

The United Nations Security Council, non-State bad actors and India

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UNSC's approach to terrorism and WMDs

The September 11, 2001 attack, on the United States triggered a transformation of the UN Security Council's campaign against terrorism and weapons of mass destruction (WMD) proliferation. In the 1990s, state-sponsored terrorism and proliferation of WMD to states were perceived as central challenges. Accordingly, Security Council resolutions targeted states or state-like actors which sponsored terrorism (Libya, Sudan, the Taliban) or "illegally" acquired WMD (Iraq). After 9/11, transnational terrorist groups operating widely independent from state sponsors, and WMD in the hands of global and regional terrorist networks were increasingly considered pivotal threats. Thus, the Security Council increasingly shifted from condemning states or state-like actors for sponsoring terrorism to condemning terrorist groups for conducting terrorist attacks. Furthermore, the Security Council turned to passing encompassing and demanding resolutions under Chapter VII of the UN Charter, which obliged every UN member state to enhance its capacities in the global campaign against terrorism (UN SC res. 1373/2001) and WMD proliferation (UN SC res. 1540/2004), in compliance with those resolutions.

Compliance Strategies-I

This shift in focus to non-state bad actors entailed a transformation of the compliance strategies the Security Council adopted to facilitate the implementation of its resolutions on terrorism and WMD proliferation. In the 1990s, the Security Council mainly followed the approach to compliance put forward by the so-called Enforcement School. This approach is based on the assumption that states fail to comply when the benefits of non-compliance exceed the costs. Compliance can therefore be enhanced by monitoring mechanisms and the threat and/or use of sanctions which increases the likelihood and costs of detection of non-compliant behaviour.

In contrast, in the post 9/11 era, the Security Council increasingly followed the tenets of the so-called Management School to strengthen implementation of its chapter VII resolutions. This school posits that states fail to comply because they lack the capacities to do so and/or because the rules they are to comply with are ambiguous. Hence, the Management School argues for a problem solving approach to enhance compliance, focusing on managerial strategies such as capacity building, rule interpretations, and transparency.

Compliance Strategies-II

To facilitate implementation of and enhance compliance with, its Chapter VII resolutions on terrorism and WMD proliferation the UN Security Council established two committees: The Counter-Terrorism Committee (CTC) and the 1540 Committee. Based on the posits of the Management School, both committees aim at enhancing compliance with the respective resolutions by engaging in an ongoing dialogue with member states which focuses on capacity building, rule interpretation and transparency.

Both the 1373 and 1540 committees have so far refrained from vigorous monitoring and (the threat of) sanctions, strategies put forward by the Enforcement School. Subsequently follow-on resolutions to 1540; namely, 1673 (2006) and 1810 (2008) have revealed tensions between the P4/5 and the non-P members of the SC, notably South Africa and Indonesia in respect of: the adoption of enforcement strategies to enhance compliance as managerial strategies have their limits when states are unwilling to comply (P4/5), as against adoption of the cooperative approach to enforcement for the committees which is based on confidence building (non-P).

Compliance Strategies-III

Besides the CTC and the 1540 Committee, the Security Council established a third committee to facilitate the implementation of its resolutions concerning terrorism and WMD proliferation, viz: the 1267 Committee. The purpose of this committee is to enhance compliance with the sanctions the Security Council imposed against the Taliban, al-Qaida, and their associates. To do so, the 1267 Committee primarily concentrates on monitoring, rule interpretation and transparency, and thus uses both instruments endorsed by the Enforcement School and instruments recommended by the Management School to ensure compliance.

The 1267 Committee tends to be perceived as a rather confrontational body "with teeth" whereas the CTC is commonly considered a non-threatening body which focuses on capacity building. In the view of many states, the 1267 Committee as a confrontational body undermines the cooperative approach adopted by the CTC.

India's Response

[VERBAL]



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Talk on 22 May at NIAS

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Dear Colleagues and Friends,

Prof. V. Siddhartha, Senior Associate, NIAS, will give a talk on **The United Nations Security Council, non-State bad actors and India** on **Thursday 22 May 2008 at 10:30 am** in the Conference Hall of our new Faculty block.

The talk will be focused on Dr V Siddhartha's experience over the past year as an expert appointed by the United Nations Secretary General with the 1540 Committee established by United Nations Security Council Resolution 1540 (2004). The talk will explain the significance of United Nations Security Council Resolution (UNSCR)1540, and of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act 2005 passed by Parliament in May, 2005 in fulfillment of India's obligations under UNSC 1540.

The talk will also briefly expatiate on the two other counter-terrorism resolutions of the UNSC; namely, R1373 and R1267.

On behalf of Dr. K. Kasturirangan, Director, NIAS and on behalf of the *International Strategic and Security Studies Programme*, I have great pleasure in inviting you to this discussion meeting.

Those who might attend may wish to peruse the 1540 website: <http://www.un.org/sc/1540/>

A word of confirmation of your participation would be highly appreciated.

With best regards,

Yours sincerely,

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