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OCTOBER
2013

SECURITY COUNCIL'S UNITY OVER SYRIA: an Overdue Act of Responsibility?

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Within a few weeks of the August 21st chemical attack in Ghouta near Damascus and with the US on the verge of unilateral punitive strikes, the international community managed to stand together against the use of chemical weapons in Syria. By adopting Resolution 2118, the Security Council endorsed unanimously some exceptional disarmament procedures allowing the process of Syria's chemical weapons destruction to start without delay. While any consensus over Syria was applauded as welcome progress, the resolution was also criticized for putting emphasis on the chemical weapons but saying little about the humanitarian situation in Syria and protection of the civilians killed every day by the conventional weapons. Arguably, the adopted resolution will put the UN Security Council to a new test: After regaining its authority and by having to assume a central role in the oversight and facilitation of Syria's disarmament process, will the Security Council be able to seize this as an opportunity to stop the violence on the ground and bring a negotiated end to the conflict?

When the framework agreement for the elimination of Syria's chemical weapons was reached by the US and Russia on the 14th of September, further political developments followed quickly. On the same day, Syria deposited its instrument of accession to the Chemical Weapons Convention (CWC) and declared that it is willing to apply the Convention provisionally, pending its entry into force one month later. On this basis, the cooperation between the Organization for the Prohibition of Chemical Weapons (OPCW) and the Syrian Arab Republic was established. A few days later, the OPCW Executive Committee agreed on an accelerated program for a complete elimination of Syria's CW by mid-2014. The OPCW decision was endorsed on the 27th of September when the UN Security Council adopted unanimously Resolution 2118 requiring a scheduled destruction of Syria's chemical weapons. The endorsement by the UN of the OPCW exceptional procedures allowed the first team of UN disarmament experts to initiate the inspections in Syria already on the 1st of October.

Certainly, after months of deadly conflict and stalemate at the UN SC over imposition of any coercive measures, one cannot deny the significance of the

Russian-US compromise endorsed collectively by the full 15-members of the UN body. The Council has moved from being almost totally sidelined in the face of possible military strikes by the US to now having an oversight role in the process of Syrian disarmament. While the Russia-US dynamic will most probably continue to determine the course of any future Council action, the UN now has a legal and political basis to play a more substantive role in restoring peace in Syria. However, despite these encouraging developments, some major concerns remain: Will the UN SC be able to enforce implementation of the resolution in case of non-compliance? Can the UN facilitate the disarmament process in spite of operational and financial challenges? Will the Security Council be able to stop the violence and held accountable the perpetrators of the war crimes committed in Syria? And finally, can the UN bring the regime and the opposition to the negotiating table?

First of all, to dismantle the chemical weapons successfully, it is critical for the UN to ensure Syria's compliance with the OPCW decision. The legally binding provisions of the resolution should help in achieving that. By referring to Chapter VII of the UN Charter, the Security Council determined for the first time that the use of chemical weapons in the Syrian Arab Republic and anywhere else constitutes a threat to international peace and security. This double Article 39 determination, one related to the use of chemical weapons in Syria and the other to the use of chemical weapons in general, is significant since it establishes a new norm. This norm, apart from the conventional prohibition of the use of chemical weapons by the States signatories of the CWC, requires in accordance with the principles of the UN Charter that international community takes effective collective measures for the prevention and removal of the threat posed by the use of chemical weapons.

Apart from the UN role in the elimination of chemical weapons, the Security Council has an important responsibility in the establishment of an appropriate justice mechanism for the war crimes committed in Syria. Despite the fact that the Resolution upheld the principle of accountability for the use of chemical weapons, stating that those responsible for the chemical weapons attacks '*should be held responsible*', the Council failed to establish mechanisms for accountability for the perpetrators of war crimes and crimes against humanity. In spite of calls from civil society and other UN member states, the Council did not refer the situation to the International Criminal Court (ICC) and said little about mass violations committed in Syria.

To address this issue an independent initiative called a Blue Ribbon Panel of former international tribunal chief prosecutors, international judges, and leading experts prepared a Draft Statute for a *Syrian Extraordinary Tribunal to Prosecute Atrocity Crimes*. It was presented to the public on the 3rd of October as a '*useful framework for not only the Syrians but regional and international organizations to assist in the creation of an appropriate justice mechanism.*' The special tribunal for Syria is not supposed to replace the ICC if the situation in Syria were to be referred there. Instead, the purpose of this additional mechanism is to allow the prosecutions of lower ranked commanders that may have committed some of the large number of alleged war crimes in Syria. In order to ensure that accountability plays an appropriate role in peace negotiations the Council should seize this opportunity and discuss the proposal as soon as possible.

The next few weeks will be crucial for using the momentum created by the adoption of the Resolution for stopping the violence on the ground and bringing the Syrian regime and the opposition to the negotiation table. The Security Council's endorsement of the Geneva Group agreement reached on 30 June 2012 and call for the convening of the follow up conference as soon as possible was the first step in that direction but it is certainly not sufficient. Bashar al-Assad's

regime, confident of its good negotiating position as a partner-interlocutor in the disarmament process, started already its diplomatic offensive at the UN seeking to discredit Syria's political opposition and its supporters. The main diplomatic challenge in this context might be to unite the various fractions and political agendas on the rebel side, attempt to negotiate a ceasefire and convene a new peace conference launching a Syrian-led political transition process. This task, as much as the ones mentioned above, is extremely difficult. However, taking into account Syria's economic and humanitarian situation, a promise of financial help to aid an economic recovery combined with a strong support of the political transition process under the UN auspices might significantly improve the prospects for peace.