Providing anti-aircraft weapons to rebels is seen as a serious security risk in case they might come into the wrong hands and be used against civilian aircraft.

The best option in Syria seems to be limited strikes against selected targets, whether deterrent strikes against a few choice targets to try and persuade Assad to comply with Resolution 2139 or a wider campaign of strikes against Assad's air capacity.<sup>(20)</sup>

Not only would this cost less than a full no-fly zone, but as the duration of a limited strike action would be shorter than a patrolled no-fly zone, and as air defences wouldn't need to be targeted to the same degree, there should also be less risk to both air crews and to civilians on the ground.

## OUR RESPONSIBILITY

There are only a few states capable of mounting carefully targeted military strikes against Assad. They include the five permanent members of the UN Security Council. Of those, Britain, France, and the United States are the only ones with previous experience of conducting such operations, and are also the only permanent members likely to support such action given Russia and China's history of support for the Assad regime.

The capacity to act, the privilege of permanent membership of the Security Council, the protection of veto power in the Council; all of these mean a moral, legal, and political responsibility to act falls upon the governments of Britain, France, and the United States.

Continued failure to act undermines the moral standing of the UK, France, and US. It undermines the legal standing of UN Security Council resolutions, of the Chemical Weapons Convention, and of all international humanitarian law. It undermines the political position of UNSC permanent members, and undermines the current international order. It threatens our security.

This responsibility falls on these three governments collectively and individually. If one fails to act, that does not absolve the others. Each has both the power and the responsibility to act.

## REFERENCES

- (1) The Violations Documentation Center in Syria  
<http://www.vdc-sy.info/index.php/en/>
- (2) Syria ER: Three Years in a Syrian Hospital  
<http://www.syriadeeply.org/articles/2014/04/5205/syria-er-years-syrian-hospital/>
- (3) UNSC Resolution 2139 full text  
[http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2139\(2014\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2139(2014))
- (4) Record of Illegal Barrel Bomb Attacks @lopforum  
<http://lopforum.tumblr.com/post/77574417507/record-of-illegal-barrel-bomb-attacks>
- (5) Attacks propel a new exodus from Syria; Fleeing ‘barrel bombs,’ refugees overwhelm city across Turkish border, Ben Hubbard, International New York Times, 18 February 2014, republished by UNHCR Refugees Daily  
<http://www.unhcr.org/cgi-bin/texis/vtx/refdaily?pass=463ef21123&id=530456b82>
- (6) UNHCR Syrian Regional Refugee Response  
<http://data.unhcr.org/syrianrefugees/regional.php>
- (7) Syria: the children killed by Assad’s chlorine gas bombs, Ruth Sherlock, The Telegraph, 25 April 2014  
<http://www.telegraph.co.uk/news/worldnews/middleeast/syria/10789298/Syria-the-children-killed-by-Assads-chlorine-gas-bombs.html>
- (8) Syria (still) needs a No-Fly-Zone, Left Foot Forward and NFZSyria.org, January 2014.  
<http://www.leftfootforward.org/2014/01/syria-still-needs-a-no-fly-zone/>  
<http://www.nfzsyria.org/2013/12/syria-still-needs-no-fly-zone.html>
- (9) In Strikes on Libya by NATO, an Unspoken Civilian Toll, CJ Chivers and Eric Schmitt, New York Times, 17 December 2011  
<http://www.nytimes.com/2011/12/18/world/africa/scores-of-unintended-casualties-in-nato-war-in-libya.html>  
  
Unacknowledged Deaths: Civilian Casualties in NATO’s Air Campaign in Libya, Human Rights Watch, 14 May 2012  
<http://www.hrw.org/reports/2012/05/13/unacknowledged-deaths>  
  
Libya: The forgotten victims of NATO strikes, Amnesty International, March 2012  
<http://www.amnesty.org/en/library/asset/MDE19/003/2012/en/8982a094-60ff-4783-8aa8-8c80a4fd0b14/mde190032012en.pdf>
- (10) Libya violence kills 643 people in 2013, AFP, 24 January 2014  
<http://libya.tv/en/libya-violence-kills-643-people-2013/>
- (11) Report of the Secretary-General on the implementation of Security Council resolution 2139 (2014), UN Security Council, 24 March 2014  
<http://reliefweb.int/report/syrian-arab-republic/report-secretary-general-implementation-security-council-resolution-2139>

- (12) UNHCR: Libya refugee status update: January–March 2014, 10 March 2014  
<http://libya.tv/en/unhcr-libya-refugee-status-update-january-march-2014/>
- (13) Mali Opinion: A Disaster 50 Years in the Making, Nasser Weddady, January 2013  
<http://www.enduringamerica.com/home/2013/1/27/mali-opinion-a-disaster-50-years-in-the-making-weddady.html>
- (14) Syria: Unlawful Air Attacks Terrorize Aleppo, Human Rights Watch, 24 March 2014  
<http://www.hrw.org/news/2014/03/24/syria-unlawful-air-attacks-terrorize-aleppo>
- UN OHCHR 7th Report of Commission of Inquiry on Syria - A/HRC/25/65, Annex VI Use of barrel bombs  
<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>
- (15) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention)  
<http://www.opcw.org/chemical-weapons-convention/>
- Syria chlorine gas attacks: Q & A, David Blair, The Telegraph, 29 April 2014  
<http://www.telegraph.co.uk/news/worldnews/middleeast/syria/10795987/Syria-chlorine-gas-attacks-Q-and-A.html>
- (16) Rt Hon Hugh Robertson MP, Minister of State, Foreign and Commonwealth Office: humanitarian intervention and the responsibility to protect (USA 19), 14 January 2014  
<http://justsecurity.org/wp-content/uploads/2014/01/Letter-from-UK-Foreign-Commonwealth-Office-to-the-House-of-Commons-Foreign-Affairs-Committee-on-Humanitarian-Intervention-and-the-Responsibility-to-Protect.pdf>
- (17) Mr George Robertson (Secretary of State, Ministry of Defence; Hamilton South, Labour) Kosovo debate, House of Commons 25 March 1999  
<http://www.theyworkforyou.com/debate/?id=1999-03-25a.616.3>
- (18) Letter from Joint Chiefs Chairman Gen. Martin Dempsey to Sen. Carl Levin, D-Mich., the chairman of the Senate Committee on Armed Services, 19 January 2013  
<http://www.scribd.com/doc/155494643/Dempsey-Letter>
- (19) The Patriots are here, Now what? By Aaron Stein with Shashank Joshi, 3 June 2013  
<http://turkeywonk.wordpress.com/2013/03/06/the-patriots-are-here-now-what/>
- (20) No-Fly Zone options: Reasons for favouring a limited strike option  
<http://www.nfzsyria.org/2014/01/no-fly-zone-options-reasons-for.html>
- Strategic Horizons: For Syria No-Fly Zone, Less Is More, Steven Metz, 3 July 2013  
<http://www.nfzsyria.org/2014/01/strategic-horizons-for-syria-no-fly.html>

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