

# Tomorrow's Institution Today

## The Promise of the Proliferation Security Initiative

*Amitai Etzioni*

By early December 2002, the U.S. government knew that an unflagged merchant ship, the *So San*, was transporting ballistic missiles and missile components from North Korea to the Middle East. As the ship traversed the Arabian Sea, U.S. officials asked the government of Spain, whose navy had been trailing the *So San*, to stop and search it. Their demands that the ship stop ignored, Spanish special forces rappelled onto the deck of the moving ship. Aboard, they discovered 15 complete Scud missiles, 15 warheads, and barrels of rocket propellant hidden under sacks of concrete. Two days later, Yemen admitted that it was the intended recipient.

The Bush administration was keen to stop such traffic, but the ship was allowed to continue on its voyage. Although the initial search of the *So San* was considered legal because the ship had tried to conceal its nationality, international law did not authorize confiscating what this or that nation considered contraband. "We have looked at this matter thoroughly," the

White House told reporters, "and there is no provision under international law prohibiting Yemen from accepting delivery of missiles from North Korea."

The inability to prevent the *So San* from delivering its cargo revealed a related flaw in the international nonproliferation framework. Less than a year later, the United States attempted to fill the gap by launching a new international arrangement: the Proliferation Security Initiative, a cooperative effort aimed at stopping the transfer of weapons of mass destruction (WMD). Under the auspices of the PSI, countries can share intelligence and coordinate their militaries to interdict ships and aircraft suspected of carrying such weapons or the materials from which they can be made.

Many of the challenges that countries now face—such as the global economic crisis and threats to the environment—must also be tackled on a transnational level. But the old international system, based on arrangements worked out by instructed representatives of national

---

AMITAI ETZIONI is University Professor and Professor of International Relations at George Washington University and the author of *Security First: For a Muscular, Moral Foreign Policy*.

governments, is too cumbersome, too slow, and too narrowly crafted to solve cross-border problems. Recognizing this, academics and politicians have proposed a slew of initiatives for building new transnational institutions. Many of these suggestions consist of one overarching framework, such as a league of democracies, a strengthened United Nations, or a global federation. The more promising model, however, is less streamlined and more complex; it is based not on a single organization but on a mix of building blocks—building blocks like the PSI.

#### **INSTITUTION WITHOUT AN ADDRESS**

The PSI was designed to address what many consider to be the top security threat to the United States, its allies, and world peace: the acquisition or use of WMD by terrorists or rogue states. It was launched on May 31, 2003, by the United States, after President George W. Bush declared, “When weapons of mass destruction or their components are in transit, we must have the means and authority to seize them.” Initially, 11 countries joined the PSI, but the number of participants grew rapidly; more than 90 countries now take part, including France, Russia, and the United Kingdom (but not China). These states share intelligence, patrol the seas, and interdict ships that are suspected of carrying nuclear contraband. They have also attempted to expand these measures to international airspace.

Unlike most international organizations, the PSI has no headquarters or secretariat, no charter or rules. It has participants, not members. The U.S. State Department refers to the PSI as an “activity.” Plenary meetings are rare, and there are calls to

make them even less frequent. The PSI has no council in which one member can exercise veto power. It has no multistate committees that must unanimously approve each target, as was the case for a while for NATO during its bombing operations in Kosovo in 1999. And it has no bureaucracy that must be paid for and monitored and that may hinder action with red tape, turf wars, or office politics.

Theoretically, each PSI participant acts on its own, sharing information and coordinating its actions with the others, especially those with navies in the relevant places. In effect, however, the PSI is led by the United States, the only country with a truly global navy, which then works with its major allies, other major powers, and a considerable number of small countries. The main role of the other participants (especially the smaller ones) is to provide support, such as intelligence or docking space, and consent for ships registered under their flags to be boarded and searched. This is important, as more than half of the world’s largest cargo ships are registered in tiny nations such as Cyprus, Liberia, and Panama. To put it differently, even though a large number of separate bilateral ship-boarding agreements reinforce the PSI, it acts as a single standing global antiproliferation force led by one nation, with a rotating cast of volunteers joining the patrols and raids. The PSI is also unlike the coalitions that intervened in Iraq in 1991, Bosnia in 1995, and Kosovo in 1999. These were ad hoc efforts tailored to one situation and limited in duration, whereas the PSI functions continuously. In a world with no central government, the PSI provides a rudimentary police force.

The standby and operational nature of the PSI is what gives it strength. Compare

the preparations necessary for a PSI mission with the steps needed to take similar measures the old-fashioned way: first, any such action might well have required the approval of the UN Security Council (which could have taken years to secure, if it was secured at all); then, a budget for the mission would have to have been secured; finally, the necessary troops would need to have been assembled and transported to the theater of operation. The PSI anticipates all these steps. It frequently holds joint training operations to work out in advance how countries will coordinate a mission.

It is difficult to gauge the ultimate effectiveness of the PSI, but it has been successfully employed about a dozen times already. The initiative's most prominent accomplishment to date occurred in October 2003, when U.S. intelligence established that equipment for enriching uranium (produced in Malaysia using designs provided by the network led by the Pakistani scientist A. Q. Khan) was on its way to Libya via Dubai. The ship involved was the German-flagged *BBC China*, and following a request by the United States, the owner of the ship diverted it to an Italian port. The Italian government, a PSI participant, searched the vessel and seized parts for a gas centrifuge. The action was an important step in exposing Khan's illicit nuclear network and in halting Libya's clandestine nuclear program.

**TOO LEGIT TO QUIT?**

An effective international system relies on a combination of military force and legitimacy—on hard and soft power. The PSI's special merit is that it commands not only a very considerable level of hard



power but also a fair amount of legitimacy. The Bush administration was widely criticized for its wanton disregard for international (and domestic) laws and norms. In the case of the PSI, however, it followed a rather different course, taking pains to ensure that the initiative was consistent with international law.

The challenge the PSI first faced was the basic international legal and normative precept that ships have the right of uninhibited passage in international waters and the right of “innocent passage” through national territorial waters. At the same time, the very goal of the PSI requires interventions that appeared at first to conflict with these long-established normative and legal concepts. But existing international law did provide some leeway. Article 19 of the UN Convention on the Law of the Sea outlines the circumstances under which the passage of a ship is considered “prejudicial to the peace, good order or security of the coastal State.” Transporting nuclear contraband qualify.

The PSI acquired another layer of international legitimacy in 2004, from UN Security Council Resolution 1540, which calls on all states to take efforts against the proliferation of WMD. The resolution is widely considered to provide a sort of legal imprimatur to the PSI and was called “complementary” to it by one U.S. counter-proliferation official.

To further square itself with international law, the PSI draws heavily on bilateral agreements between the United States and “flag of convenience” states—countries, such as Liberia and Panama, where a large portion of the world’s biggest ships are registered for the sake of low taxes and lax regulations. These agreements

allow the United States to inspect ships after giving very short notice to the governments under whose flags they sail or on the basis of a priori understandings. In February 2004, for instance, the United States and Liberia signed an agreement whereby each country is authorized to inspect ships registered under the other country’s flag on suspicion that the vessel is transporting WMD, their delivery systems, or related items. The United States and Panama signed a similar agreement the same year. By 2007, the United States had such agreements with the Bahamas, Belize, Croatia, Cyprus, Malta, the Marshall Islands, and Mongolia.

Because the PSI operates under international law, has been at least indirectly blessed by the UN, and has been fortified by bilateral agreements, it can defend itself against charges that it is illegitimate. Its authority is not beyond reproach, nor does it meet every standard of international law. But considerable efforts have been made to form and operate the PSI in ways that are compatible with international law, international treaties, and UN resolutions. And it compares favorably with many other international activities—one reason it has attracted so little criticism.

#### **A MODEL TO COPY**

The PSI should be strengthened. Legal scholars should further develop the normative and legal rationales behind the PSI with the hope that transporting nuclear contraband across national borders will come to be viewed as such a gross violation of international security that it will be considered legal for any nation to use most any means to prevent it. Indeed, it has been suggested that such an act

should be considered akin to slavery and piracy, two activities that have long been deemed to warrant violating the notion that ships should be free from interference on the high seas and be allowed innocent passage through territorial waterways.

Because of a mix of self-serving and altruistic motives, the United Kingdom promoted the norm to ban the transnational transport of slaves beginning in the late eighteenth century. As a consensus grew around it throughout the first part of the nineteenth century, the ban was gradually ensconced in custom, and a license to interdict ships that were suspected of transporting slaves became part of international law.

Until very recently, piracy, too, was universally considered a legitimate target of national navies; indeed, it was viewed as providing a precedent for the PSI. However, as a result of what at least communitarians would consider a radical interpretation of human rights, some European governments have recently held that because pirates are criminals, they can be pursued only by the police, not the military—never mind that police have no jurisdiction on the high seas. Decisions like these have hampered attempts to fight piracy in the Gulf of Aden. If basic security is to be restored to the seas, the public interest must take precedence over absolutist interpretations of pirates' human rights, just as it did over the human rights of slave traders.

Both the legitimacy and the military power of the PSI would be buttressed if the group's mission and composition were expanded. So far, the PSI has been largely limited to the seas; PSI participants should move to also interdict nuclear contraband transported by air and land. These are

much harder tasks—for one, the window for action in the air or on land is measured in hours, not days—but they are necessary to make proliferation harder. And in the long run, if the PSI is to become an important component of and a prototype for a new set of international institutions, the list of participating nations will have to be expanded, especially to include important countries such as Brazil, China, India, and South Korea.

The PSI model could be applied to other international efforts—such as armed humanitarian interventions, emergency disaster relief, or campaigns to prevent the spread of epidemics—thus adding new building blocks to a new global architecture. At least one recent effort appears to be designed like the PSI. The Global Initiative to Combat Nuclear Terrorism, which was launched in 2006 by the United States and Russia and now counts 75 participants, aims to improve international cooperation in tracking nuclear terrorists and securing fissile material.

The limited expansion of international norms and laws, backed up by the military forces of major countries, may well transform the PSI into an ever more acceptable and capable standing global force. An expanded PSI could be an important element of a significantly more effective, and yet still legitimate, new global security architecture. Policymakers seeking to confront new challenges are right to call for new forms of governance to update today's outmoded intergovernmental system. True, the PSI provides only one model for that system, a system that will have to be pieced together from a variety of elements. But when considering a framework for the future, it would be a mistake to ignore the precedent of the PSI. 🌐