

*Article by former UN Legal Counsel Hans Corell in the Swedish daily Svenska Dagbladet on 28 December 2016 Translation from the Swedish by the author*

## **The UN Security Council Must Be Reformed**

**One of the most important tasks that Sweden and the other elected members of the UN Security Council now have is to ensure that a serious discussion about reforms is conducted within the Council. A prerequisite for a meaningful reform of the Security Council is namely that the three remaining permanent members, China, Russia and the United States, join the Code, writes Former Ambassador Hans Corell.**

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The United Nations is an organization that we have inherited from a generation that had experienced two world wars. It is vital that we manage that legacy well. Recent events raise in a very unpleasant way the question of the true state of the Organization. The most serious problem is that the Security Council, the UN's most powerful organ, is sometimes its weakest link. The Council must be reformed.

The Security Council has fifteen members: five permanent, France, China, the Russian Federation, the United Kingdom and the United States, and ten elected for a two year period – five new members every year. Sweden is a member of the Council for the period 2017-2018.

The crux of the problem is that the five permanent members, who all have veto power, often cannot agree when the need is the greatest. The latest serious instance is Syria.

Another serious problem is that the permanent members themselves sometimes flagrantly violate the UN Charter. By way of example can be mentioned the US and UK attack on Iraq in 2003 with disastrous consequences. Then followed the Russian attack on Georgia in 2008 and most recently on Ukraine in 2014.

According to Article 24 of the UN Charter, the Security Council has "primary responsibility for the maintenance of international peace and security". Here, the Council acts on behalf of the members of the UN, and the members are required to "accept and carry out" the Council's decisions in accordance with the Charter.

Within the United Nations there has for many years been a discussion on the need for reforming the Council. The discussion has mainly focused on increasing the number of members. But this is not the solution. The Council is an executive organ and already fifteen members are on the high side.

During my ten years as UN Legal Counsel (1994-2004), I had the opportunity of following the Council's work closely not only formally but also in informal consultations and at the retreats that Kofi Annan arranged for the fifteen UN Ambassadors and their spouses. At the beginning of this period, then just after the Cold War, the Council began actually to work really well. But soon there were problems again with serious consequences for the Council's ability to fulfil its core mission: to prevent conflicts.

If you ask the question why conflicts arise, the answer is always the same: democracy and the rule of law are absent. The realization that the rule of law must be respected both nationally and internationally led to this question ending up on the agendas of both the General Assembly and the Security Council. Important resolutions were adopted in this field, and in 2005 the General Assembly formulated the concept of the responsibility to protect. This responsibility was confirmed by the Security Council in a special resolution in April 2006.

A point of departure for a reform of the Security Council must of course be the changing geopolitical situation in comparison with the year 1945. However, at the moment, attention should not be directed at the Council's composition, but at the manner in which the members of the Council fulfil their mission and, in particular, at the behavior of the five permanent members. The loadstar here must be the rule of law and the obligations that it imposes on the Council.

As for Syria, it can be noted that Kofi Annan was the first person who was entrusted with the United Nations and the Arab League mission to try to resolve the crisis. This was in February 2012. At the time, he was engaged as Chairman of the Panel of Eminent African Personalities that had been commissioned by the African Union to create a national dialogue and reconciliation in Kenya after the disastrous elections in December 2007; the elections had been followed by violence in which many people had lost their lives and hundreds of thousands had been internally displaced.

As legal adviser to the Panel, I could follow Kofi Annan's work on almost daily basis for six years. He made the leaders of the two factions sit down at the negotiating table. An agreement on a coalition government was reached. Legislation was adopted which came to regulate the Coalition for five years until the next election. In 2010, the National Assembly also adopted a new Constitution.

As we, in April 2012, discussed whether the situation in Syria could be resolved in a similar manner, he noted that he did not have the support of the Security Council that was a prerequisite for the mission to succeed. In August the same year, he drew the consequences of this and resigned.

This – and the recent events in Syria demonstrate the disastrous consequences that occur when the Security Council lacks the ability to fulfil its obligations under the UN Charter. The daily reports of the suffering of the civilian population are appalling. And the whole world can witness how obvious war crimes are being committed.

Among UN Member States is now discussed a Code of Conduct with regard to Security Council action against genocide, crimes against humanity and war crimes. The Code means that UN Member States undertake to support action by the Security Council intended to prevent or end such crimes and not to vote against corresponding resolutions of the Security Council. At present, 112 States have joined the Code, including France, the United Kingdom and Sweden.

One of the most important tasks that Sweden and the other elected members of the Security Council now have is to ensure that a serious discussion about this issue is conducted within the Council. A prerequisite for a meaningful reform of the Security Council is namely that the

three remaining permanent members join the Code. If not, it is unfortunately only to wait for the next Syria.

The future challenges facing the world are enormous. This applies particularly to those that will be caused by climate change. The tragic refugee flows that we see today in the world will be trickles in comparison with those that will be generated by sea level rise and desertification, combined with the growing world population. We simply cannot afford to waste time and resources on conflicts caused by the Security Council's own members or fueled by their inability to act when the UN Charter so requires.

If the members of the Security Council show that they can join hands if, in a conflict, a certain threshold is crossed, it would send a very powerful signal around the world and help to prevent conflicts in the future.

**Hans Corell**

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