

## Afghanistan 1999 (Resolution 1267)

### 1 Relevance to Overall Project

In 1998, the Security Council, acting under Chapter VI, demanded ‘that the Taliban stop providing sanctuary and training for international terrorists and their organisations, and that all Afghan factions cooperate with efforts to bring indicted terrorists to justice’.<sup>1</sup> Ten-and-a-half months later, the Security Council determined ‘that the failure of the Taliban authorities to respond to the demands in paragraph 13 of *Resolution 1214 (1998)* constitutes a threat to international peace and security’;<sup>2</sup> resulting in Chapter VII action. The justification, *prima facie*, seems to have been that the failure to meet a Security Council demand resulted in the situation being characterised as a ‘threat to the peace’. The alternate reading is that in spite of the language used in the preamble to *Resolution 1267 (1999)*, the resolution is very simply a counterterrorism one. The *Repertoire of Practice of the Security Council* picks up on this subject matter within the resolution and the debates, and focuses solely upon that alternate reading as the justification for the finding.<sup>3</sup> The value of this case study to the overall project is that it allows for interrogation of a situation that raised the question of whether the stated justification—a consequence of the Security Council’s defiance, as suggested in the preamble—was consistent with the P<sub>5</sub>’s justificatory discourse.

### 2 Context of the Debate

In the build-up to *Resolution 1214 (1998)*, the Secretary-General produced a report for the UN (both General Assembly and Security Council) on the situation in Afghanistan.<sup>4</sup> The only mention of terrorism in this report is in paragraph 13, which discusses the presence of Osama bin Laden, allegations of his responsibility for the bombings of US embassies in Kenya and Tanzania and retaliatory

1 ‘Resolution 1214 (1998)’, S/RES/1214 (1998) UN Security Council (1998), para. 13.

2 ‘Resolution 1267 (1999)’, S/RES/1267 (1999) UN Security Council (1999), para. Preamble.

3 *Repertoire of the Practice of the Security Council*, ‘Chapter XI: Considerations of Chapter VII the Charter (1996–99)’, 1123.

4 United Nations Secretary-General, ‘The Situation in Afghanistan and Its Implication for International Peace and Security’ (United Nations, 23 November 1998).

US missile strikes on purported terrorist training camps in Afghanistan.<sup>5</sup> The report makes no links between the Taliban and the terrorism allegations, although this linkage does seem to be the basis for paragraph 13 in *Resolution 1214 (1998)*. In the meetings that led to *Resolution 1267 (1999)* being adopted, oral briefings focused on the overall situation in Afghanistan. The briefings contained confirmed and unconfirmed reports of various IHL violations by the Taliban, including forced displacement of people,<sup>6</sup> targeting of civilians<sup>7</sup> and the use of child soldiers.<sup>8</sup> The report also suggested that all parties to the conflict were guilty of using child soldiers,<sup>9</sup> deploying landmines,<sup>10</sup> and targeting civilians with impunity.<sup>11</sup> The questions of terrorism and Taliban support for terrorism were not raised in these oral briefings (although the use of Pakistani religious schools as a recruiting ground for the Taliban was confirmed);<sup>12</sup> however, the Afghan delegate did accuse the Pakistani Inter-Services Intelligence of training terrorists who were being used in support of Taliban activities.<sup>13</sup>

### 3 Justificatory Discourse of the P5

Statements from all P5 members on this issue were relatively brief, and focused primarily on the ongoing civil war rather than on the terrorism issue that led to the declaration of ‘threat to the peace’. Of the P5, only the US and China opted to make statements in the meeting in which *Resolution 1267 (1999)* was unanimously passed. As mentioned above, the *Repertoire of Practice of the Security Council* suggests that the basis for this resolution was one of counterterrorism. Alternatively, the resolution itself suggests that the finding was grounded in escalating consequences for defying previous Security Council resolutions. Examining the P5’s justificatory discourse shows the real situation to be something of a hybrid of these two rationales, supplemented by counter-narcotics trafficking goals.

5 United Nations Secretary-General, para. 13.

6 United Nations Security Council, ‘Security Council, Fifty-Fourth Year: 4039th Meeting (S/PV.4039)’, 27 August 1999, 3.

7 United Nations Security Council, 2–3.

8 United Nations Security Council, 3.

9 United Nations Security Council, 3.

10 United Nations Security Council, 4.

11 United Nations Security Council, 3.

12 United Nations Security Council, 3.

13 United Nations Security Council, 6–7.