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The Uniting for Peace Resolution and Struggle against ISIS

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Introduction:

Generally nowadays everybody around the world knows about United Nations, its goals and responsibilities or at least it is assumed so. Security, human rights, and development are pillars of United Nations as Secretary General also mentioned it taking the oath in General Assembly in 2006:

... By strengthening the three pillars of the United Nations -- security, development and human rights -- we can build a more peaceful, more prosperous and more just world for our succeeding generations. As we pursue our collective endeavour to reach that goal, my first priority will be to restore trust....(Selected Speeches, un.org)

Considering interrelations and interconnections between security, human rights, development and peace and moreover historical backgrounds of this organization it become obvious to conclude reaching international peace would be the final aim of constructing such huge bureaucratic organization named United Nations.



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Like every international organization United Nations has its treaty document, namely the United Nations Charter. The United Nations Charter very clearly put responsibility to maintain international peace and security on United Nations; Security Council:

In the Charter we read:

*Article 1:
The purposes of the United Nations
are:
To maintain international peace and
security, ...*

Having it in mind, I will try to show that General Assembly is responsible to act on behalf of maintaining peace and security in current conflict in Middle-East and against ISIS using the Uniting for Peace Resolution.

Responsibility to maintain international peace and security

The power of Security Council to have exclusive right/responsibility to maintain international peace and security comes from the UN Charter itself and particularly Article 24.1 of it. It has this right/responsibility for doing the goals of UN in a "prompt and effective" way. This responsibility of Security Council is a primary responsibility; it is why there is such a council consisting of major powers of the world after Second World War.

Therefore, Security Council primarily is responsible to do any effort to maintain international peace and security. That simply means any violent and/or armed conflict must be reacted by Security Council in one of the proper way mentioned in different chapter of the Charter. Here we don't need to talk about relationships and connections between armed and violent conflicts and violations

of fundamental rights and freedoms, peace and security.

Also, question that if Security Council is able to do its primary responsibility is another issue which must be analyzed in another time. Although Security Council has primary, but not exclusively, responsibility to maintain international peace and security, there are huge amounts of critics that Security Council especially after Cold War is an instrument in the hands of its permanent members especially United States. It is always said that the extents that Security Council will intervene in conflicts depends extremely on the strategies of the super powers using Security Council as a tool for their goals and interests. (Teixeira. Pascal: 2003, Page: 3) Also, it is known as a political organ which tries to manage universal norms mentioned in UN Charter using "realpolitik" of major powers. (Ibid. Page: 96)

However, here we are not about to discuss critics on Security Council nor its functions. The ways that Security Council is responsible and at the same time has right to intervene in violent and armed conflicts are different. One could be "Conflict Prevention" (Romita. Paul: 2011, Page 3-4). To prevent conflicts, depends on situation, it may ask member states of United Nations to intervene by their collective military actions and use of force.

Shortly, it is now so clear that Security Council is obliged to take effective measures to maintain international peace and security (Cowling. Michael:2005, page: 60) but it seems that everybody knows it is not able or it doesn't want to be able to comply with its self-defined responsibility at least in most cases of bursting a violent conflict in some parts

of the world.

Uniting for Peace:

By failure of Security Council to maintain international peace and security it is important to define responsible body. Then, it can be said, and already said, because General Assembly is the place that all member states have equal chance to discuss issues in the world and it is the place that all member states can address any matter related to UN Charter and international peace and security this rights/responsibility must be on this assembly. In other word, General Assembly is the only body in the world that voices of all member states is heard therefore, it is the most appropriate organ to have such role. (Hossain. Kamrul: 2008, page: 74)

This role of General Assembly is considered as a "complementary" or "secondary" role. The UN Charter explicitly put primary responsibility of maintaining international peace and security on Security Council but according to statement of International Court of Justice in the "Certain Expenses" case in which it states that "the role of the Security Council in the maintenance of international peace and security is primary, but not exclusive" the General Assembly is able to act on behalf of international community for maintaining international peace and security, as Security Council is or was supposed to do so. (Ibid, page: 78). The point here is while Security Council can use coercive actions to do this responsibility do the General assembly can use coercive one? It must be noted that the General Assembly will act exactly like Security Council on behalf of international community and with the same goal. So it is assumed as representative of Security Council therefore it has all rights and responsibilities in doing such acts.

Therefore, General assembly also can use coercive acts. It can also be interpreted from silence of International Court of Justice in the Certain Expenses case about the issue when talking about responsibility of the General Assembly in so doing. Another thing is to have in mind that maintaining international peace and security is the most important reason of United Nations so that it can be named as core content value of this organization. Therefore, for saving and guarding such a great and important goal the General Assembly must have the proper power to act in appropriate way while Security Council is not able or does not want to do so. Kamrul Hossain has stated that:

The 'Uniting for Peace' resolution therefore achieved broader support among the international community in general, which wanted to see the United Nations as active as it should be in restoring international peace and security. As a result it was a great achievement for the General Assembly in performing its duty to uphold the most fundamental objective of the Charter - peace. (Ibid, page: 81)

Upon the Resolution this power is given to the General Assembly in cases that there is a threat to the peace, breach of the peace or act of aggression then the General Assembly could recommend use of force to restore international peace and security. As Cowling says:

It is submitted that the general tenor of the Uniting for Peace Resolution was to establish the GA [General Assembly] as a substitute for the SC

[Security Council] when the latter was paralyzed by the veto and hence not able to carry out its functions as the primary UN organ responsible for the maintenance of international peace and security. (Cowling. Michael: 2005, page: 60)

ISIS and Jus Cogens Crimes

Islamic State of Iraq and Sham (ISIS or ISL or IS) emerged from the U.S.A and its alliances' war against Iraq and then benefiting the civil war made by the same group in Syria. They are not just Syrian and Iraqi civilians. It consists of bunch of Modjahids from all around the Islam world; From Tunisia and Morocco to Chechnya, Pakistan and even East Asia. Their funding is coming from inside and more from outside of Iraq and Syria, their goal is to establish an Islamic state at least in all Asia and North Africa then going through Europe and other parts of the world to invite the entire world to their specific interpretation of Islam. Therefore, it is not a civil war.

In order to reach their goals they do not hesitate to show extreme brutality and violence. They cut heads of civilians, surrounded army members, sexual enslaving of women and girls and selling them. They are committing systematic war crimes, crimes against humanity and slaving; jus cogens crimes. UN High Commissioner for Human Rights Zeid Ra'ad al Hussein said:

"The array of violations and abuses perpetrated by ISIL and associated armed groups is staggering, and many of their acts may amount to war crimes or crimes against humanity," . . . ISIS forces have committed gross human rights violations

and violence of an "increasing sectarian nature" against groups including Christians, Yazidis and Shia Muslims in a widening conflict that has forced 1.8 million Iraqis to flee their homes, according to the 29-page report by the UN Human Rights Office and the UN Assistance Mission for Iraq (UNAMI). (Reuters. Thomson: 2014)

Also as Human Rights Watch said:

The Islamic State of Iraq and Sham (ISIS) is killing, kidnapping, and threatening religious and ethnic minorities in and around the northern Iraqi city of Mosul. (HRW, 2014)

All those crime which ISIS has committed are included in what is known as "Jus Cogens" crimes; killing of civilians or imposing undue suffering on them; killing prisoners of war, torture, persecution and killing of followers of other religions and faiths, killing the followers of a political conviction for ideological reasons with the purpose of eliminating all of them, and etc. (Baharvand. Mohsen: 2014) This military group also is committing crimes against international peace and security by expanding their front lines into different countries and declaring their goals to combat against the entire world to convert them to their especial interpretation of Islam and so on. (Ibid)

Conclusion:

As a final word, it could be noted that if Security Council has primary responsibility but not exclusively to maintain international peace and security and the General Assembly has secondary or complementary responsibility to do so, both Security Council and General Assembly are in need to explain to international community and more importantly to all family members of victims of the violent and brutal actions of ISIS in Syria and Iraq about why they did not and they will not do anything to maintain peace and security in this region of the world.

Security Council at 15 August 2014 has adapted the resolution 2170 (S/RES/2170 (2014)) to respond the issue in the Middle East and terrorists actions there. But this resolution is nothing but some "reaffirming", "expressing concern" and "urging" and at the end it talks about some parts such as "Foreign Terrorist Fighters", "Terrorist Financing", "Sanctions", and "Reporting" including act or omission of act that member states must consider regarded to ISIS and others. Although it may be useful against some member states such as Turkey, Saudi Arabia and Qatar but it does not talk about any measure directly aimed to maintain peace and security. Therefore, here is the place for General Assembly to take its right/responsibility and intervene to, at least, recommend some coercive actions. It is interesting that Security Council in the resolution 2170 under the title of : " Acting under Chapter VII of the Charter of the United Nations " in lines number 1, 2 and 3

recognizes the ISIS as a terrorist group which is committing "*continued gross, systematic and widespread abuses of human rights and violations of international humanitarian law*", "*indiscriminate killing and deliberate targeting of civilians, numerous atrocities, mass executions and extrajudicial killings, kidnapping of civilians, forced displacement of members of minority groups, killing and maiming of children, recruitment and use of children, rape and other forms of sexual violence and ...*" , and "*widespread or systematic attacks directed against any civilian populations because of their ethnic or political background, religion or belief may constitute a crime against humanity*" and emphasizes need to hold ISIS accountable for "*abuses of human rights and violations of international humanitarian law*". But still it hesitates to call for coercive, means useful and practical, actions against ISIS and maintain peace and security.

Therefore, the current conflict in Middle East can be simply one of the best examples for General Assembly to pave the way of reform in Security Council and making balance between power of permanent members of Security Council and other member states using the Uniting for Peace Resolution ■

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