Securing the Future Initiative: Operationalizing Recommendations & The Way Forward

The Hague
November 17-18, 2022

Overview

This Securing the Future Initiative (SFI) workshop, co-hosted with the International Centre for Counter-Terrorism, convened more than 30 representatives from the United Nations (UN), Member States, national governments, civil society, academia, and international organizations. Conducted under the Chatham House Rule, this workshop in The Hague followed a series of global SFI-hosted discussions, conducted both in-person and virtually, aimed at capturing diverse global perspectives on past and future roles and impacts for the Council on counterterrorism (CT). This meeting focused in particular on operationalizing the recommendations in the SFI report, *Counterterrorism and the United Nations Since 9/11: Moving Beyond the 2001 Paradigm*, and on strengthening partnerships with regional and local stakeholders, including regional and subregional organization, as well as intergovernmental bodies.

Among the themes discussed were the roles of various multilateral and regional organizations, such as the UN and African Union (AU), at headquarters and field levels; lessons learned from the implementation of counterterrorism sanctions; how to enhance prospects for bringing terrorists to justice in line with Security Council obligations; and how to mitigate the misuse of counterterrorism measures.

The driving vision behind the SFI is to ensure the Council's approach to addressing terrorist threats remains fit to navigate a terrorist threat landscape and multilateral CT architecture that have significantly evolved and expanded in the two decades since the 9/11 terrorist attacks.

Kingdom of the Netherlands

Below is a summary of key discussion points. While the meeting agenda was structured around the key themes shaping the SFI report recommendations, the notes below reflect thematic trends of the workshop conversations. This summary is not a transcript of the event and does not necessarily reflect the views of the co-hosts, the government of the Netherlands, or other SFI sponsors.

Keynote Address

In a keynote address to open the workshop discussions, the Head of the Counterterrorism and National Security for the Netherlands' Ministry of Foreign Affairs, Ms. Mina Noor, expressed the support of the government of Netherlands for the Securing the Future Initiative, commending its inclusive consultations and its emphasis on human rights, civil society, and prevention. While many European policymakers appeared to have deprioritized the need to address terrorism in the face of an increased focus on inter-state conflict, Ms. Noor said the threat nonetheless remained active, pointing to recent developments in the Sahel as well as the resurgence of right-wing extremism across Europe for example. Noor echoed the SFI recommendations and underscored the importance of integrating counterterrorism into wider multilateral conflict resolution and prevention initiatives. She stressed the importance of civil society in fostering a more "bottom up" approach, in line with the SFI recommendations, and spoke in favor of a "Do no harm" approach to counterterrorism – noting that abuses enabled by counterterror missions around the world had only fuelled extremism among the marginalized – and called for also applying this approach to countering the financing of terrorism.

Assessing the Security Council's Counterterrorism Efforts

Following a review of the findings and recommendations from the SFI's commissioned research and final report, workshop participants reflected on the achievements, shortcomings, and challenges of the UN Security Council's counterterrorism regime over the past two decades. Critiques of these activities included the proliferation of CT bodies and potential redundancies; the risks of developing counterterrorism activities in the absence of a universally agreed definition of terrorism; the lack of transparency in Security Council working methods (in the Counter-Terrorism Committee and the 1267 Sanctions Committee, for example); the exclusion of non-Council members from developing and implementing CT activities; the excessive influence wielded by the

Council's five permanent members (P5) – the US, UK, France, Russia, and China – and the Council's inability to mitigate the misuse or abuse of counterterrorism laws that were developed in an enabling environment that the Council itself shaped.

Several participants expressed concern about the outsized role of the Security Council in shaping technical counterterrorism activities, recognizing that its actions in 2001 reflected a gap in the multilateral architecture that no longer existed. For some speakers, the continued proliferation of Islamist terrorism, particularly on the African continent, illustrated a failure of multilateral counterterrorism. Others noted that the capacities of transnational groups and capacities to plan and conduct mass-casualty attacks had been stymied by international cooperation, and approved of the Council's decision to ground its response to this threat in multi-national institutions and state-level capacity building efforts. However, participants widely agreed that the cost of these activities – in terms of the potential misuse of counterterrorism measures to violate human rights and circumscribe civil society action – had been underestimated at many levels at the outset of this endeavor.

Participants noted that many parts of the UN system faced their own challenges in terms of institutional architecture, policy coherence, and effective program delivery. Consequently, it was suggested that stakeholders proceed with caution when considering other areas of UN work – peacebuilding, for example – as models for counterterrorism work, as one participant underscored.

Participants pointed to West Africa and the Sahel as regional examples where the Council's CT dictates and guidelines had not been effectively adapted for local contexts. One regional representative observed that overly securitized approaches had been prioritized over preventative and sustainable responses that could better address many of the drivers and grievances fueling terrorism on the continent. Governments had focused too much on consolidating and maintaining state power over the security of the people-at-large, they said.

Shifting Counterterrorism Priorities & Evolving Threats

Throughout the sessions, a number of national and regional perspectives were outlined, including those of the European Union (EU), the AU, the Association of Southeast Asian Nations, the West Africa and Sahel regions, the Netherlands, the UK, Sweden,

Denmark, Finland, and Indonesia. Participants noted that many governments had shifted their national security priorities from countering terrorism to dealing with inter-state conflict in recent years – with issues like the conflict in Ukraine, cybersecurity threats, and economic warfare receiving particular attention – and questioned whether such an environment was suitable for CT reform. However, given that counterterrorism matters had previously largely garnered more consensus within the Council than other topics, participants suggested opportunities may still exist to achieve agreement on such reform, even amidst heightened geopolitical tensions within the Council and the P5.

The Council's work also shaped that of a number of inter-governmental and regional partners, such as the the Global Counterterrorism Forum , EU, and AU, while the Council's actions and narratives could either create an enabling environment for misuse of CT measures, or potential means for mitigating them.

Bringing Terrorists to Justice: Incentivizing Accountability

Participants also discussed how the Council's CT efforts shaped international criminal justice and rule of law efforts, and how UN actors may be positioned to bring terrorists to justice, including through increased use of core international crimes as a basis for prosecutions. Despite the Security Council's prioritization of bringing terrorists to justice, many victims and survivors of terrorism struggle to obtain justice and the numbers of domestic prosecutions remains low. To that end, participants said that other institutions, such as the International Criminal Court (ICC), could also support these objectives.

Referring to the requirements imposed on states by Council resolutions to criminalize certain activities associated with terrorism, some participants voiced concern over some states' decision to legislate the so-called "pre-crime space," particularly in the absence of a definition of terrorism. One legal expert criticized the "unprecedented" manner – in terms of speed, lack of transparency and consultation, and the sometimes universally-binding nature – by which UNSC resolutions criminalizing terrorist activities have been drafted. Several experts stressed the importance of making the development and drafting of Council resolutions more deliberative and consultative.

In the view of at least one participant, discussions of accountability in the context of terrorism too often focused on terrorist groups or individuals, while this individual

strongly underscored the need to also hold government actors accountable for violating rule of law and human rights principles under the guise of counterterrorism. In West Africa and the Sahel, for example, employing CT measures which did not adhere to such principles produced frustration and backlash among local communities, and ultimately empowered terrorist narratives.

One participant questioned the benefit of providing capacity-building assistance to local law enforcement when these programs resulted in human rights and rule of law violations. Another complained about the lack of effective mechanisms to hold states accountable for failing to implement UNSC-mandated counterterrorism measures.

Some claimed the task of holding government leaders accountable was beyond the UN's capabilities, and though the ICC could provide some assistance, they said strong national institutions would be required to deliver this sort of justice, especially since divergences among national terrorism definitions could make extradition difficult. While several UN entities were supporting states and communities to strengthen rule of law-based responses to address these challenges, questions remained over the long-term impact and sustainability of the efforts.

Building Integrated Approaches

Discussions focused on operationalizing a key theme of the SFI report: moving from an exceptionalized UN counterterrorism architecture to one more integrated in wider UN work on peace and security, human rights, and development, and one that is more "bottom up" than "top down". Discussions on re-orienting the Council's CT approach closer to actors and organizations in the field persistently focused on increasing the role of civil society and regional organizations in preventing and countering terrorism. In addition, the potential role that cities and local governments can play in local implementation was highlighted.

There were concerns about the lack of dialogue between civil society organizations (CSO) and state security sectors, with one speaker cautioning the UN and donors against perfunctory, "tickbox exercise"-style engagement of CSOs, saying that their relationships must be kept "at par" and CSOs should be treated as partners. As it stands, however, they said that assessments and engagements by UN actors like the Counter-Terrorism Committee Executive Directorate (CTED) felt like a "one way street,"

with few opportunities for civil society actors to see the outcome or impact of their engagement. As long as states visited by CTED do not agree to publish their reports (an action which requires the consent of the state), there was little opportunity for many UN or external actors to benefit from the analysis or recommendations, a result one civil society member called "very demotivating." This they said would diminish the appetite for continued dialogue.

Given the known concerns of some development and humanitarian actors that the perceived intrusion of preventing and countering violent extremism (P/CVE) missions into their professional spaces could lead to securitization and blowback from many sectors, some UN entities and civil society actors at the table were wary of integrated approaches. However, one participant from this space noted that giving up the interaction between development and security actors would inhibit the development of more holistic and credible approaches, as when P/CVE approaches enabled UNDP and UNODC to collaborate with several states in developing national action plans or human rights-compliant legal processes.

Speaking to the African context, an African civil society representative reminded fellow participants that governments on the continent commonly adopt an adversarial view of local CSOs and critics, even though CSOs may wield greater local legitimacy than government actors. Nonetheless, there was concern that African organizations and institutes were too often precluded from collecting and analyzing the data which regional policymakers act on.

As another potential obstacle to local cooperation, participants noted that actors and decision makers operating in the proximity of conflict zones may align with illiberal actors or those hostile to Western interests.

UN Security Council Sanctions: Examining Impacts and Outcomes

The discussion on the Security Council's counterterrorism sanctions regime examined the impact of the sanctions and called attention to the current regime's due process and implementation limitations, noting that many states most affected by terrorism lack the capacity to properly implement Council-mandated sanctions measures without external support. Other deficiencies cited during these discussions included the impact of sanctions on the delivery of humanitarian assistance in conflict contexts that include

designated terrorist groups, the opacity of Council working methods, and the inaccessibility of information on developing effective submissions for many non-Council members (though the Monitoring Team is available to assist). One participant also noted that sanctions were premised on the idea of access to banking which was lacking in many regions, raising questions about the suitability of the sanctions measures for such regions. Others stressed the normative importance of designating terrorist groups as such. Some called for the sanctions model to be updated to reflect the potential use of advanced and emerging financial technologies, such as virtual assets and digital currencies, by terrorist groups.

Participants feared that heightened geopolitical tensions within the Security Council and P5 could thwart the Council's ability to build consensus to add or remove designees from existing sanctions lists. Even if this political roadblock could be overcome, it was said that de-listing at the Council level would be insufficient so long as designees remained on sanctions list compiled at the national level or elsewhere. This highlighted the difficulty of ascribing causal relationships between Council measures and impacts, as many concerns about the potential for de-risking and for the criminalization of humanitarian assistance emanated not only from the Council but domestic rulings in many states, particularly the US, as well.

Several participants observed that to "name and shame" states that fail to act on Security Council sanctions designations could complicate cooperation between the 1267 Committee and intelligence actors of "shamed" states, whom the committee relies on to provide financial intelligence. It could also exacerbate the possibility of undue de-risking, which could snowball into adverse economic impact on relevant states and actors operating within them. To adapt to a threat environment that has evolved since the sanctions regime was first developed to counter al-Qaeda and the Taliban, one participant called on the Council to help regional organizations develop their own sanctions programs tailored to their unique contexts. Participants also debated whether the benefits of integrating the 1267 Committee into CTED.

Participants debated the merits and challenges of adding additional groups or individuals to sanctions regimes, such as al-Shabaab or far-right groups. Speakers noted that the absence of an agreed-upon terrorism definition had left open risks that states might add political opponents or dissidents to such lists, but conversely, others also pointed out that too narrow an interpretation of terrorism could exclude threat

groups that pose more immediate risks in some regions than that of transnational groups. It was important to focus on groups that pose risks to communities at local levels and not just those that target Western interests, noted one participant.

The Way Forward

Given that these discussions focused on operationalizing the SFI recommendations and identifying concrete ways they could inform future actions, participants were asked to conclude the workshop by submitting operationalization recommendations for Security Council action and for regional strategies. Broadly speaking, for the Council, participants recommended suitable forums and methods to advocate for reforms; new oversight tools and bodies; as well as means to improve engagement with CSOs and regional actors, demystify and make more transparent Council processes and mandates, and integrate relevant knowledge for preventing and countering terrorism into wider UN missions. With regard to regional strategies, in addition to calling for increased opportunities for regional organizations to consult the Security Council on terrorism matters, collaborate with CTED and adjacent UN bodies on implementation and capacity-building efforts, and interact and share best practices amongst themselves, participants also recommended that regional blocs coordinate amongst their incoming and outgoing Security Council members to ensure continuity and cohesion of their efforts to promote shared regional counterterrorism priorities.