

**Non-State Nuclear Proliferation:
A Factsheet on the De jure and
De facto WMD Control Regime
in South Asia**

DEBI PRASAD DASH

SOUTH ASIA



■ AFGHANISTAN



■ BANGLADESH



■ BHUTAN



■ INDIA



■ MALDIVES



■ NEPAL



■ PAKISTAN



■ SRI LANKA



South Asia and Terrorism

- Region with maximum terrorist attacks
- India, Pakistan and Sri Lanka have lost many PMs and Presidents to terrorism
- Highest no of banned terrorist orgns
- Afghanistan and Pakistan - Almost a daily occurrence
- Sri Lanka struggled for decades with LTTE
- Maldives: Attempts made to overthrow govt

South Asia and Terrorism

- Highest production of opium in the world
- Two Nuclear- weapon States as Neighbors with a history of 3 wars
- Nepal had civilian unrest and unstable govt
- India - a victim for decades
- Maoist Problem

SAARC'S Response to Terrorism: Regional Co-operation

- South Asian Association for Regional Cooperation (SAARC), 1985
- SAARC Regional Convention on Suppression of Terrorism in 1993
- Additional Protocol, 2004 to meet obligations under UNSCR 1373
- SAARC Convention relating the Mutual Legal Assistance, 2008.

Other Schemes for Co-operation

- Commonwealth Schemes for MLA in Criminal Matters (Harare Scheme) and London Scheme for Extradition can also be made use of by Bangladesh, Maldives, India, Pakistan and Sri Lanka
- Framework of other International Instruments can also be made use of for regional and international co-operation

Regional Co-operation- Assessment

- There is hardly any meaningful co-operation at the operational level amongst law enforcement agencies.
- The porous borders and lack of capacity of law enforcement and border control agencies limit the effectiveness of the measures.

Extra-Territoriality

- Indian Constitution, Indian Penal Code, WMD Act, Anti-Terror Act (UAPA), IPR
- Indian Supreme Court lays down the principle of Realistic Nexus with National Interest
- Pakistan too has limited provisions

De Jure & De Facto Regime: Assessment

- De jure control regime adequately in place in only a few countries of this region
- Either absent or grossly inadequate in many countries
- De facto control regime is highly ineffective in many countries of the region.

Implementing UNSCR 1540: Issues and Challenges

- Definition of Non-state Actor in UNSCR 1540: Difficulties in Identification and Enforcement – In States sponsoring terrorism through NSAs
- Appropriate Effective Laws/Measures: Need to be measured and monitored by UN

Suggestions

- WMDs be renamed as International Weapons of Mass Destruction (IWMDs)
- Offences involving IWMDs be considered as crime against humanity
- Offences be tried by ICC

Suggestions

- AEM Matrix- to assess adequacy and effectiveness of domestic laws and enforcement mechanisms
- UN Committees to maintain Database of such cases and follow up for effective and timely action by countries

Suggestions

- Zero-tolerance of all offences in WMD supply chain
- No concession in sentence or penalty for violations of export control laws involving WMDs or SCOMET
- Review of process of transportation of arms and ammunitions of UNPK Forces

Suggestions

- Customs clearance of SCOMET may be automated through risk-based systems
- Import / Trade in Scrap to be Monitored
- Automated IPR Targeting Systems be implemented as an effective border control measure

Capacity Building

- Capacity Building, Training and Skill Development of legal officers, investigators, regulators and prosecutors may be given top priority.

THANK YOU