



The ruins of Palmyra. Photo: Arian Zwegers

SYRIA

FIVE YEARS INTO THE CONFLICT: ANALYSIS AND RECOMMENDATIONS

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INTRODUCTION

As the fifth anniversary of the Syrian Uprising dawned, Syria and Syrians appeared more divided, uncertain and exhausted than ever before.

For the first time in five years a fragile ceasefire appears to be holding, despite daily breaches by the different warring parties, mainly by the regime and the Russian air force. However, many Syrians seem uncertain, even confused, about the next steps.

It seems clear that the immediate goal of the Russian deployment was to degrade and demoralise moderate opposition forces, as they, not Daesh (Islamic State, IS), constitute a real and indigenous challenge to President Assad's legitimacy. Russia has attempted to convince the West that the choice is between Assad and Daesh; and recent Russian comments about federalism may point to plans to create an Alawite enclave as a last resort if, in the course of the conflict, Assad is forced out of Damascus.

This situation, coupled with a defiant and rather incoherent response from the West, reinforces the uncertainty of many Syrians – whether they are pro- or anti-Assad. Despair is felt both by those who once believed the Uprising would oust Assad and open the door to democratic reforms, and by those who believed Assad's assertions that the opposition was made up of terrorists and Western agents who would easily be crushed.

RECOMMENDATIONS

To the international community:

- Step up efforts to bring an end to this conflict, ensuring justice and human rights are at the core concepts of any political solution.

To the United Nations:

- Develop a robust mechanism to monitor respect for international human rights and humanitarian law in and around any ceasefire area, and incorporate components of truth and reconciliation and transitional justice in any plan.
- Ensure that any plan generates measurable improvements in humanitarian access to civilians.
- Enter into an open and honest dialogue with all the regional sponsors of extremist groups, in order to achieve a sustainable political solution.
- Assist with containing and countering sectarian narratives and violence, which are destroying Syria and the Syrian society. This requires facilitating a political solution that is based on an inclusive Syrian identity, and promoting concepts of equal citizenship and rule of law.

To the United Nations Human Rights Council (UNHRC):

- Facilitate an expansion of the mandate of the UN Commission of Inquiry into Syria to determine whether genocide has been or is being committed against religious and ethnic minority communities; to identify the perpetrators and victims; and to articulate an appropriate international response.

To the United Nations Security Council (UNSC):

- Should an expansion of the Commission of Inquiry's mandate prove problematic, a UNSC resolution must be passed as a matter of urgency, establishing an independent legal mechanism to determine whether genocide and crimes against humanity have been committed and by whom, and mandating the Office of the Prosecutor of the International Criminal Court (ICC) to investigate whether state party nationals are implicated in these crimes.
- Pass a resolution stipulating the creation of a Stabilisation Mission; acknowledging that the entire stabilisation process could take up to 20 years, and include four to five election cycles all organised by the UN, with gradually increasing input from a new Syrian government.

THE CURRENT SITUATION

Prior to the 2011 Uprising, Syria had been under a regime which had ruled by terror since 1970 and was marred by corruption. Inspired by the Arab Spring, many Syrians took to the streets demanding democratic reforms, but the ruling regime retaliated with extreme force. According to the Syrian Network for Human Rights (SNHR), nearly 200,000 people have been killed and 150,000 unlawfully arrested since 2011 – many of whom have been tortured.

Consequently, what had begun as a peaceful uprising degenerated into a full-blown military conflict, with a prominent sectarian aspect. The Assad government portrayed the uprising as a fundamentalist Sunni movement that threatened minorities – President Assad had long presented himself as a secular leader who protected minorities and promoted modernity and inclusion, casting any opposition as backward-looking and sectarian. It is worth noting, however, that the Assad regime regularly fostered and used extremist groups to destabilise neighbouring countries such as Iraq and Lebanon. The regime also released hundreds of extremist prisoners at the beginning of the Uprising in order to undermine the movement, many of whom joined al-Qaeda, Daesh and other extremist militia.

The current situation threatens the national and territorial integrity of Syria. In 2005 UN member states agreed that if any state 'manifestly fails' to fulfil its responsibility to protect its people from genocide, war crimes, ethnic cleansing and crimes against humanity, other nations have a responsibility to protect, through peaceful means, those threatened by such crimes. If these peaceful means prove inadequate, then the other nations should use collective action initiated by the United Nations Security Council (UNSC), and in accordance with the UN Charter. Thus when a government kills its own people, the principle of Responsibility to Protect (R2P) overrides the principle of state sovereignty.

However, while some Syrians still support Assad, many more have lost faith in the UN, feeling that the international community has abandoned them to the government on one hand and Daesh on the other. It is the responsibility of the international community to step up efforts to bring an end to this conflict. Moreover, justice and human rights should be core concepts for any political solution, otherwise the war will only escalate, further destabilising the already unstable situation in the Middle East region.

The Commission of Inquiry into Syria has consistently reported that war crimes and crimes against humanity are taking place in Syria and are being committed by all sides to the conflict, including the Syrian government. Consequently, in this instance the responsibility to protect civilians overrides the principle of sovereignty of states (see above).

While all parties to the conflict are implicated in war crimes and crimes against humanity, Daesh in particular is alleged to have committed genocidal actions against Iraq's Yazidi community in particular; however, debate continues regarding whether genocide has also been committed against Christians and other religious minorities and ethnic groups. Following intense campaigning, the European Parliament, the Council of Europe, the Pope, the United States Congress and Secretary of State, and 75 Members of the United Kingdom's Houses of Parliament stated that Daesh is indeed committing genocide against other religious minorities and indigenous minority communities in Syria and Iraq.

The flagrant and egregious violations committed by all sides to the conflict warrant an urgent investigation in order to determine whether genocide is being committed against religious and ethnic minorities in Syria and in occupied and war torn areas of Iraq. Given the fact that neither Syria nor Iraq are party to the Rome Statute, we call on the HRC to facilitate an expansion of the mandate of the UN Commission of Inquiry into Syria to determine whether genocide has or is being committed against religious and ethnic minority communities in these areas, to identify the perpetrators and victims, and to articulate an appropriate international response. Should this prove problematic, then a UNSC resolution must be passed as a matter of urgency establishing an independent legal mechanism to determine whether these crimes have indeed been committed and by whom, and mandating the Office of the Prosecutor of the International Criminal

Court (ICC) to investigate whether State Party nationals are implicated in genocide, war crimes and/or crimes against humanity.

POSSIBLE POLITICAL SOLUTION

Reaching a political solution in Syria is no easy task, especially since all previous attempts have failed, including the Arab League Initiative and the UN Missions of Mr Kofi Annan and Mr Lakhdar Brahimi.

Most of the efforts that followed Geneva 1, aimed at interpreting the Geneva Communiqué,¹ were counterproductive because the permanent members of the UN Security Council (UNSC) did not have a clear vision for a viable and sustainable political solution. The UNSC has been unable to implement any of its resolutions regarding the conflict in Syria; this includes Resolution 2042, issued on 14 April 2012, and Resolution 2209, issued on 6 March 2015.²

It is important to note that there were two main parties involved in the conflict when Geneva 1 took place: government forces and Shia militias on one side, and various armed opposition groups on the other. Since then the scene has changed dramatically with the rise of extremist groups such as Daesh, and the increasing involvement of Kurdish factions, especially the Partiya Yekîtiya Demokrat (Democratic Union Party, PYD) forces. These emerging players have different agendas and perspectives and are increasingly seeking more influential roles, which inevitably complicate efforts to reach a political solution.

Nevertheless, the Geneva Communiqué should remain the cornerstone for any political solution. Any attempt to create an alternative to the Geneva Communiqué would only extend the conflict and complicate it further, putting Syria at greater risk of becoming a failed state, if it is not one already.

Whether now or in 20 years' time, a political solution is needed to resolve the conflict. A comprehensive ceasefire across Syria at the beginning of a political process is an absolute necessity. This ceasefire should be coupled with substantial humanitarian aid and political assistance through a UN Peacekeeping and Stabilisation mission, including help with strengthening local government and the provision of services, rule of law, disarming and reintegrating armed groups and reforming the security sector.

From a human rights perspective a number of negative consequences arose from such local ceasefires as those in Old Homs and Moadamiya. These ceasefires were achieved by government forces through the perpetration of human rights violations and possible war crimes, including sieges of civilians. In addition, government forces exploited the ceasefires to round up perceived

opposition activists, leading to the arbitrary detention and enforced disappearance of hundreds of people.

No mechanisms were proposed for ensuring such violations would not occur, and the extent to which civil society could play a role in monitoring and reporting such violations (and be protected from reprisals) was also unclear.

Such issues should be borne in mind and addressed carefully when considering local ceasefires in the future. Any plan for a sustainable ceasefire must contribute to the protection of civilians and to ending enforced disappearances and arbitrary detention.

The UN must develop a robust mechanism to monitor respect for international human rights and humanitarian law in and around any ceasefire area and components of truth and reconciliation and transitional justice should be incorporated in any plan. Peace should not be enforced at the expense of justice and accountability. An absence of war does not necessarily equate with peace: lasting peace and stability can only be achieved by ensuring justice and thereby easing the process of reconciliation.

The UN should ensure that any plan generates measurable improvements in humanitarian access to civilians; this is vital to reactivate Syria's economic cycle, which has been severely damaged by the fighting. Improving local economies would create jobs and encourage the reintegration of fighters into society, an indispensable part of any sustainable ceasefire.

UN-ORGANISED ELECTIONS

A significant UN presence and assistance would be needed during the transitional period, in the form of a long-term, considered and well-resourced UN Stabilisation Mission. A Stabilisation Mission would help prevent further sectarian divisions and violence, hopefully placing Syria on the path to democratic elections, leading to a parliamentary democracy.

The phrase 'Let the Syrian people decide' should translate into credible elections, and not result in the imposition of another unelected government. Elections organised by the Assad regime alone would not be credible; elections for a new parliamentary system must therefore be planned, organised, administered and monitored by the UN's Electoral Assistance Division (EAD) at the UN Department of Political Affairs.

Within this context, the UN should empower civil society organisations, helping them to promote a culture of human rights and citizenship. Upholding such principles in any society would assist in ensuring that the outcomes of elections are honoured and respected.

1 See Appendix 1

2 See Appendix 2

A UN FORCE

A UN presence on the ground would need to go beyond political, humanitarian, and technical assistance. Peacekeepers are needed to ensure that local, and most likely fragile, ceasefires would hold. Their mandate could be reviewed every month to ensure it remains fit for purpose, while the situation is regularly assessed on all levels and appropriate amendments are made to the mandate. This could form part of a national stability plan.

All of this requires a UNSC resolution stipulating the creation of a Stabilisation Mission.

The stabilisation force could be withdrawn subsequently in the same manner as it was implemented – locally and gradually, based on clear assessments of the prevailing conditions. Such assessments are crucial to avoid any vacuum, especially in areas where sectarian and ethnic sensitivities exist.

The entire process could take up to 20 years and include four to five election cycles all organised by the UN, with gradually increasing input from a new Syrian government.

strict interpretations of the concepts of good governance and elections. It is vital for the UN to enter into an open and honest dialogue with all the regional sponsors of extremist groups, in order to achieve a sustainable political solution.

The UN should assist with containing and countering sectarian narratives and violence, which are destroying Syria and the Syrian society. This requires facilitating a political solution that is based on an inclusive Syrian identity, and promoting concepts of equal citizenship and rule of law.

Silence or seeming indifference on the part of the international community will only lead to further violence and destruction in Syria, which will in turn lead to further haemorrhaging of the Syrian population – perhaps the only symptom of this war that has raised concern internationally and particularly in the West. It is extremely important for the UN to embrace its responsibilities towards the Syrian people, and to exert greater pressure for a sustainable political solution before it is too late.

POSSIBLE OBSTACLES TO PEACE

There are many potential obstacles to peace, including from pro- or anti-regime actors, media and think tanks, regional and international players, and extremist groups.

One of the most problematic issues is the role of those on all sides who have committed, or are alleged to have committed, grave human rights violations. Perpetrators could constitute the greatest threat to any political solution, as it is inconceivable that any accused of grave violations would play a positive role in this process.

An issue that requires careful consideration is whether or how Iran can play a positive role in facilitating a national dialogue that would lead to a viable political solution, followed by credible elections – given the role Iran has played in fuelling sectarian tension, and supporting the Assad regime financially and militarily. Iranian policy caused a sharp increase in sectarian tension and violence; many regime defectors state that Iranians attempted to impose their nations' restrictive religious, political and ideological practices on Syrians. Moreover, reports from inside Syria indicate that the regime's supporters were relieved when Russia took over as the major providers of military assistance.

Another important question is whether representatives from extremist groups can be involved in the process of national dialogue and political solution. These groups may not wish to engage, or if they do, may not be open to reasonable dialogue or elections because of their

APPENDICES

APPENDIX 1

The Geneva Communiqué

The Communiqué, which was issued on 30 June 2012 after a meeting in Geneva of the UN-backed Action Group for Syria, states that any political settlement must deliver a transition that:

- Offers a perspective for the future that can be shared by all in Syria
- Establishes clear steps according to a firm timetable towards the realisation of that perspective
- Can be implemented in a climate of safety for all, stability and calm
- Is reached rapidly without further bloodshed and violence, and is credible

The key steps in the transition should include:

- Establishment of a transitional governing body with full executive powers that could include members of the government and opposition, and should be formed on the basis of mutual consent
- Participation of all groups and segments of society in a meaningful national dialogue process
- Review of the constitutional order and the legal system
- Free and fair multi-party elections for the new institutions and offices that have been established
- Full representation of women in all aspects of the transition

APPENDIX 2

UNSC Resolutions 2042 and 2209

- a) UNSC resolution 2042, adopted on 14 April 2012, authorised the deployment of 30 military observers to Syria.
- b) UNSC resolution 2209, adopted on 6 March 2015, condemned the use of toxic chemicals such as chlorine, without attributing blame; stressed that those responsible should be held accountable; recalled resolution 2118 (which dealt with the destruction of all chemical weapons in Syria); and supported the 4 February 2015 decision of the Organisation for the Prohibition of Chemical Weapons (OPCW), that expressed serious concern regarding the use of chlorine as a weapon.