The United Nations on Shifting Sands: About the Rebuilding of Iraq

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There are various ways of assessing the importance of Resolution 1483 (2003), adopted on 22 May 2003 in the aftermath of very troubling times for the international community. The US, the United Kingdom and a group of other states had conducted a war in Iraq the end-result of which was the falling apart of the regime led by Saddam Hussein. The United Nations system had been put aside during that period because of strong discord among member states with respect to the necessity and the legality of resorting to force. It is not the purpose of this contribution to enter into the debate on legality versus illegality of the resort to force in this conflict, or on the relationship between legality and legitimacy, where the latter concept is used to justify the use of force because of the “unacceptable” consequences of not doing so.

The war has put the well-being of the international system itself and its governance regime for collective security issues under severe strain and this effect is not going to disappear overnight. The founders of the UN system had put in place a regime for maintaining international peace and security. One of its main axes was the prevention to resort to force, except in very specific circumstances. The Security Council (SC) was to be at the heart of this regime and was equipped with decision-making and enforcement powers. Practice had already eroded some of the contours of this regime. However the great divide among the SC member states during the Iraqi crisis and the fact that a coalition of states went ahead, supposedly on legal grounds, shook it to its foundations. The result was the irrelevance of the UN in the conduct of the hostilities as well as its marginalization in the rebuilding of Iraq in the aftermath of the conflict.

A Relationship of 13 Years Plus …

The UN had already lost quite a bit of its “innocence” in its relationship with Iraq (not that it had not lost some of it over other collective security issues …). For twelve years since the Kuwait war, because of its behavior, as condemned in the numerous resolutions adopted during this period, Iraq (with the exception of its Northern provinces which benefited from a semi-autonomous regime since 1991), had been the subject of very heavy institutional and regulatory machinery. This

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was supposed to bring it back to a pacific attitude in compliance with the conditions set by the SC. However, because of the scope and nature of the means resorted to by the international community through the SC, the Iraqi population was kept prisoner of a situation in which the accused regime did not willingly comply with the rulings of the SC. On the contrary, the Iraqi government was benefiting from them. More and more it appeared to the Iraqi population that the international community, and its imposition of collective sanctions, was also to blame. They prevented it from interaction with the outside world: intellectual, cultural and economic relationships were almost impossible. The population was increasingly driven towards upholding its dignity and assuring its physical and psychological survival. Thus it was caught between the hammer of a comprehensive international regime of sanctions managed by the UN and the anvil of a despotic political regime. As already pointed out, the regime was benefiting from this situation. Its participation with the UN in the delivery of humanitarian supplies through the oil-for-food program was a useful means to this end. Nor was there any lessening of its lack of respect for fundamental human and minority rights. In addition, the international community gradually came to turn a blind eye to the “grey” oil market which was developing and enriching Saddam Hussein’s regime.

This is not to say that, in spite of the government’s reluctance to cooperate, the international community did not achieve certain results with respect to Iraqi disarmament – the major bone of contention between Iraq and the UN. But these achievements were never considered sufficient for lifting the sanctions, thus creating the impression that they were to remain in place for an indefinite period. New devices for controlling disarmament – sometimes backed by force – were put in place one after the other without giving the last one time to produce any results. The alleged lack of disarmament was to be the reason for resorting to force, undermining the last-effort multilateral approach intended to induce Saddam Hussein to demonstrate his obedience to the SC conditions, an approach which had been framed through a painful negotiating process culminating in the adoption of Resolution 1441 in November 2002.

The UN in the Aftermath of the Hostilities: a Mere Auxiliary?

Having been shunted aside during the conduct of hostilities, the UN slowly came back into the picture after the falling apart of the Iraqi government. The “re-building” of Iraq was at stake. But once more the UN was restricted to a limited role, as the US-led coalition considered that it had to be in charge and control of the political and economic re-building of Iraq. This allocation of responsibilities was certified by the SC when it acknowledged the US and the UK as occupying powers under unified command and referred to them as the “Authority”. An “Iraqi in-