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Research Report

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SWP Comments, No. 4/2005

Provided in Cooperation with:

Stiftung Wissenschaft und Politik (SWP), German Institute for International and Security Affairs, Berlin

Suggested Citation: Schaller, Christian (2005) : On the future role of the Security Council, SWP Comments, No. 4/2005, Stiftung Wissenschaft und Politik (SWP), Berlin

This Version is available at:

<https://hdl.handle.net/10419/255937>

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On the Future Role of the Security Council

Christian Schaller

In December 2004, the Secretary General of the United Nations issued the report of the High-level Panel on Threats, Challenges and Change, which was charged with examining how to more effectively address current and future security threats through collective action. One of the report's central objectives is the strengthening of the Security Council. Whether an increase in the number of its members will actually occur and whether the Security Council will become more capable of action is uncertain. But one thing is clear: The Security Council will not only be concerned with traditional threats to state security. It will also have to face non-conventional threats to human security.

The atmosphere of change within the Security Council, the pressure of rising expectations from outside the Council, special interests of new members and their ambition for greater visibility—all of these are factors that will contribute to an increase in the scope of the Security Council's agenda, should an enlargement of the Council come to pass.

Challenges

During the past fifteen years, the Security Council has constantly expanded its role. It intervenes in internal conflicts, establishes tribunals to try war criminals, installs territorial interim administration structures, and imposes obligations on states to combat terrorism and the proliferation of

weapons of mass destruction. This trend can be expected to continue.

Fostering national capacities

An effectual system of collective security can only be established in concert with responsible sovereign states that are prepared and willing to take effective action. According to the panel report, a clear international responsibility exists to support countries in developing the necessary capacities. The Security Council will have to dedicate itself increasingly to this task. Security Council Resolution 1373 (2001) on terrorism and Resolution 1540 (2004) against the proliferation of weapons of mass destruction among non-state actors represent the first steps in this direction. In an abstractly general manner they commit

all countries to certain legislative and executive measures. Additionally, special committees were established that, with the help of experts, monitor and actively support individual countries in implementing these resolutions. Such an approach could certainly also be applied to other areas that require a rapid, effective, and global reaction. One example might be the threat of transnational organized crime, insofar as it contributes to the destabilization of states, fuels armed conflicts, or is linked to terrorist acts. Illegal trade in radioactive materials, small arms, drugs and mineral resources falls into this category.

Enforcing non-proliferation regimes

The proliferation of weapons of mass destruction still represents one of the most difficult challenges for the Security Council. The Statute of the International Atomic Energy Agency (IAEA), in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), as well as the Biological and Toxin Weapons Convention and the Chemical Weapons Convention all provide for the involvement of the Security Council in certain cases of Member States' violation of treaty obligations. These mechanisms have, however, not yet been put to the test. An active role of the Security Council in the enforcement of these regimes is necessary. Particularly within the framework of the NPT, the Security Council should immediately be called into action if reasonable suspicion exists that basic treaty obligations have been violated. The Council then could authorize forcible verification measures or decide on appropriate action to ensure compliance. The same should hold true if a government announces its withdrawal from the treaty and doubts arise in retrospect concerning its observance of the treaty.

Bolstering failing states

The extreme disintegration of state structure as in the case of Somalia or

Liberia was classified as a threat to peace by the Security Council. Failing states regularly endanger regional stability and security and create a climate in which terrorist and criminal structures can propagate. The Security Council bears the responsibility for arresting such processes early on. In addition, the reconstruction of institutional structures following armed conflicts requires the robust backing of the Security Council. The Council must ensure that the actors in the field can perform their tasks in a secure environment, in particular through the mandating of multi-dimensional peacebuilding operations. To this end, disarmament, demobilization, and reintegration of ex-combatants is one necessary component.

Fostering human security

National sovereignty includes the obligation of a government to protect its population. If a government is unwilling or unable to fulfill this obligation, this responsibility shifts to the international community and authority to mandate action is vested with the Security Council. This implies that the Council can authorize military intervention as a last resort in the event of genocide and other large-scale killing, ethnic cleansing, or serious violations of international humanitarian law and human rights.

Which responsibilities arise for the Security Council if a major natural disaster leads to large-scale dying, fighting over essential resources, an outbreak of epidemics, or a massive flow of refugees? If, for example, the primarily responsible government isolates itself, citing national sovereignty, and defeats any sort of external assistance, although it is unable to protect its population against such extreme consequences? In such a case, a government cannot invoke national sovereignty to block international action and must ultimately tolerate a humanitarian intervention authorized by the Security Council.

The Security Council and protection against infectious diseases

According to the definition proposed in the panel report, “any event or process that leads to large-scale death or lessening of life chances and undermines States as the basic unit of the international system is a threat to international security.” Such a comprehensive concept goes far beyond the traditional understanding of a threat to peace as implied in Article 39 of the UN Charter. This does not exclude the possibility that problems pertaining more closely to development will also find a place on the agenda of the Security Council.

In January 2000, the Security Council first convened for a public debate on the consequences of AIDS for peace and security in Africa. Since then consensus seems to have developed among states that HIV/AIDS represents a threat to international peace and security. Other pandemic infectious diseases, for example those resulting from bio-terrorist attacks, can also threaten the stability and security of whole regions. In such a scenario, if the affected and primarily responsible state fails to effectively suppress the spread of such a disease, the Security Council should assume responsibility for containment, if necessary by authorizing forcible measures. In extreme cases, even the deployment of specially equipped peacekeeping forces in affected regions might be an option.

Implications

The Security Council is already now at the limits of its capabilities. If it assumes additional responsibilities, it will need to further develop the instruments at its disposal and generate new capacities.

Further developing policy instruments

In the course of the past fifteen years, the Security Council has demonstrated that it is capable of augmenting and refining its policy instruments. And still the necessity exists for further improvement.

One area of concern is the targeting and enforcing of non-military sanctions. The current practice of listing individuals is not transparent and generally takes place without subjective guarantees of due process. Thus the fundamental conflict between an effective campaign against terrorism and other threats on the one hand and respect for human rights and international humanitarian law on the other becomes apparent. The credibility of the Security Council depends to a large extent on the balance it strikes between the two poles.

The expansion of mechanisms for fact finding and threat analysis is also vitally necessary. Thus a more active role on the part of the Security Council in enforcing non-proliferation regimes requires regular reporting from the IAEA and other treaty organizations. Closer cooperation with the World Health Organization would be advisable for the containment of infectious diseases. The Security Council must be informed about even the suspicion of an outbreak of an epidemic, so that medical examinations and quarantine measures can be supported.

Furthermore, the planning of multi-dimensional peacekeeping and peacebuilding operations, which must fulfill a number of complex tasks, requires particular precision. Instruments of preventive diplomacy might also be expanded.

Quasi-legislative decisions of the Security Council have been the subject of special criticism. Does the Security Council presume to take on the role of a world legislator? Resolutions 1373 and 1540, mentioned above, might indicate such a presumption, since they are the first to contain abstractly general provisions. The limits of the Security Council’s legislative powers according to international law are unclear. However, an act *ultra vires* is, at least in these cases, not apparent. If international agreements do not provide an adequate foundation for the fight against acute threats, the Security Council is charged with temporarily compensating

for these deficits until governments can close the gaps through the setting of international norms.

Creating new capacities

To develop new instruments and apply them both effectively and responsibly, the Security Council must overcome current bottlenecks in capacities.

An important factor is the willingness of its members as well as the willingness of the broader UN membership to contribute the necessary resources.

A second central factor is the ability of the Security Council to organize itself in a more efficient manner, especially if the enlargement of the Council to 24 members comes to pass. The introduction of further working groups and committees as well as a more intensive cooperation with external actors could lead to a more efficient division of labor. The important role of the IAEA in sensitizing to nuclear threat scenarios has already been noted. A similar function might be assumed by the Organisation for the Prohibition of Chemical Weapons. The gap that exists in the area of biological weapons could be closed by installing a small, independent group of experts within the UN Secretariat, which, on assignment from the Security Council, would carry out inspections throughout the world in cases of suspected violations of the prohibition of such weapons.

The creation of new linkages to external actors could also create additional synergies. The panel report proposes to the Security Council, for instance, the establishment of a peacebuilding commission as a subsidiary organ for the coordination of peacebuilding measures in the widest sense, ranging from early warning through preventive action to post-conflict peacebuilding. The Economic and Social Council, international financial institutions, donor countries, regional organizations, and affected countries would be represented in the commission. Thus a further gap within

the UN system could be closed without necessitating a revision of the UN Charter.

The third, and decisive, factor is, however, the willingness of the Security Council to change its procedural rules with respect to decisionmaking. The problems faced in connection with veto powers are evident. The proposals of the High-level Panel include voluntary commitments on the part of the permanent members to limit the use of their veto power, the introduction of an "indicative voting" system, by which majority preferences should be made apparent prior to important decisions, and the establishment of specific criteria for a legitimate use of force to maximize the possibility of achieving Security Council consensus in certain cases. However, many more creative ideas will be necessary in order to make the Security Council more capable of action in critical situations.

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