



**ODUMUNC 2013
Issue Brief for the
GA Sixth Committee: Legal**



Legitimacy of Rebel Governments: Should the UN Choose Sides?

By: Watson Swail

Old Dominion University Model United Nations Society

To this date, no international body has directly confronted the issue of whether rebel governments are legitimate or illegitimate. Recently, however, the Arab Spring has brought attention to the lack of a definition of “what makes a governing body the sole legitimate governing body?” The lack of a set and widely recognized definition has led to drawn out debates and veto power being used in the Security Council over conflicts in Syria and other Arab Spring nations. However, since the UN cannot do anything to hurt a nation’s sovereignty, this is a difficult problem to solve as one cannot force a nation to acknowledge a definition.

On one hand, the legitimacy of a regime or government is determined by the power the people living under the government give to it (Merriam-Webster’s defines political legitimacy as being accordant with law or with established legal forms and requirements or ruling by or based on the strict principle of hereditary right). This idea of legitimacy can be traced back to social contracts written by Hobbes and Locke and even earlier to ancient religious mandates. However, in the modern, international world governments not only have to gain the blessing of their people (by force or other means), but most gain the support and acknowledgement of other countries and international institutions like the UN. The United Nations Development Programme (UNDP) released a policy paper in 1997 (<http://mirror.undp.org/magnet/policy/chapter1.htm#b>) that set standards for “good governance”, but the paper leaned more toward the sustainable development and less towards the legitimacy side.

Recent examples of countries, governments, rebel groups, etc. gaining, losing or fighting for international recognition can be found scattered throughout the 20th century and up to modern times. The most notable example is the Palestine – Israel struggle. During the cold war, the United States threw its support to Israel (a nation surrounded by nations supported by the Soviet Union such as Egypt and Syria) and acknowledged Gaza and the West Bank as part of Israel while the USSR stated that Palestine was its own independent state. An example of a previously recognized nation losing UN representation due to changes in international support would be the Republic of China (democratic Taiwan) losing its seat to the Peoples’ Republic of China (communist, mainland China) in 1971. As mainland China grew into more of a world power, their influence grew. The Taiwanese government (controlled by a party known as the Kuomintang) refused a proposal for dual representation, thus losing their seat entirely. There



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are even legitimacy arguments within China and Taiwan as mainland China claims they rightfully control Taiwan and Taiwan claims they rightfully control mainland China.

More recently the Arab Spring raised questions as to which group is the legitimate government. The world watched nervously as revolts across the Middle East sprung up one after another. Tunisia, Libya, Egypt and Yemen all had leaders removed from power in civil wars and serious civil uprisings occurred (and are occurring) in Syria and Bahrain. During the revolutions, there are now two "governments"; there is the previous regime and the organized rebel groups who both want to be recognized as legitimate. To make matters more complex, support for either side was split on the international level. The shift of support during the Libyan revolution started when the Gaddafi regime started to use his armed forces against protestors. France was first to throw support to the soon-to-be rebels, then many other countries followed suit. The issue is infinitely complex and diverse as the Russian Federation is hesitant to take any stance against Syria (most likely due to Russia's interest and military equipment contracts in the region) despite the rest of the world's pressure on Dictator Bashar al-Assad urging him to relieve himself of power.

The UN has made no direct action (to this point) to define what makes a nation or organized government group legitimate, but votes have been made in the past determining who gets seating. Towards the end of the Libyan civil war, the Libyan rebels were given Libya's old seat in a landslide vote (114 for, 17 against and 15 abstain). More recently in the Syrian conflict, former UN Secretary General Kofi Annan was sent to Syria as a UN-Arab League envoy to find a peaceful way for both sides to get their way, but resigned as envoy after becoming frustrated with the situation. Only the outcome of the conflict can determine what type of action will be taken regarding representation.

More relevant than conjecture and opinions of nations and people are the resolutions that have been passed regarding legitimacy. The ongoing Palestine struggle that started during the cold war has several relatable resolutions. United Nations General Assembly Resolution 3236 and Resolution 43/177 both deal heavily with the independence and recognition of Palestine as well as their rights. In 2011, the topic of Palestine came up again, this time in an attempt to restore the pre-6 day war borders to Palestine; the resolution has not been voted on. Resolutions regarding Taiwan's UN seat are United Nations General Assembly Resolution 1668 and



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Resolution 2758. The former required a 2/3 vote for issues dealing with representation of China and the later ended Taiwan's representation. As for the Arab Spring, several General Assembly and Security Council resolutions seem to show support of the rebel groups and/ or disdain for the actions of in place regimes. These include resolutions GA/11266 and SC/10389. United Nations General Assembly Resolution 65/265 addresses human rights issues in Libya and withdraws Gaddafi controlled Libya's right to participate in the Human Rights council.

Searching through resolutions and press releases, the stance of some countries becomes clearer. The P-5 nations are split. China and Russia (whom are receiving much criticism) are sticking to a "non-interference" policy and have vetoed resolutions to place sanctions on Syria claiming it is in defense of UN Charter principles. Russia in the past has supported a Palestinian state, however. Both nations have significant economic interest in the region, most notably China who gets a lot of oil from Syria. With China and Russia is Iraq, whom also stated they do not want foreign intervention in Syria.

The UK, US and France have all made it clear that they are not for the Assad regime or for any abusive dictator in recent conflicts. France was the first to recognize the Libyan rebels as the legitimate governing body during the Libyan civil war and has also taken aggressive efforts to make it known that they are for the condemning of the Assad regime in Syria. The United States has also taken an "anti-Assad" stance in Syria and has put pressure on China and Russia to do the same. The United Kingdom took the side of the Syrian rebels and worked to get rid of the EU Embargo that halted the supply of arms to the rebels. All three nations with the addition of Canada, Belgium, Italy, Denmark, Norway, Spain, Qatar and others took part in the naval blockade and no-fly-zone in Libya during the Libyan civil war. Turkey has also taken the side of rebels in the Syrian conflict. While countries have taken positions in recent conflicts, no country has attempted to define or call for the UN (other than the UNDP mid-1990's policy paper) to define what makes a group the legitimate governing body of a nation.



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Resources:

This news article shows a prior position Russia has taken in the UN. It also shows up significant contrast and how personal country interest takes part in support for a governing body.

Denisov, Anton. "Russia to back Palestinian UN bid." **RIA Novosti**, September 22, 2011. <http://en.rian.ru/world/20110922/167050093.html> (accessed November 25, 2012).

This news article talks about the UN vote for the Libyan rebels to assume the international recognition as the governing body of Libya after the ousting of Quadaffi

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<http://www.rt.com/news/un-seat-libya-sanctions-779/>

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<http://www.telegraph.co.uk/news/worldnews/middleeast/syria/9680108/How-Britains-position-on-intervening-in-Syria-has-shifted.html>

<http://www.bbc.co.uk/news/uk-politics-20335346>

<http://www.nytimes.com/interactive/2012/02/25/world/middleeast/International-Positions-on-Syria-Reflect-Conflicting-Interests-in-the-Middle-East.html>