Chatham House Meeting Summary

Syria: Prospects for Intervention

Middle East and North Africa Programme
International Law Programme
International Security Research Department

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INTRODUCTION

This is a summary of discussions that took place in a closed-door study group bringing together experts from Chatham House's Middle East and North Africa, International Law and International Security programmes. As major population centres including the capital Damascus and Syria's second city Aleppo are now witnessing significant fighting, it appears that government forces are losing ground to the rebel Free Syrian Army (FSA). However with opposition groups fragmented and units of the FSA increasingly heavily armed, the conflict seems likely to be prolonged.

The discussion focused on the prospects for foreign intervention across a range of options, taking into account the current diplomatic stalemate, existing lines of support to conflicting parties, and alternative international approaches that may emerge as the situation deteriorates. In view of the recent military escalation, above all in Aleppo and Damascus, the discussion considered what options there might be for military intervention – such as no fly zones, safe havens or targeted air strikes – and who might implement them. There was also discussion of a range of scenarios that might trigger larger-scale international intervention, as well as the international legal frameworks under which the options under consideration would operate.

Key findings that emerged from the meeting were:

- Foreign intervention is already occurring, semi-covertly, in the form of weapons supply and training to the FSA, logistical and communications support, and non-military actions such as sanctions, together with diplomatic support (if not full recognition) for opposition groups such as the Syrian National Council (SNC).

- The choice is no longer one of intervention versus non-intervention, but rather between maintaining or increasing existing levels of external intervention and allowing the conflict to drift. Intervention is occurring at a number of levels and there is a need for the international community to consider carefully both the consequences of the ongoing semi-covert intervention and the possible consequences of more overt military intervention.

- The decision over whether to escalate intervention should rest on a thorough examination of the 'balance of consequences' and on other relevant factors including the constraints of international law. The costs and risks of different forms of intervention also

have to be weighed against the risks and costs of non-intervention.

- The most likely options for scaled-up intervention are the supply of more and heavier arms to the FSA and an intensification of covert action; punitive air strikes triggered by a major crisis such as a massacre in Aleppo; and an intensification of externally imposed sanctions. The risks associated with the first two scenarios are high and the benefits are not easily quantifiable in view of the inevitable unforeseen consequences.

The meeting was held under the Chatham House Rule. The views expressed are those of the participants, Chatham House experts from the Middle East and North Africa, International Law and International Security research areas, and do not represent an institutional view. The following summary is intended to serve as a contribution to the wider debate.

The Chatham House Rule

'When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.'

CIVIL WAR IN SYRIA

The meeting began with an assessment of the state of the conflict in Syria. Participants agreed that there is currently little or no prospect for a negotiated end to the civil conflict, with both government forces and the armed and unarmed opposition still convinced that they can win using their current strategies. The trend on the ground is for a continuing weakening of the state, defections[1] and the government losing control of large parts of the country. The economic situation is likely to deteriorate even further as Syrians continue to flee the country.

The opposition remains fragmented, and despite agreeing on high-level messaging – above all in calling for the end of the regime – there are several schools of thought when it comes to tactics and strategies. The Syrian National Council is now calling for international intervention. However, there is still no united position on Syria in the international community and despite the UN General Assembly's recent condemnation of international inaction over Syria, there is little or no indication of change in the Russian or Chinese positions at the UN Security Council (UNSC).

The Syrian National Council

The principal Syrian political opposition group is the SNC, officially set up in late August 2011 in Turkey. It comprises three main groups: the Damascus Declaration, the Muslim Brotherhood and the Kurdish Future Movement Party Kurds. The council has 300 members but has struggled to maintain the support both of opposition activists on the ground in Syria and of the disparate factions and interests within the Council.

The SNC currently supports international intervention, a stance that it hopes will help regain its credibility after the differences between the SNC and a number of opposition groups based in Damascus became more public. The Damascus-based National Coordination Committee for Democratic Change (NCC) is still in favour of a negotiated solution to the crisis, and is considered by many in SNC circles to be the 'tame opposition' to the regime. Although it is impossible to gauge majority views from outside, there are growing reports of significant support on the ground for international intervention, especially where units of the FSA are now being accused of using the civilian population

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[1] Including the defection to Jordan of the Syrian Prime Minister Riad Farid Hijab and his family, announced on 6 August 2012 (and there are unconfirmed reports of three other cabinet ministers following suit).

as human shields in Aleppo,[2] and where neither the regime, using heavy weaponry to attack urban centres, nor the FSA is respecting international humanitarian law, much less providing security to citizens who are increasingly being forced to flee the chaos.

In November 2011 an agenda tabled for negotiations between the SNC and the internally based NCC was leaked. The agenda included opposition to international intervention as a point of discussion. Burhan Ghalioun – who led the SNC until May 2012 – was accused by a number of Syrian activists and revolutionary councils of selling the opposition movement short by committing it to opposing international intervention, and demonstrations were held against him.

The SNC's attempt to devise a political programme has also been delayed by internal disagreements. Kurdish groups insisted on the inclusion of the principle of self-determination for Syrian Kurds, but this was rejected by other SNC members who perceived it as advocating the fragmentation of the state. However, after further meetings Kurdish groups agreed to postpone the issue until after the fall of the regime, and a new formula to include the Kurds was adopted at the Cairo meeting in July 2012.

The position of the SNC is now to support and advocate for international intervention in Syria, and since the early signs of the failure of the UN-sanctioned Annan Plan, the SNC has totally rejected dialogue with the regime.

The Free Syrian Army and the SNC

The SNC does not have a coherent or consistent position towards the Free Syrian Army, calling on the one hand for full-scale international intervention in order to avoid putting weapons into the hands of people on the street, while on the other simultaneously supporting the external supply of arms to the FSA.

When the FSA was formed by Syrian national army defectors in July 2011, the SNC began to build relations with it, hoping to become its political front to prevent its military actions from constituting a political 'loose cannon'. The diversification of FSA units operating under different banners, including (according to various on-the-ground reports) under exclusively Muslim Brotherhood command, under Saudi and Turkish trainers, or in affiliation with

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[2] See Halal Jaber, 'Brothers Torn Apart by Syria's civil war', *Sunday Times*, 5 August 2012.

Al-Qaeda, means that its overall objectives and character have been hard to assess in recent months. Lacking any clear central command structure, the FSA has not become the armed wing of the SNC, and even though some elements recognize the SNC as a political force, the rapidly changing dynamics across Syria mean that the FSA as a whole does not take orders from the SNC.

As of the summer of 2012, the FSA was no longer solely composed of defectors from the Syrian army. It had also recruited ordinary Syrians (some under duress, according to recent reports), who do not necessarily trust the SNC, seeing it as a largely external and expatriate-driven organization. Local tribal leaders, for example, dislike the SNC because they consider it to be dominated by the Muslim Brotherhood, and many Kurds think the SNC is too close to Turkey.

Views on the Syrian opposition: 'fragmentation' or 'diversity'?

There are competing narratives about the Syrian opposition. A number of journalists and analysts claim that the 'peaceful Syrian revolution' has been hijacked by armed groups, while others argue that the regime, by its use of violence, managed to transform what was a non-violent revolt into a military confrontation. Some observers have accused members of the opposition of being too closely allied with Western interests, but others, including supporters of the Syrian opposition, see such arguments as buying into 'regime narratives': regime supporters commonly charge the exiled opposition with being part of a foreign conspiracy, funded above all by the CIA, to prevent internal peaceful dialogue taking place between the opposition and the regime.

However, in a situation where fewer people are now openly defending the regime and the security situation is rapidly deteriorating, there are many reasons, often particular to individual localities and circumstances, why Syrians are internally divided over the options still open to them. As a result, some people may be accused of defending the regime when they criticize the opposition. There are genuine differences of opinion within the opposition movement as a whole, and different groups continue to advocate different tactics despite an underlying consensus that the Assad regime cannot remain in place for much longer.

The Building Syria group, for example, argues for marginalizing and dismantling the regime as part of a strategy to remove the system. Building Syria was one of ten internal opposition groups to have signed an appeal for

a politically negotiated solution at a meeting convened under the auspices of the St Egidio community in Rome in July 2012. The appeal argued that the 'military solution' was 'holding the Syrian people hostage',[3] but since the political process it outlined requires the 'imposition of a ceasefire', it is difficult to see how under current circumstances this could be achieved without external action and support. Short of the use of force, including a robust monitoring force, an externally imposed ceasefire is also unlikely to be any more viable than the failed Annan Plan.

When discussing the SNC, one participant argued that while many people consider the Syrian opposition to be 'fragmented', this diversity should also be seen as a strength. The SNC has agreed that it does not need to be the sole and legitimate opposition, and that the existence of many other opposition groups is a positive 'multiplier' of its efforts. It rejects the narrative of a divided opposition necessarily equating to a position of weakness and is developing a strategy for a coalition of opposition groups with a common purpose but diverse visions.

It was also noted that in the case of Iraq, the Iraqi National Congress of exiled opposition members was formed in 1992, and they spent a long time calling for intervention in Iraq before it happened. However, as the internal divisions within the SNC and between the SNC and NCC have shown, maintaining a balance of interests may become difficult to sustain as the consequences of the deepening violence narrow the options for compromise in Syria itself.

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[3] Full declaration and signatories:

http://www.santegidio.org/pageID/3/langID/en/itemID/5355/Syria_from_the_oppositions_gathered_in_Sant_Egidio_an_appeal_for_a_political_solution.html.

ONGOING INTERVENTION IN SYRIA: COVERT ACTION

While debate continues about the possibility of more open international intervention to stop the civil war in Syria, interventions of various kinds by several regional and international actors are already occurring, mostly in a semi-covert form. Qatar, Saudi Arabia and Turkey are the most active nations supporting the FSA, but since much of its financial backing is privately provided, the extent and nature of official support are contested and its impacts on the ground are obscured by the limitations of wartime reporting. This makes it particularly difficult to verify reports of private funding lines reaching armed groups in Syria, such as support for the FSA from Salafi foundations in the Gulf.

Unofficially, there is coordinated support among Western nations for this style of undercover intervention, which one participant referred to as 'outsourcing' in the absence of any agreement in the UNSC to sanction more overt intervention in support of the Syrian opposition. In the event that such 'dirty intervention' escalates beyond logistical or 'non-lethal' support, there would be an urgent need to consider the consequences.

Iranian support

Many concerns have been expressed about Iran's activities in supporting the Syrian regime, and the Iranian authorities are currently determined to shore up Bashar al-Assad, seeing him as key to the 'resistance front' against Western and Gulf-led interests in the region. However, Iran is not yet committing major resources to this, and closer analysis suggests that it has not been able to influence the course of events in Syria directly.

There is some evidence that Iran is assisting with oil exports to circumvent US and EU oil embargoes, but this is unlikely to provide the Syrian regime with any significant income given the current military expenditure. The Iranians may also be supplying some light arms, but this is also on a small scale relative to the size of the Syrian army.

A recent comment by a general in the Iranian Revolutionary Guards[4] to the effect that they have been able to prevent massacres suggests that Iran has supplied personnel and tactical advice, but there is no substantiated evidence of major Iranian units actively engaged in Syria, despite the recent capture

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[4] See Saeed Dehgahni 'Syrian army being aided by Iranian forces', *Guardian*, 28 May 2012, http://www.guardian.co.uk/world/2012/may/28/syria-army-iran-forces.

and incarceration of 48 Iranian nationals by the FSA.[5] It is not yet possible to be sure whether these are pilgrims, as Iran claims, or Revolutionary Guards.

Iran's overall concern is with its own state interests, which would ultimately take priority over loyalty to the Assad presidency. Just as President Assad would not want to mortgage his future to Iran, the Iranian government is unlikely to support a losing Assad to the end.

The Gulf and the Syrian opposition

Gulf countries have been some of the most significant backers of the FSA to date. However, their relationship with Syria has been ambivalent. In recent years they had hoped that diplomacy could encourage Syria to end its alliance with Iran in return for better diplomatic and economic relations with the Gulf states, and at the start of the Syrian uprising the Gulf media paid limited attention to the protests. On one hand, most of the Gulf countries see the prospect of regime change in Syria as a major strategic setback for Iran, their main regional rival. On the other hand, most of the Gulf monarchies, except Qatar, have also been worried about the broader impact of the rise of popularly elected Islamist governments in the Arab world, and therefore had some initial misgivings about whether to support another popular uprising.

Various Gulf foreign ministers have expressed frustration with what they see as international inaction over Syria. One participant commented that Gulf countries still expect the US to police the region and are reluctant to take on this role directly themselves, particularly given their limited military capabilities. However, the failure of efforts (notably by Qatar and Turkey) to foster a diplomatic solution to the Syrian crisis have gradually led the Qatari, Saudi and Emirati governments to become more outspoken in calling for Assad to go, and Qatari and Saudi officials now admit they are funding the opposition.

While the UAE deported some Syrian protestors earlier in 2012, it is now home to SNC activists who announced the defection of the Syrian ambassador to the UAE in late July 2012. In the same month, Switzerland suspended arms exports to the UAE after reports that a grenade it had sold to the UAE had been found in Syria. Nevertheless, the UAE has not been as actively engaged with the Syrian opposition as Qatar and Saudi Arabia. It

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[5] The 48 Iranians were reported in Iran to be on a pilgrimage to Syria, but the FSA commander whose forces kidnapped them claimed they belonged to the Iranian Revolutionary Guard. See Damien Cave and Hwaida Saad, '48 Captives Are Iran "Thugs," Say Rebels in Syria'*, New York Times*, 5 August 2012, http://www.nytimes.com/2012/08/06/world/middleeast/syrian-rebels-say-hostages-are-iranian-guards.html.

remains generally hostile to the Muslim Brotherhood and the authorities have arrested some 50 Emirati nationals suspected of links to the organization. Meanwhile, Saudi Arabia is trying to balance its support for Islamist opposition groups by meeting with other parts of the opposition, including two former regime insiders, Rifaat al-Assad and the much more recently defected general Manaf Tlass.

In early August, two Bahraini MPs from a Salafist party, Al-Asala, announced they had visited FSA fighters in Aleppo and provided them with funds. Although the Bahraini foreign ministry noted that this was not an official visit, the head of Al-Asala is the deputy foreign minister. The episode also illustrated the increasingly sectarian tone of the debate over Syria: for instance, the MPs praised the FSA for fighting the 'Safavids', a term that is used to refer both to Iranians and to Shia Muslims.

Political support

It was argued that the US and the UK are focusing their own direct efforts on political support to the opposition, calling for the SNC and other opposition groups to form a coalition and engage in dialogue in order to develop a common vision and a transition plan as well as a mechanism to bring about the collapse of the regime. The aim is to encourage the opposition to create a viable alternative government, possibly on the model of the Libyan National Council. As recently reported, the US and UK are also engaged in more covert support for the FSA forces based in Turkey, by providing intelligence and training to units before their deployment in Syria. The UK stresses, however, that it has restricted its involvement to non-lethal forms of support, in providing medical supplies and communications equipment to the FSA, for example, in addition to support to Syrian human rights groups. The Foreign Secretary William Hague's announcement on 10 August 2012 that the UK would allocate an extra £5 million in support of the FSA maintained this restriction,[6] but is also being read as a sign of frustration with the lack of progress on the political front with the SNC. Against this, however, it is widely reported that Turkey, Saudi Arabia and Qatar have been arming the FSA from bases in southern Turkey.[7]

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[6] BBC News, 'Syria conflict: William Hague to give extra £5m to rebels', 10 August 2012, http://www.bbc.co.uk/news/uk-19205204.

[7] See Reuters report in the *Guardian*, 2 August 2012, 'Obama signs order supporting Syria's rebels, reports say', http://www.guardian.co.uk/world/2012/aug/02/obama-order-supporting-syria-rebels.

The US and UK have also increased their humanitarian assistance to Syrian refugees through international aid agencies such as the World Food Programme and International Committee of the Red Cross. In this case of the UK this now amounts to £27.5 million.[8] Some countries, including France, have also been hosting high-level regime defectors such as Rifaat Assad, Manaf Tlass and Abdelhalim Khaddam, who are seen as having the potential to step into any political vacuum that might be left if the Syrian regime falls. The credibility of such figures within the wider opposition movement remains in doubt, however.

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[8] BBC News, 'Syria conflict'.

ESCALATING INTERVENTION

While there appears to be little appetite in the West for military intervention, there are many opposition groups within and outside Syria calling for increased international intervention to protect civilians from government forces or to assist in overthrowing the regime. To this should now be added the citizens whose security has been put into jeopardy by the increasing number of incursions by FSA units into densely populated neighbourhoods of Damascus and Aleppo. With the prospect of major civilian casualties being incurred in the intensifying battles, and with no negotiated end to the conflict in sight nor any prospect of outright military victory by either side, what options are open for the international community?

Options for non-military intervention

There are a number of non-military actions that can be escalated, but it is not clear how effective they are likely to be. The EU has imposed 17 rounds of sanctions on Syria since 2011, ranging from financial sanctions on key regime figures and security officials to an embargo on Syrian oil exports to EU states.[9] The perception in Western capitals that sanctions are proving effective in the case of Iran means that they are seen as a useful policy option for Syria. Sanctions have also been an effective deterrent for regional third parties. In Lebanon, for example, despite the proximity of interests between the Hizbullah-led government and the Assad regime, both the banking sector and the government have been careful to respect them, for fear of knock-on sanctions being imposed on Lebanon in turn. The Lebanese government passed on funding to the Special Tribunal for Lebanon (STL) because of its fear of the threat of sanctions.[10]

Syria is not very integrated into the international financial system, however. It operates a cash-based economy, heavily dependent on black and grey markets. Although there is a paucity of economic data, one participant noted it seemed likely that cash was coming through the borders from Iran and Iraq. If this were not so, the Syrian pound would have been expected to suffer a more severe collapse than it has. Oil exports are small in scale and cutting them off is unlikely to have had a big impact. Given the stalemate in the

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[9] See Andrew Woodcock, 'EU agrees new sanctions on Syria', *The Independent*, 23 July 2012, http://www.independent.co.uk/news/world/middle-east/eu-agrees-new-syria-sanctions-7965984.html.

[10] High-level Lebanese and Syrian security officials are suspected of being implicated in the assassination of Rafik Hariri in 2005, and the STL was formed in order to prosecute those responsible for the assassination.

UNSC, it is also unlikely that the UN will be able to agree on the imposition of more far-reaching sanctions. Even if it does, it was argued that they would not be a 'game changer' given the regime's relative lack of dependence on the international banking system.

There may be other actions the international community can take to pursue a strategy of encouraging defections and capital flight, and these are doubtless being encouraged where the potential exists. The flight of Aleppo's business community has rapidly affected what was previously a relatively protected local economy. Scaling up the international support given to refugees and securing borders might also encourage the leakage of support from the Assad regime as well as hesitant Syrians if they knew they had somewhere safe to go. There may also be other ways of disrupting supply lines to the regime and its access to resources. In the complexity of the current situation, however, it is difficult to assess how outside assistance is benefiting or penalizing different actors in the conflict, especially now that the provision of heavy weaponry to the FSA risks intensifying the armed struggle in a number of areas.

Military intervention

Given the political and financial constraints as well as the current military commitments of NATO forces in Afghanistan, a fully-fledged ground invasion or a large-scale peacekeeping operation are unlikely to be options for Western military intervention in Syria.

Other options that have been discussed include establishing a 'safe haven' along the Turkish border, which was proposed in September 2011 by the SNC. However, Turkey was not willing to police it without at least being sure of full international support, since establishing a buffer zone would pose a threat to Turkey's own security interests if the conflict were to migrate into the safe haven and from there across the Turkish border. Turkey was also looking for UNSC leadership and backing of the process, but this was not forthcoming.

Arming the resistance has also been a form of indirect military intervention. As the experience of Afghanistan in the 1980s demonstrated, it can have intensive effects, including unintended consequences for the sponsor countries. Until recently, only a small part of the Syrian opposition received any tangible support, and this was limited to light arms, which proved of limited utility when confronting the Syrian army's stock of heavy weaponry. There have been reports in recent weeks that Turkish support for training and

the supply of weapons to FSA forces has been more organized than was hitherto publicly known. This, together with the sanctioning of CIA intelligence support to the FSA and the channelling of Qatari and Saudi funds and training to Islamist units within the FSA, points to the risk that the FSA will develop in directions not necessarily under the control of its sponsors. The more weaponry is dispersed within Syria, the more likely it is that local conflicts will also spread outside external control.

The ongoing debate in opposition circles as to the potentially negative consequences of uncontrolled foreign support for the FSA is a product of these fears as well as a contributing factor to the call for more direct external military intervention: the people who are being armed now will have to be disarmed later, and the experience of the post-Gaddafi situation in Libya suggests that it will prove difficult to bring them back under control of a civilian government in future.

If chemical weapons were to be used by the regime, then the political equation in the UN Security Council might well alter in favour of intervention. Syria is widely believed to have developed and deployed chemical weapons including blister and nerve agents. Although it has not yet signed the 1992 Chemical Weapons Convention, it did sign and ratify the 1925 Geneva Protocol banning the use of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare, in 1968. The current civil war has led to increasing concern that the government may use chemical weapons against rebel forces and civilians. In response to such concerns, Jihad Makdissi, the Syrian foreign ministry spokesman, was reported in July as saying:

> No chemical or biological weapons will ever be used, and I repeat, will never be used … no matter what the developments inside Syria. All of these types of weapons are in storage and under security and the direct supervision of the Syrian armed forces and will never be used unless Syria is exposed to external aggression.[11]

Legal frameworks

If a military intervention were considered, the legal framework under which this would occur would need to be established. Participants agreed that most countries would be likely to want UNSC authorization before participating in a military intervention in Syria, although there are precedents for interventions

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[11] Ian Black, 'Syria insists chemical weapons would only be used against outside forces', *Guardian*, 24 July 2012, http://www.guardian.co.uk/world/2012/jul/23/syria-chemical-weapons-own-goal.

without a UNSC resolution, such as Kosovo. Participants discussed the possible legal frameworks and relevant past precedents for undertaking military intervention in Syria.

Kosovo

One question considered was whether it is lawful to use military intervention to protect another state's civilians without the authorization of a Security Council resolution. This issue also arose at the time of the NATO intervention in relation to Kosovo in 1999. While most of the intervening states did not seek to justify their action under international law – although arguing that it was nonetheless legitimate and justifiable – the UK maintained that it had the legal right to use force since this was a case of 'overwhelming humanitarian necessity where, in the light of all the circumstances, a limited use of force is justifiable as the only way to avert a humanitarian catastrophe'. The UK House of Commons Foreign Affairs Committee concluded subsequently that the military action was of dubious legality, though morally justifiable.

Some analysts have maintained that the action was lawful because there were Security Council resolutions that either recognized the impending catastrophe in Kosovo or refused to condemn the NATO action after the event, but in international law such resolutions are not adequate to authorize the use of force.

'Responsibility to Protect' doctrine

The doctrine of Responsibility to Protect (R2P) was accepted by the UN General Assembly in its 2005 resolution on the World Summit Outcome (A/Res/60/1). As elaborated in a report by the Secretary-General in 2009, it has three pillars: first, that the state itself has the responsibility to protect its own population from genocide, war crimes, ethnic cleansing and crimes against humanity; second, that the international community has the responsibility to provide assistance and capacity-building for the state to exercise this responsibility to protect; third, and in the last resort, the international community has the responsibility to take collective action 'through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organisations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations' (A/Res/60/1).

R2P thus turns round the old debate about humanitarian intervention by insisting on a responsibility to protect, rather than a right to intervene. Although the concept was thus accepted by the General Assembly, it remains controversial in some parts of the world, as the debate on the 2009 report indicated. The responsibilities of protection were mentioned in the Security Council resolution that authorized military intervention in Libya for the purpose of protecting civilians (SCR 1973(2011)). While the use of the concept was widely welcomed at the time, the perception that the later stages of the military operation went beyond protection of civilians and were used to overthrow the regime has been cited by some countries as a reason for refusing to agree to Security Council resolutions which could be interpreted as authorization for similar action in the future.

Criteria for intervention

Prudential criteria for the use of pillar 3 of R2P have been proposed: they include that the primary purpose of the proposed military action is to halt or avert the threat in question; that the operation is the last resort (and that there are no reasonably available peaceful alternatives); that the military operation is proportionate to the harm or threatened harm; and that an assessment of the balance of consequences indicates that overall more good than harm would be served by a military operation. While these criteria have not been adopted internationally, they are generally accepted as useful.

Consequences of arming the FSA

The recent judgment by the Special Court for Sierra Leone, when convicting former Liberian President Charles Taylor for war crimes and crimes against humanity, held that anyone who provides arms to government forces or to armed opposition groups who is aware of the substantial likelihood that they would be used to commit international crimes may themselves by guilty of aiding and abetting those crimes. This may be relevant in Syria given the possibility that reprisal massacres by opposition forces will take place, or have already taken place.

Giving arms to the FSA would be considered interference with Syrian state sovereignty as Bashar al-Assad's government remains the recognized entity in Syria. The decision to recognize or officially have dealings with a government is not a moral one, but is rather determined largely by the question of which entity has control over the state's territory. If states were prematurely to recognize the SNC, for example, as the representative of Syria this would constitute interference with state sovereignty. In Libya there were

question marks over how quickly certain governments decided to recognize the Libyan National Transition Council (NTC) as the Libyan government. UN resolutions on the legitimacy of governments may also be taken into account by other states in deciding whether to recognize such governments in deciding whether a government should be recognized by other states.

The cost of non-intervention

While careful consideration of the possible consequences of intervention is vital, it is equally important to examine the cost of inaction in order to be able to determine the 'balance of consequences'. The rapid turn of events since the killing of four (subsequently five) five members of the inner circles of the Assad regime in a targeted bomb attack in July 2012 means that the Syrian regime now appears to have considerably fewer active supporters and the prevailing view is that most citizens would like to see a new government. However they are deterred by the uncertainty of what might follow on from regime collapse.

It was argued that the international community has a growing sense that the costs of non-intervention (or a reliance only on covert intervention by a self-appointed coalition) could be high, with an increase in real or orchestrated sectarian violence, the risk of loss of control of chemical weapons or the regionalization of the conflict.

One participant used the metaphor of a pressure cooker: keeping the regime in place means the pressure will still build up before potentially unleashing even greater problems than if intervention were to 'lift the lid' now. It was argued that the longer the conflict continues in Syria, the more likely the rise in sectarianism, extremist and retaliatory violence and the advent of foreign fighters would be.

Sectarianism: a self-fulfilling prophecy

The argument was made that there is a difference between sectarianism on the ground and a sectarian interpretation of the conflict. In the latter respect, a number of external observers have depicted the conflict in a simplistic way, above all as a struggle between the minority Alawis (often wrongly depicted as Shia), from which the Assad family stems, and the Sunni majority of Syria. The risk of this line of argument is that it reinforces the case for retaining a dictatorship in order to prevent sectarian violence from exploding. In reality, the regime does not come exclusively from the Alawi sect, just as the opposition is not exclusively anti-Alawi. From the outset, the main opposition

narrative has been against sectarian interpretations of the conflict, the chief beneficiaries of which have been those seeking to influence the outcome of the conflict for or against a particular group, such as the Muslim Brotherhood.

In turn, arguments based on sectarianism have been heavily used in regime propaganda to make Syrian minorities afraid of potential alternatives to the Assad regime, which has a history of exploiting fears of sectarian violence. One participant commented that Syrian forces remained in Lebanon for 15 years after the end of the civil war there on the pretext that if they left Lebanon would explode into sectarian war. When they did leave, there were a number of incidents that seemed designed to stir up sectarian violence.

The regime's use of sectarian narratives has had a number of regional consequences. Every time a story emerges about an FSA atrocity or about Al-Qaeda's presence in Syria,[12] it makes Shia communities across the region nervous. This situation is aggravated by a perception that the West is anti-Iranian, and that Saudi Arabia's involvement with the Syrian opposition is designed to counter Iranian and Shia influence in the region and has little to do with human rights. A diversity of views exists among Shia clerics in the Arab world, some of whom have been very critical of Assad (including Sheikh Nimr Al Nimr, an outspoken cleric who was arrested in Saudi Arabia on 8 July 2012 after expressing his delight at the death of the Saudi interior minister). There could be scope for clerical leaders from both sects to come together to call for the basic rights of Syrians to be respected and for the conflict to be 'de-sectarianized'.

Given the instrumentalization of sectarian narratives by the regime and the potential for extremist groups to exploit the situation, it was emphasized that Syrian minorities do indeed have legitimate fears for their security. One participant raised the question of whether there might be further ways to limit the 'sectarianization' of the conflict, and noted that because regional actors all have an interest in the politics of sectarianism, it was a mistake to think that regional solutions to the conflict were necessarily the most legitimate: Saudi Arabia's involvement might be problematic in this respect, for example.

Who might intervene, when?

There are significant political, diplomatic and legal constraints on the possibility of military intervention in Syria, and it is not clear which actors

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[12] See, for example, the recent RAND blog by Seth G. Jones, 'Al Qaeda's war for Syria', 27 July 2012, citing intelligence source claims that 200 Al-Qaeda operatives are active in Syria: http://www.rand.org/blog/2012/07/al-qaedas-war-for-syria.html.

might have the political will to take part in such an action. As noted above, most countries would prefer to have the backing of a UNSC resolution authorizing action, and this would be required for anything other than defensive operations.

The consistency of the principle of 'non-interference' defended by Russia and China at the UNSC means that a Security Council resolution directly sanctioning external intervention is unlikely to be achieved. Despite many months of diplomatic manoeuvres, most participants agreed that the Russians and Chinese were unlikely to change their position at the UN. After the experience of Iraq and Libya, they do not want to accept anything tabled under Chapter VII because it might be used to justify an illegitimate 'regime change' operation.

However, as the prospect of a severely weakened Assad regime increases, a variety of diplomatic solutions are still being investigated, including in the invitation by the Saudi King Abdullah to Iranian President Mahmoud Ahmedinejad to attend the upcoming Organisation of Islamic Cooperation conference in Riyadh, and in discussions held between the British Prime Minister David Cameron and Russian President Vladimir Putin on the side-lines of the London Olympics in August 2012. In this respect, one participant argued that the need for 'favours' from Moscow should not be assumed, and that Russia might in fact be worried about its position in the Middle East as the Assad regime looked increasingly unlikely to last.

The West

While most participants considered it unlikely that Western governments would intervene in Syria without a UNSC resolution, several scenarios were proposed in which military intervention might occur.

It was also argued that the lack of consensus in the UNSC was useful cover for Western governments that have too many other military commitments and would find it difficult to convince their publics. It is notable too, that NATO has kept a low profile over the conflict, with the Syrian attack on a Turkish plane in June 2012 only being referred by Turkey for discussion with its NATO allies, rather than the country invoking the collective right to self-defence (under Article 5 of the NATO treaty) that a more direct cross-border attack might have brought into play.[13]

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[13] 'Turkey goes to NATO over plane it says Syria downed in international airspace', *Guardian*, 24 June 2012, http://www.guardian.co.uk/world/2012/jun/24/turkey-plane-shot-down-syria.

If Washington decided to intervene, the lack of a UNSC resolution would not necessarily be a major obstacle, as the US is was seen as more likely to go ahead with actions that suit its national interest even if they are against international law. In a presidential election year, however, the main aim of the White House in this area is to avoid becoming embroiled in prolonged actions. This would limit the range of possibilities to external air strikes in the event of overwhelming evidence that the regime's' chemical weapons stocks were not secure, for example, or in actions in support of Israel's own defence and national security needs.

There is a significant degree of ambivalence in the West's stance on intervention: Western countries are now cautious about intervening directly in the Middle East because the idea has gained currency that their involvement in the region over the past decade does not constitute a positive track record. However, for many in the region, and especially in the Gulf, there is still a long-standing expectation that the West will take some action, whether or not this is seen as desirable.

Israel

Israel has not taken a public stance on whether Assad should go or not, but recent official statements about potentially launching a pre-emptive strike against Syria's chemical weapon supplies were interpreted as a message that Israel has intelligence about the location of chemical weapons and that it would intervene to keep them under control if its national security were to come under threat. Israel has also been strengthening its Arrow 2 ballistic missile shield in the broader regional context of Iran's nuclear weapons programme, amid renewed speculation that Israel might be contemplating a pre-emptive strike on Iranian nuclear facilities in coming months.[14]

Turkey

One participant argued that Turkey is the most likely regional actor to intervene, commenting on recent official statements that Turkey would do so if the Syrian regime were to launch a 'Halabja-style' chemical weapon attack on Aleppo.[15] However, Turkey has consistently maintained that the responsibility for protecting civilians is a UN-wide obligation, and that it is

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[14] Dan Williams, 'Eye on Iran and Syria, Israel hardens missile shield', Reuters, 5 August 2012, http://news.yahoo.com/eye-iran-syria-israel-hardens-missile-shield-045906488--finance.html.

[15] See Serkan Dimertas, 'Aleppo won't be another Halabja, Turkey says', *Hurriyet*, 31 July 2012, http://www.hurriyetdailynews.com/aleppo-to-see-no-new-halabja-turkey-says.aspx?pageID=238&nID=26729&NewsCatID=338.

already providing assistance to around 50,000 Syrian refugees who have fled from northern Syrian to Turkey. Given the likely reluctance on the part of its military to enter Syrian territory, Turkey has restricted military movements to reinforcing its armed presence north of the border, and is unlikely to act alone.

The exception could arise from the new complexities of Kurdish politics emerging from the Syrian conflict: the Syrian Kurdish Democratic Union Party (PYD) now in control of a number of northern Syrian towns is closely linked to the Turkish Kurdish Workers Party (PKK) which has historically launched attacks against Turkish forces across Turkey's southeastern border. The threat of renewed PKK activism led Turkish Prime Minister Recep Tayyip Erdoğan to warn on 26 July, without directly naming the PKK: 'We will not allow a terrorist group to establish camps in northern Syria and threaten Turkey. If there is a step which needs to be taken against the terrorist group, we will definitely take this step.'[16]

The Turkish authorities face the most immediate challenges in managing the growing conflict on the country's southern border, but despite being increasingly robust in their statements that Assad should go, they have so far exercised restraint. One participant commented that while Turkey would only intervene to protect its immediate national security interests, in the absence of a UN-sanctioned and more widely backed plan of joint military action, it would also be wary of appearing to act on behalf of Western states or at the West's bidding alone.

Balance of consequences

Participants concluded that there are three likely options for future intervention: an increase in the supply of arms to the FSA and an intensification of covert action; punitive air strikes triggered by a massacre in Aleppo; and an intensification of sanctions.

In the first two cases, the 'balance of consequences' is likely to escape the control of outside supporters of the FSA even if a clearer understanding of the dynamics on the ground emerges. One participant argued that in view of the risks associated with scaling up the direct and indirect support now being given to the FSA, more consideration should be given to the third option of renewed and intensified sanctions against the Syrian regime. These would

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[16] James Dorsey, 'Turkey and Syria: The Kurdish Dilemma', *Huffington Post*, 8 August 2012, http://www.huffingtonpost.com/james-dorsey/turkey-and-syria_b_1749637.html.

need to be specifically designed not to weaken further the already fragile infrastructure of the Syrian state.

In contrast to the US-led military intervention in Iraq a decade ago, the US, UK and other European states are now facing a new set of realities in the Middle East. A newly assertive set of international and regional actors have put an effective block on Western governments taking the lead in decision-making over whether or not to intervene in Syria, even on humanitarian grounds alone. The experience of Libya has made Russia and China yet more suspicious that any UNSC mandate for humanitarian intervention in Syria could be used as a pretext for regime change.

There are also domestic considerations in the United States and Europe that have constrained official options, including the US presidential elections in November 2012, the euro and economic crises in Europe, and the lack of public and political support for intervention. All these factors weigh against Western states adopting more proactive measures in respect of Syria, at a time when (with the exception of limited US-led action) few states retain the military capacity to mount an operation in Syria while still actively engaged in Afghanistan.

Indirect intervention with Western support is already occurring, but in the absence of any real control over the consequences, external actions are unlikely to be decisive in bringing an end to Syria's descent into civil war – and if misjudged could even accelerate it.

The humanitarian imperative is nevertheless growing. With already close to 20,000 dead in Syria and more than 134,000 refugees (according to UNHCR figures for registered refugees as of August 2012), untenable strains are being placed on the neighbouring states of Jordan, Lebanon and Turkey in managing such population flows over the longer term. It was thus argued that part of the 'balance of consequences' also entailed considering intervention as a means of preventing further, larger-scale massacres, rather than waiting for them to occur before intervening.

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