

SWP Comment

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Organized Crime on the UN Security Council Agenda

Action against Human Trafficking Reveals Opportunities and Challenges

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On 7 June 2018, for the first time, a Committee of the United Nations Security Council placed individuals on a sanctions list for human trafficking. As part of the Libya sanctions regime, travel bans and asset freezes have been imposed on six individuals identified as the main perpetrators of illegal activities relating to human trafficking and the smuggling of migrants. The European Union and the US have already implemented these UN sanctions. This response is an expression of the UN Security Council's increased attention on transnational organized crime (TOC). For years, the number of resolutions relating to TOC, whether linked to drug or arms trafficking, piracy, kidnappings or illegal trade in natural resources, has increased substantially. And the Security Council has repeatedly dealt with human trafficking in conflict situations since the end of 2015. The relevant decisions show what role the Security Council can play in addressing organized crime, but also where pitfalls lurk. As a non-permanent member of the Security Council in 2019/2020, Germany should advocate a systematic advancement of the agenda.

The UN Security Council's sanctioning of six individuals, four Libyan and two Eritrean nationals, for human trafficking and migrant smuggling in this form may be a novelty. But organized crime issues have increasingly appeared on the UN agenda for some years now. According to an analysis by the Global Initiative against Transnational Organized Crime, the number of Security Council resolutions related to organized crime has risen fairly steadily in the past 15 years; in 2017, there were a total of 41. In recent years, the majority of these resolutions dealt with Africa, and an increasing

number with the Middle East, since the Security Council naturally approaches this problem area via threats to peace and security. In addition, there are a number of thematic resolutions, including one each in 2016 and 2017 on human trafficking in conflicts.

Why is the Security Council tackling organized crime issues?

The UN Security Council has targeted transnational crime phenomena, such as human



trafficking, mainly because of their association with armed violence and insecurity. This linkage can have many facets. Specifically, organized criminal activities can serve to finance armed groups, but also to strengthen their power bases, or they can be tactically motivated. Sexual violence and exploitation as well as forced recruitment by armed groups may be part of this. In some conflict countries, the boundary between the criminal and political motives of violent actors is increasingly blurred.

The Security Council is tackling criminal phenomena also because other international approaches hardly take effect in such contexts. Indeed, the Convention on Transnational Organized Crime was adopted by the UN General Assembly in 2000 and supplemented by, among others, a protocol on trafficking in persons, and it now has 189 parties. But not only is the implementation of this Convention, which does not yet have a review mechanism, faltering; fragile and conflict-affected states which are usually weak in prosecuting organized crime anyway, are rarely actively engaged in international cooperation. In an environment like that of Libya, even differentiating between criminal actors and officials who are supposed to be enforcing the law is difficult, as the case of the UN-sanctioned commander of the regional coastguard in Zawiya shows.

It is often individual events or conflict situations that initially put organized crime issues on the Security Council's agenda. For example, the kidnapping of women and children and the trafficking of persons belonging to the Yazidi minority by the 'Islamic State' (ISIL) was a crucial catalyst for the first Security Council thematic debate on human trafficking in situations of conflict in December 2015. These events played a key role in the meeting and were specifically condemned in the resolution passed a year later. With the open and systematic exploitation of people by ISIL, a new dimension had been reached.

At the same time, this case shows the extent to which action against criminal activities and networks in conflict situa-

tions has been linked to the fight against transnational terrorism. Many of the resolutions adopted in the past three years that actually contain the term "organized crime" also refer to terrorism. The connection between the two phenomena is the subject of UN Security Council Resolution 2195 from 2014 and is often established in the context of Libya and the Sahel region, in particular Mali. It is, therefore, not surprising that the sanctions regime on Mali established in 2017 also allows for the listing of persons or entities that support spoilers of the peace process with income from TOC. Although no sanctions have yet been imposed, in its recent report, the UN Panel of Experts on Mali examined more closely various forms of organized crime, including trafficking in persons and migrant smuggling.

However, the resolutions of 2017 and those of previous years also mention up to 11 different types of crime beyond terrorism, including drug and arms trafficking, kidnapping, armed robbery and financial crime. While all these offences could be linked to organized crime, the term itself does not appear in the majority of resolutions. Thus, a clearly defined agenda for dealing with organized crime has not emerged. However, as the example of targeted sanctions against traffickers shows, the Security Council does not limit itself to mere rhetoric.

Not just rhetoric, but concrete measures

A 2016 paper from the United Nations University outlines the Security Council's options for action with regard to human trafficking in conflict with the key words, "Denounce, Disrupt and Protect".

The UN has been using sanctions for some time in a disruptive sense, i.e. in order to cut off conflict parties from illegal sources of income. An example of this was the ban on direct or indirect imports of rough diamonds from Sierra Leone (2000) and Liberia (2001). The sanctions now imposed for human trafficking were preceded,

inter alia, by measures against illegal oil exports from Libya and an arms embargo. It is not yet clear whether the recent listings can lastingly disrupt the networks involved in human trafficking through Libya.

However, the sanctions also serve as a signal to other persons involved, especially as long as the government in Tripoli, which has been internationally recognized since 2016, exercises virtually no control. This response to organized crime can also have a certain spillover effect. As embargoes like the one in Libya not only ideally curb the arms trade, but monitoring by UN Panels of Experts sometimes also reveals other illegal activities. The narrative summaries explaining the listings for human trafficking and migrant smuggling also refer to information gathered by the corresponding panel for Libya. The individual sanctions now imposed can, therefore, not be considered in isolation.

In terms of protecting the victims of trafficking, an Anti-Trafficking Task Team has been formed as part of the global network that coordinates inter-agency approaches to protecting people in humanitarian emergencies. In addition, the United Nations Office on Drugs and Crime (UNODC) is developing guidelines for countering human trafficking in conflict areas.

In such areas, peace missions are also confronted with the effects of criminal activity. As a result, references to organized crime can be increasingly found in Security Council resolutions on UN peacekeeping operations as well. When extending the mandates of the UN Mission in Mali (MINUSMA) and the assistance mission for Iraq and the support mission in Libya, human trafficking is repeatedly cited as a challenge. However, this has not yet led to any specifically mandated tasks. A mandate to directly participate in combatting, for example drug smuggling, such as in Haiti, is rare anyway. It is more common to support the security forces and agencies of the host country, especially in the framework of larger, multi-dimensional missions as in Mali. Amongst other things, MINUSMA provides training for the Specialized Judicial

Unit against Terrorism and Transnational Organized Crime. Moreover, according to a Security Council resolution from December 2017, the same mission should also provide operational and logistical support to the Joint Force of the G5 Sahel states, whose task is to combat terrorism as well as drug and human trafficking across national borders. The increased attention on organized crime issues in the Security Council has, therefore, taken effect; but there are also some pitfalls.

Critical points of an emerging agenda

In essence, there are three aspects to consider in further developing the agenda: Firstly, the UN Security Council does not set the framework for combating transnational organized crime. As the relevant resolutions emphasize, the UN Convention of 2000 with its three supplementary protocols remains the main reference point. For example, the protocol on trafficking in persons provides a broad definition of the offence that the Security Council must consistently use as a benchmark. Moreover, a distinction needs to be made between human trafficking and migrant smuggling, which are the subject of two separate supplementary protocols to the convention. Quasi-legislative interventions by the Security Council, as with regard to the control of the proliferation of weapons of mass destruction, are neither realistic nor reasonable on this issue. Rather, it is important to have a more systematic debate in the Security Council that goes beyond specific forms of crime or the nexus of organized crime and terrorism. Given the complexity of organized crime phenomena, the agenda-setting is inevitably selective, but the perception of the threat to peace and security from organized crime should not be.

Secondly, since the criminalization of certain actors in conflict areas can also be politically motivated, sound justifications are required for any action undertaken. Looking at the resolutions passed in the last

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ten years shows that the range of particular crimes mentioned remains fairly similar over time. It is not surprising that a greater focus is placed on arms trafficking and terrorism or kidnappings than, say, drug trafficking, since the link between these crimes and organized violent actors tends to be more direct. Yet, it is by no means automatic.

The Security Council Committee has justified the recent sanctions on traffickers in Libya by referring to their connections with armed groups and, primarily, their responsibility for human rights violations against migrants, particularly in detention camps. Not only information provided by the UN Panel of Experts on Libya, but also findings from Western criminal prosecution authorities pointed to the role played by the individuals now listed by the Security Council. The exploitation and abuse of migrants in Libya has generally been well documented. The precise categorization of crimes in such contexts, however, is difficult because human trafficking is not only defined by the actual act and the means employed, but also by the intention of the perpetrator. In addition, the links to violence and violent actors are often less clear with other organized crime phenomena. Consequently, structures such as the UN Panels of Experts and the analysis cells in UN peacekeeping missions should be strengthened and better used. Above all, this could help throw light on criminal activities and groups not in isolation, but as part of the political economy of conflicts – also with regard to transnational networks and financial flows.

Thirdly, building on this, measures to be adopted by the Security Council could be better coordinated, particularly when it comes to meaningfully combining different instruments, because sanctions are, as mentioned, only one – often limited – option. Different approaches can quickly counteract each other, for example if a repressive approach to trafficking hampers the protection of victims. Particularly in cases where UN or Western states classify important criminal actors as terrorists, measures will

often include military action, as in the case of the G5 Joint Sahel Force. A police component should be attached to it, but so far does not exist. Particularly in the case of regional initiatives it supports or has authorized, the Security Council should insist that interventions are not mostly military. This is all the more true for UN peacekeeping missions where police components become more important. To strengthen these Germany can make specific contributions to personnel. Membership of the Security Council in 2019/20 also provides an opportunity for Germany to address organized crime threats more regularly and systematically. One important step forward would be to ensure that measures put to the vote do not, at the very least, bolster organized crime in the specific conflict context.

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