

Promoting ownership of UNSC Resolution 1540: the light footprint approach?

Aline Leboeuf, Ifri

October 1, 2009

UNSCR 1540 at a Crossroad: The Challenges of Implementation

Assistance is key to implementation

Implementing the UNSCR 1540 thanks to the only strength of the SC legitimacy and power proved delicate, especially for countries lacking the basic capacities to develop a comprehensive report, promote the necessary legal changes, develop a real capacity to control their borders, etc. However, the Resolution does provide for a tool that can contribute to narrow those obstacles, if mobilized in a more astute way: the assistance between States. Cooperation and assistance, sometimes in the form of technology transfers, is a device often used in many international law domains (climate change, children rights, etc.) as a way to compensate for the difficulties of implementing international laws in less rich countries. It is especially the case when the proposed new international law creates a strong opposition between the North, seen as benefiting from the new rules, and the South.

The limits of the current assistance model

Today, all States can request or offer assistance in the framework of the 1540. The 1540 Committee works as a clearinghouse to help requests meet offers. However important, current efforts are still proving insufficient, and were hampered by the limited resources of the Committee, as well as by the form taken by requests and assistance offers up to now. The development of databases and of a request template meant to allow a faster processing and diffusion of requests, and the adoption of a “plan of action” approach did contribute to an improved assistance process. However, it remains impeded by several structural barriers: for example, the Committee cannot take position of the quality of the legislation or regulations meant to implement the 1540: it cannot therefore produce guidelines that could be more easily implemented by States than having to think through local options. The Committee is also not in a position to set priorities regarding implementation of the resolution. Those barriers may

actually prove to be great opportunities to insure the ownership of the implementation process. However, they tend to appear first as blocking an assistance process that could prove beneficial both to requesting States and to global security.

The need for an ambitious development project?

Some analysts therefore consider that the 1540, to be implemented, should allow for a much more ambitious and comprehensive development effort. According to them, many countries have a failed governance problem; they lack a working security and justice sector; cannot control their borders; and even if they could change their laws, they could not implement them. Thinking of efforts in post-conflict and stabilizing countries (DRC, Liberia, Timor-Leste, Iraq, Afghanistan, etc.), they advocate a real transformation to reconstruct the countries and make sure that they benefit from a working governance system that allows them to really implement the resolution. Of course, such an ambitious approach proved difficult to implement in countries destroyed by the war, even where the elites had a vested interest in supporting the reform process: it will not be easier to put in place in a peaceful country, where the elites will certainly resist reforms of a governance system that they master well. Furthermore, it requires more resources than are currently available to support the implementation of the 1540.

The “light footprint” approach

Therefore, such a comprehensive and ambitious approach is very likely to fail. However, one may find an approach that could *combine some ideas from the “post-conflict/stabilization” experience and the very specific culture of political restraint of the 1540 Committee*, what we could call, based on the Brahimi expression, “the light footprint”. The idea of the light footprint is that if reform is needed, it needs to be a very light process, where offering states and other actors make sure that their assistance respect the expectations of the requesting state and are embedded in larger existing reform/assistance processes.

Small is beautiful, assistance is meant to *build a progressive momentum, by demonstrating the interest of the assistance itself, winning issue champions and then a constituency* to the approach, and the importance of fighting proliferation.

On the contrary to heavy development processes, like the development strategies that sometimes take more than two years and several foreign consultants to be written before international development agencies may start financing projects, *the assistance linked to*

1540 should try to remain very flexible, and adapted to the local capacities so that requesting States can really own the process. Only with time, and as capacities and a culture of counterproliferation develop in the recipient countries, more ambitious approaches could be promoted.

A strategic, not a comprehensive approach

This brings the focus on another approach to strategy: Often strategy is seen as having to be comprehensive, global, taking everything into account in order to work. However, what we recommend is a *strategic process that when possible comprehensively understands the realities of the requesting country and of the offering country, but that is not comprehensive in its attempt to transform the requesting country.* It will *target what is seen as a strategic entry point for assistance and the development of a counter-proliferation culture*, according both to the requesting country, to the offering country/organisation and to the Committee. This choice *can be pragmatic*: for example in a country where a security sector reform is already going on, it might make sense to contribute by bringing a counterproliferation capacity in the training of the security forces, or by supporting some legal reform capacity with a special focus on the implementation of the 1540. On the other side, such an approach would also allow to *focus on the realities that are specific to each State*: for example, in Sierra Leone the issue may not be the control of dual-use technologies, but rather the issue of controlling diamonds, as non-state actors may use them to finance proliferation projects. To do so, the Committee and offering States could support ongoing efforts in this field, at the global and local level.

Therefore, the *plans of action should remain a very flexible and light tool*, and not gain so much importance that it starts to replace the assistance itself.

As mentioned earlier, the “structural barriers” that constrain the assistance package of the 1540 may prove in this process beneficial. Indeed, as the Committee avoids any normative judgment over the quality of the laws/ways to implement the resolution chosen by each State, it gives all of them a free range regarding implementation options. *This freedom* may prove burdensome for countries with limited capacities, but it *also allows for innovative interpretations, that take into account the country’s realities and constraints, and allows the country to focus on issues that are key to counterproliferation there.*

Conclusion

If the impression today is that the assistance package of the 1540 is “too little, too small”, one should be cautious about too ambitious approaches that would divert the Committee from its key mission. Development is not counterproliferation, but some development assistance can contribute to counterproliferation. It is better to start small and strategic and build on a sound basis a more ambitious project, than fail the all process by expecting to go too far, too fast and loose the support of requesting States in the process. ***Being able to deliver is essential*** for countries to see how useful 1540 can be for them and to convince them that they need to get in the “1540 bus”: small deliveries are better than no delivery. This way, a real momentum will be built to support a socialization process that could, in the end, result in original and efficient implementation efforts at the country level.

Recommendations

- The Committee should ***take a strategic but not a comprehensive approach to assistance***. I.e. start with a project that has a lot of meaning for the requesting State and can contribute to developing issue champion/ a constituency supporting the implementation of the 1540.
- Such projects need to ***be tailored to the requesting State reality, sustainable, and need to be efficiently and quickly put in place***. It needs to prove that implementing the 1540 is a process that works and delivers what is expected.
- To insure the efficiency of the projects, a good option may be to ***build on existing development projects and programmes*** already going on in the requesting State (for example, security and justice sector reforms or global health surveillance systems).
- Beyond the unilateral relationship between “requesting” and “offering” States, ***pools of States interested by a common proliferation issue could work together to develop lessons learned***. For example regarding biosafety of laboratories, States like the US, Indonesia (where several BSL-3 have been built recently to respond to the avian influenza issue), Gabon or Singapore have different experiences that can be pooled to ensure that biosafety is improved globally. When needed, assistance could then be organized in a more efficient way between partners having learned to work and trust each other.

- One goal of the assistance, beyond more technical or legal support, could be the *promotion of a counterproliferation culture*. For example, projects could try to socialize security forces in such a culture, thanks to courses similar to human rights courses.
- It is important to *keep the process flexible, with informal networks* supporting more formal exchanges, to bring as many actors on board of the process as possible, and to insure smooth communication on needs, capacities, and options.
- To support innovation regarding each State's implementation process, and strategy, the Committee should consider *publishing more information on the assistance projects* that took place and proved useful. It may entice other potential requesting States to put in place similar projects.