

## It's time to take the UN seriously

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The world is poised on the brink of another Gulf War. The first war to be fought over the possession of weapons of mass destruction, despite countless UN Security Council resolutions under Chapter VII of the UN Charter demanding Iraq's compliance. That Iraq is in breach of Chapter VII resolutions is not in dispute. Yet the Security Council is divided over the response to the flagrant non-compliance. The United Nations has some hard thinking to do. To coin a phrase, the UN is between Iraq and a hard place. If the permanent members of the Security Council do not find agreement, if the US and a coalition of the willing go ahead without the required votes and without agreement among the Five, then the US will deem the UN "irrelevant". However, if the Security Council always goes along with the bidding of the powerful, then the whole purpose of the UN is defeated.

At times like these we have to go back to basics. The United Nations Charter was negotiated in San Francisco in 1945. It was a result of many meetings and drafts, and its purpose was clear. The United Nations is to uphold the peace and to save mankind from the scourge of war. Member States agree to take collective efforts for the prevention and removal of threats to the peace. The UN Security Council is charged with the primary responsibility for peace and international security. Unanimity among the five permanent members was made necessary for the adoption of substantive Security Council resolutions so that the "Great Powers" plus China and France would have to find agreement on such matters of outstanding importance to the world.

At the time, and ever since, there was a debate on which countries should be allowed to join the UN. The "universalists" argued that all nations should be in the UN whatever their behaviour, whereas the lobby for conditional membership won the day. As a result of this debate there are two articles in the UN Charter that could apply to Iraq today. This first is expulsion from the organization – Article 6. The second, and more interesting alternative in today's situation is Article 5 – suspension.

**Article 5: *A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.***

Iraq is under enforcement action (Chapter VII resolutions) taken by the Security Council and thus, according to established legal opinion, would be a case for the application of Article 5.

Invoking Article 5 would demonstrate the unanimity of the UN Security Council at a time when it is most needed. Such action would show that the principles of the UN, as set out in its charter, are not to be mocked and that they have true worth and value. The suspensions of rights and privileges would demonstrate the determination of the UN to enforce its Chapter VII Security Council resolutions. The action would reduce the criticism of the UN that it has no relevance or political courage. It would be a strong signal from the Council that Iraq's behaviour, its failure to comply with *inter alia* resolutions 687, 1284 and 1441, is intolerable, even for those countries which are not prepared to support military action.

Now, and in the longer run, it would show that UN Security Council resolutions have to be respected and that lack of compliance has a wide set of repercussions and would thus serve as a strong signal to others who may be tempted to treat the Council lightly.

Importantly too, in today's tense climate, the threat of invoking Article 5 would not undermine attempts to deal with Iraq in a forceful manner and its threat and application would not undermine other Security Council actions.

If there is a delay in military action and if it is decided that the inspections could continue, invoking Article 5 would not jeopardise UNMOVIC's work in Iraq. Inspections in Iraq could continue under the UN Charter, and Iraq would still have to comply with its obligations.

Recommending the suspension of Iraq's membership under Article 5 to the General Assembly would have several effects. One is that the General Assembly would have a role in debating the issue, and the displeasure with Iraq and other aspects of this sorry debacle would find wider expression. The application of Article 5 would require a two-thirds majority of the Assembly, and there is a risk that such a process could further split the United Nations. However, at this stage, each and every State has view on the Iraqi issue. Division already exists. On the other hand, this course of action could serve to reunite the United Nations on the central tenants of the UN Charter and remind "we the peoples" of just why the UN exists at all. Not to act poses greater risks. The UN is not at a crossroads, it is far worse than that. The UN is teetering at the edge of a chasm. At the very least, whatever happens over the next few weeks, let the purpose of the UN be known and let those who abuse it and bring it to this point of jeopardy be suspended from it.