

West Could Look Beyond UN Security Council in Syria

By [The Moscow Times](#)

August 27, 2013



Syrian refugees walking through a UN camp set up in the city of Arbil in Iraq's Kurdistan region on Monday. **Azad Lashkari**

UNITED NATIONS — In the face of a UN Security Council deadlocked on Syria, the United States and its allies could seek other means of legitimizing any retaliatory strike they launch against Syria's government for last week's alleged gas attack on civilians.

The 15-nation council has been split on Syria since 2011. Russia, President Bashar Assad's ally, and China have vetoed three resolutions condemning Assad and calling for punitive steps against his government.

But the United States has intervened in conflicts before without Security Council backing, most notably in the Kosovo War in 1999, and could do so again.

Any strike by the United States, Britain, France and others without a clear UN mandate would

likely infuriate Russia, which could be expected to denounce it as illegal.

Richard Haas, president of the U.S. Council on Foreign Relations think tank, rejected the idea — suggested by Russia — that a Western attack on Syria would need UN approval.

"The UN Security Council is not the sole or unique custodian about what is legal and what is legitimate, and, as many have pointed out, it was bypassed at the time of Kosovo," he told reporters in a conference call.

"To say only the UN Security Council can make something legitimate seems to me to be a position that cannot be supported because it would allow in this case a country like Russia to be the arbiter of international law and, more broadly, international relations," Haas said.

Legitimacy for a strike on Syria, Haas said, could come from a "coalition of the willing" of individual countries that support retaliation against Assad to demonstrate that the use of weapons of mass destruction will not be tolerated.

That coalition could include Arab countries and have formal backing from NATO or other institutions, he said.

U.S. and European officials have cited NATO's bombing campaign intended to pressure Yugoslav President Slobodan Milosevic to withdraw troops and militia from Kosovo. In that case, the United States bypassed the Security Council to avoid a Russian veto and got backing instead from NATO.

The Arab League could also formally endorse military action against Syria as it did with Libya in 2011, said Richard Gowan, a foreign policy expert at New York University. But it might not be easy to secure a consensus in the Arab League and NATO.

"Some members of both blocs would have qualms about doing so, and the diplomacy could get messy," Gowan said.

U.S. President Barack Obama has tried to distinguish himself from his predecessor, George W. Bush, on foreign policy by presenting himself as more multilateralist. He no doubt would like some kind of international legitimacy if the United States attacked Syria.

But the tough tone of comments on Syria by Secretary of State John Kerry and strong suggestions that U.S. naval forces are moving into position might mean Obama will go ahead with an attack on Assad's forces no matter what.

White House spokesman Jay Carney repeatedly said Syria's government had conducted a "clear violation of an international norm" by allegedly using chemical weapons against civilians. Russia and Assad blame the rebels for the attack that killed hundreds in Damascus suburbs.

Kosovo, Iraq, Libya

Obama has some other options for legitimizing a retaliatory strike against Syria, apart from securing formal NATO and Arab League endorsements.

Article 51 of the UN Charter speaks of "the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations." In theory, Turkey or Israel could ask the United States and its allies for "self-defense" assistance in light of the cross-border violence the two countries have faced during Syria's two-year civil war.

But Article 51, UN diplomats say, might be difficult to construe as the basis for a response to an attack that did not directly affect any of Syria's neighbors, the United States or its allies.

There is also the "Uniting for Peace" resolution of 1950, which allows for the UN General Assembly to call an emergency session to take up matters related to international peace and security when the Security Council is deadlocked due to a disagreement between its permanent members.

That resolution enabled the United States and its allies to thwart Soviet attempts to use its Security Council veto to cut off support for UN-mandated forces in the 1950-53 Korean War.

UN diplomats say the United States would most likely not turn to "Uniting for Peace." But it is possible Washington could seek political support from the General Assembly in the form of a non-binding resolution to help legitimize action on Syria.

While it would not carry the legal weight of a Security Council mandate, an assembly resolution could demonstrate that most of the world supports retaliation — provided Washington secured sufficient support in the 193-nation body. All General Assembly votes on Syria have had a majority of nations opposing Assad, though that majority narrowed in the last vote.

The assembly option has potential, Gowan said.

"China and Russia will fulminate against any missile strikes on Syria, but they could be severely outnumbered at the UN," he said. "The General Assembly could offer political support for military action even if the Security Council is paralyzed."

But the assembly option might take time, and it is not clear whether Obama will be willing to wait if he decides to retaliate. There is also the option of an assembly approval after a strike has been carried out.

The International Committee of the Red Cross last year described the Syrian conflict as a civil war, which means the Geneva Conventions on warfare apply. Gassing could be a war crime or even crime against humanity, UN diplomats say.

The United States and its allies for more than a decade have carried out military actions that they say had international mandates, which Moscow has rejected.

Russia regarded the NATO operations during the Kosovo war as illegal. It also complained about the 2011 NATO operation to protect civilians in Libya, which ultimately led to the death of Libyan dictator Moammar Gadhafi at the hands of rebel forces seeking to oust him.

Moscow abstained from a 2011 Security Council vote on Libya, allowing a UN authorization for what analysts say was the first enforcement of the UN doctrine of the "responsibility to protect" civilians. Since then it has often cited Libya as a reason for blocking UN action

on Syria.

Russia has also cited the 2003 U.S.-led invasion of Iraq, a conflict former UN Secretary-General Kofi Annan once described as "illegal," as an argument against UN action on Syria. In that conflict, Washington assembled a "coalition of the willing" to attack Iraq over false allegations about weapons of mass destruction caches in the country.

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