UN Peacekeeping in Lebanon, Somalia and Kosovo

Operational and Legal Issues in Practice

Ray Murphy

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UN PEACEKEEPING IN LEBANON, SOMALIA AND KOSOVO

The concept of UN peacekeeping has had to evolve and change to meet the challenges of contemporary sources of conflict; consequently, peacekeeping operations have grown rapidly in number and complexity. This book examines a number of issues associated with contemporary multinational peace operations, and seeks to provide insights into the problems that arise in establishing and deploying such forces to meet the challenges of current conflicts.

The focus of the book is three case studies (Lebanon, Somalia and Kosovo), involving a comparative analysis of the traditional peacekeeping in Lebanon, the more robust peace enforcement mission in Somalia, and the international administration undertaken on behalf of the international community in Kosovo. The book analyses the lessons that may be learned from these operations in terms of mandates, command and control, use of force and the relevance of international humanitarian and human rights law to such operations.

RAY MURPHY is a Senior Lecturer in Law at the Irish Centre for Human Rights, National University of Ireland, Galway.

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To my parents, Renee and Frank Murphy

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PREFACE AND ACKNOWLEDGMENTS

Peacekeeping was pioneered and developed by the United Nations (UN) as a means by which it could fulfil its role under the UN Charter in the maintenance of international peace and security. The concept of UN peacekeeping has had to evolve and change to meet the challenges of contemporary sources of conflict; consequently, peacekeeping and related operations have grown rapidly in number and complexity. This book is an interdisciplinary study that examines a number of operational and legal issues associated with contemporary multi-national peace operations, and seeks to provide insights into the problems that arise in establishing and deploying such forces to meet the challenges of current conflicts. The primary focus is on three case studies, Lebanon, Somalia and Kosovo, and these are used to conduct a comparative analysis of traditional or first-generation peacekeeping, and that of second-generation multi-dimensional peace operations. Each operation examined highlights serious difficulties that arise in the command and control of UN missions, although the larger, more complex UNOSOM II (Somalia) and Kosovo missions present significantly more serious dilemmas in this regard. These problems are often exacerbated by deficiencies in the municipal laws and domestic political concerns of contributing states.

An important distinguishing feature between traditional peacekeeping operations and that of more robust peace enforcement operations is the policy regarding the use of force. Devising appropriate rules of engagement (ROE) remains a key issue in the planning and deployment of any multi-national force and a number of recommendations are made on how to deal with this problem.

The matter of the applicability of international humanitarian and human rights law to multi-national forces is also relevant in a review of all three operations. Human rights issues have been highlighted in recent times by the revelations regarding abuses that occurred in the course of peace operations. The privileges and immunities enjoyed by UN personnel, although intended to protect the interests of the UN and not individuals, may have been one factor in the numbers of personnel

involved in such activities. Other problems can be attributed to a lack of civilian control and lack of real accountability. Ensuring compliance with international humanitarian law norms on peace support operations also remains problematic.

The United Nations Interim Administration in Kosovo (UNMIK) was established in 1999. Working closely with the NATO-led KFOR, UNMIK performs the whole spectrum of essential administrative functions and services in the province of Kosovo. It is a unique operation in one of the most politically volatile areas of Europe. There is no obvious solution to the status of Kosovo and at the time of writing the parties at the most recent summit on the issue are reported to be deadlocked. The underlying dilemma in Kosovo is that, once force is used to protect human rights, it inevitably impinges upon sovereignty and may even alter borders.

UNOSOM II was the first real test in the post-Cold War era of UN-mandated nation-building. Events in Somalia had a significant impact on United States foreign policy and they have also cast a shadow over UN and United States involvement in similar operations from Kosovo to Afghanistan. The book analyses the lessons to be learned from the experiences of UNIFIL, UNOSOM and UNMIK in regard to these and related issues.

As I complete the final draft, violence has once more broken out between Israel and the Islamic resistance movement Hizbollah in Lebanon. At the same time, Islamic militants are consolidating their control of Somalia. The leaders of the G-8 industrial nations and UN Secretary General Kofi Annan have called for the swift deployment of international troops to end the escalating violence in south Lebanon. Reference has been made to the need for an 'aggressive' or 'robust mandate' for the proposed force, but it is difficult not to conclude that many of the lessons from previous operations are not being considered. An unfortunate consequence of the current crisis and focus on the Middle East is that attention is being deflected from equally serious humanitarian catastrophes taking place in Darfur and elsewhere.

Map 1. Lebanon

Map 2. Somalia

Map 3. Kosovo

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Introduction

The UN and peacekeeping operations

The concept of peacekeeping is neither defined nor specifically provided for in the United Nations Charter.[1] Historically, it is by no means a concept associated exclusively with the United Nations (UN).[2] Consequently, it does not lend itself to precise definition. In these circumstances, it is not surprising that there is some confusion regarding what exactly constitutes peacekeeping. Indeed, it is sometimes easier to say that a particular mission or force does not possess the generally recognised characteristics of a peacekeeping operation, than it is to confirm that it fulfils the necessary criteria.[3] Part of the reason for this is the looseness with which states adopt such terms. It has a distinctly positive resonance, and those charged with the government of states are usually more concerned with public relations and opinion polls than with legal criteria or political reality. For this reason, the term is often applied to controversial situations where states intervene militarily and then seek to justify or portray their actions as some kind of benign peacekeeping operation.

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[1] See B. Simma (ed.), *The Charter of the United Nations: A Commentary* (2nd edn, Oxford: Oxford University Press, 2002), pp. 648–700; N. White, *Keeping the Peace* (2nd edn, Manchester: Manchester University Press, 1997), pp. 207–84; United Nations, *The Blue Helmets – A Review of United Nations Peacekeeping* (3rd edn, New York, United Nations, 1996), pp. 3–9.

[2] H. McCoubrey and N. White, *International Organizations and Civil Wars* (Aldershot: Dartmouth, 1995), p. 183.

[3] The UN Emergency Force (UNEF), which was established and deployed after the British and French military intervention in Suez in 1956, is generally regarded as the first true UN peacekeeping operation; *Summary Study of the Experience Derived from the Establishment and Operation of the Force: Report of the Secretary-General*, 9 October 1958, General Assembly Official Records, 13 Session, Annex 1: Doc. A/3943. See also Docs. A/3289 and A/3302; the latter was approved by General Assembly Resolution 1001 (ES-I) of 7 November 1956. D. W. Bowett, *United Nations Forces* (London: Stevens, 1964), pp. 90–152.

The Cold War era (1945–89) between the United States and the Soviet Union was marked at the UN by continual wrangling over the correct interpretation of the Charter provisions.[4] The Charter's own ambiguity and failure to provide for specific problems contributed to these disputes. In order to survive, the Organization had to be capable of adapting to the changed political circumstances and this meant adopting roles not specifically provided for in the Charter.[5] When the required consensus among the major powers did not materialise, it seemed the UN would be unable to fulfil a significant role in the maintenance of peace; the growth of regional self-defence systems was just one indication of the lack of confidence in the Organization as the international guarantor of peace. In these circumstances, it is not surprising that the UN sought to circumvent the obstacles caused by Cold War rivalries. However, it should be stressed that peacekeeping is not the preserve of the UN. The concept predates the formation of the Organization and peacekeeping missions continue to be organised outside its framework. In this way, it can be argued that a peacekeeping force established and deployed by one or more states may legitimately profess to belong to some kind of internationally recognised category of peacekeeper. Peacekeeping operations were intended to end hostilities by peaceful means and create a climate in which the peacemaking process could be successfully applied.

When the divisions of the Cold War blocked effective action by the Security Council, the concept of UN peacekeeping was invented. In 1993, a former Under-Secretary-General for Peacekeeping Operations, Marrack Goulding, suggested the following definition:

> Field operations established by the UN with the consent of the parties concerned, to help control and resolve conflicts between them, under UN command and control, at the expense collectively of the member states, and with military and other personnel and equipment provided voluntarily by them, acting impartially between the parties and using force to the minimum extent necessary.[6]

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[4] See generally Simma (ed.), *Charter of the United Nations*, pp. 13–32; and L. Goodrich, E. Hambro and A. P. Simons, *Charter of the United Nations* (3rd edn, New York: Columbia University Press, 1969), pp. 1–17; and I. Claude, *Swords into Ploughshares* (New York: Random House, 1956), chapter 12.

[5] N. D. White, 'The UN Charter and Peacekeeping Forces: Constitutional Issues' (1996) 3(4) *International Peacekeeping* 43–63.

[6] M. Goulding, 'The Evolution of UN Peacekeeping' (1993) 69(3) *International Affairs* 464.

Since 1985, there has been a significant increase in the number of peacekeeping missions established, with a corresponding increase in the complexity of the mandates. These are often referred to as 'second-generation' peacekeeping operations.[7] The traditionally passive role of peacekeepers has been replaced by a more active role of peacemaking, involving, *inter alia*, national reconstruction, facilitating transition to democracy, and providing humanitarian assistance.[8] There are a broad range of terms used to describe these and related activities. The nomenclature of 'second generation' or multi-dimensional peacekeeping often gives way to the more generic title of peace operations, adopted to cover the range of activities involved.[9] The UN Department of Peacekeeping Operations continues to use the term 'peacekeeping' to cover all such activities and describes these operations as follows:

> Most of these operations are established and implemented by the UN itself with troops serving under UN operational command. In other cases, where direct UN involvement is not considered appropriate or feasible, the [Security] Council authorizes regional organizations such as the North Atlantic Treaty Organization, the Economic Community of West African States or coalitions of willing countries to implement certain peacekeeping or peace enforcement functions.[10]

As the dynamic of conflict in the world changed, so too did the response of the UN, and other international organisations and states. Classical peacekeeping operations originally conducted during the Cold War usually involved the deployment of military personnel only between two states. The process leading to the deployment of a UN force was relatively straightforward: armed conflict, cease-fire, an invitation from the conflict parties to monitor the cease-fire, followed by deployment of military personnel, while negotiations for a political settlement continued.

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[7] United Nations, *The Blue Helmets*, p. 5.

[8] J. Roper, M. Nishihara, O. Otunnu and E. Schoettle, *Keeping the Peace in the Post-Cold War Era: Strengthening Multilateral Peacekeeping* (New York: Trilateral Commission, 1993), p. 4.

[9] S. Ratner, *The New UN Peacekeeping* (London: Macmillan, 1995), pp. 117–36; and W. J. Durch, 'Keeping the Peace: Politics and Lessons of the 1990s', in W. J. Durch (ed.), *UN Peacekeeping, American Policy, and the Uncivil Wars of the 1990s* (London: Macmillan, 1997), pp. 3–7.

[10] UN Department of Peacekeeping Operations, available at http://www.un.org/Depts/dpko/dpko/home.shtml.

In contrast, contemporary peace operations are increasingly complex.[11] According to the Pearson Peacekeeping Centre in Canada, they are:

- deployed into both inter-state and intra-state conflicts;
- conducted in every phase of the conflict spectrum, from prevention through to post-war reconstruction;
- dependent on close cooperation among civilian, police, and military organizations from the international community, with parties to the conflict and war-affected populations;
- opening in new areas of international activity with conflict-affected countries, such as reforms to the security sector.

In this way, 'peace operations' is the umbrella term used to cover a multiplicity of UN field activities in support of peace, ranging from essentially preventive deployments to long-term state-building missions.[12] They include conflict prevention, conflict mitigation, peacemaking, peacekeeping, peace enforcement, and post-conflict peace-building.

The UN Charter, as finally adopted, contains two significant chapters in relation to the maintenance of international peace and security. Chapter VI provides for the pacific settlement of disputes by, among other things, negotiation and adjudication, and Chapter VII contains the collective security provisions which were intended as the cornerstone of its policy in the maintenance of world peace. It is Chapter VII of the Charter that provides for enforcement measures under the direction of the Security Council as the central military instrument for the maintenance of peace and security. If force is used or threatened against the territorial integrity or political independence of any state in a manner that is contrary to the Charter, there are two possible military options permitted in response: self-defence and police or enforcement action.[13] Either response is likely to lead to full-scale conflagration. The system

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[11] Pearson Peacekeeping Centre, Canada, available at http://www.peaceoperations.org/en/peace_operations.asp.

[12] J. Cockayne and D. M. Malone, 'The Ralph Bunche Centennial: Peace Operations Then and Now' (2005) 11 *Global Governance* 331–50 at 331.

[13] Article 2(4) of the UN Charter prohibits the threat or use of force, while Article 51 provides for individual or collective self-defence. However, self-defence under Article 51 is only permitted until such time as the Security Council responds and takes the necessary measures to maintain international peace. See L. M. Goodrich, E. Hambro and A. P. Simons, *Charter of the United Nations* (3rd edn, New York: Columbia University Press, 1969), pp. 43–55 and pp. 342–53; and B. Simma (ed.), *The Charter of the United Nations* (2nd edn, Oxford: Oxford University Press, 2002), pp. 112–36 and pp. 788–806.

reflects the reality that the advent of the UN did not mean an end to conflict. In particular, the old system of wars of self-defence will remain until the system for global collective action and policing becomes a universal reality.

The lack of an express mention of peacekeeping in the Charter has not inhibited its development. In fact, this may have helped establish peace-keeping as a flexible response to international crises, while at the same time contributing to a misunderstanding regarding its true nature. Peacekeeping has evolved in a grey area between pacific settlement and military enforcement measures. Although authorities have differed on the exact legal basis for peacekeeping operations, the International Court of Justice has held that they are within the power of both the General Assembly and the Security Council.[14]

A further complication arises by virtue of the kind of operations conducted under Chapter VII and intended to be enforcement action in nature, despite the failure to conclude the requisite agreements between member states and the UN for the provision of armed forces under Article 43 of the Charter.[15] Military actions conducted during the Korean conflict, and more recently the so-called First Gulf War, belong to this category. Operations of this kind can be established under Article 42 of the Charter (which provides for measures by air, sea or land forces as may be necessary to maintain or restore international peace and security) by way of a decision of the Security Council, or they may be authorised by way of a recommendation under Article 39.[16] In

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[14] International Court of Justice, *Certain Expenses of the United Nations* – Article 17(2), Advisory Opinion, 20 July 1962, International Court of Justice Reports, 1962, p. 176.

[15] Art. 43(1) states:

> All Members of the United Nations . . . undertake to make available to the Security Council, on its call and in accordance with special agreement or agreements, armed forces, assistance and facilities . . . for the purpose of maintaining international peace and security.

Goodrich, Hambro and Simons, *Charter of the United Nations*, pp. 317–26; and Simma (ed.), *Charter of the United Nations*, pp. 760–3.

[16] Art. 39 states:

> The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measure shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace or security.

The Korean action was taken on the basis of a 'recommendation' by the Security Council under Art. 39: Security Council Official Records, 5th Year; 473rd–474th Meetings; 27 and 28 June 1950.

the special circumstances of the Korean conflict, the Uniting for Peace resolution procedure then adopted by the General Assembly provides a possible further mechanism that could be availed of in the future, though it would be a mistake to exaggerate its potential. The resolution provides that, if, because of the lack of unanimity of the permanent members of the Security Council (United States, Russia, China, France and the United Kingdom), the Council cannot maintain international peace where there is a 'threat to the peace, breach of the peace or act of aggression', the General Assembly 'shall consider the matter immediately'. Nonetheless, Article 42 remains the central element in enforcement operations. A wide measure of discretion is left to the Security Council as to whether a particular situation calls for the application of military enforcement measures, and if so the determination as to its nature and extent.

In spite of the controversy and problems encountered by peacekeeping missions, the concept of peacekeeping has survived and developed. One of the primary reasons for its success is that it has combined adherence to basic principles with extraordinary flexibility. In particular, it has managed to maintain the essence of what is acceptable to the UN membership at large, while at the same time adapting individual peacekeeping operations to the needs of particular circumstances. The Secretary-General plays a pivotal role in the conduct of peacekeeping operations, but the exact nature and extent of this role has not been defined, and problems of demarcation with that of the Security Council remain unresolved.[17] In the course of the peacekeeping operation in the Congo (ONUC, 1960–4), serious difficulties arose in this regard.[18]

The legal authority for the creation of UN peacekeeping forces remains unsatisfactory and there seems little prospect of a change in their *ad hoc* nature. While it may be argued that agreement on basic principles would lessen the opportunity for conflicting interpretations of the Charter and divisive controversies, there is merit in maintaining a

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[17] See L. Gordenker, *The United Nations Secretary General and the Maintenance of Peace* (New York and London: Columbia University Press, 1967), pp. 235–60; and D. Sarooshi, *The United Nations and the Development of Collective Security* (Oxford: Clarendon Press, 1999), pp. 50–85.

[18] See generally R. Higgins, *United Nations Operation in the Congo (ONUC) 1960–1964* (London: Royal Institute of International Affairs, 1980); Gordenker, *The United Nations Secretary General*, pp. 261–96; and B. Urquhart, *Hammarskjold* (New York: Alfred Knopf, 1972), pp. 389–456.

flexible and adaptive approach to peacekeeping operations. Traditional peacekeeping operations were sometimes said to be based on 'Chapter $VI\frac{1}{2}$' of the Charter and required, in principle, invitation or consent on behalf of the recipient state(s). The consent of the host state to the presence of a peacekeeping force confers the legitimacy required for a lawful presence in its territory and it is normally specified in an agreement concerning the rights and duties of the force.[19] In fact, the legality of a peacekeeping force on any country's territory should be guaranteed in a legal instrument known as the Status of Forces Agreement (SOFA).[20]

The issues of host state consent to a UN military presence and domestic jurisdiction raise difficult questions in the context of internal conflicts or civil wars. There were reservations about UN involvement in the Congo, Somalia, Lebanon and Kosovo for these very reasons. But the criterion of consent should be applied with some caution. Even in the case of UNIFIL, when deployed in 1978 with the consent of the Lebanese government, the authority of the government barely extended beyond west Beirut. Likewise, in the more recent case of Albania (1997), the government there consented to the deployment of a 'coalition of the willing' under a Chapter VII enforcement mandate. However, internal conflicts frequently escalate into regional conflicts and these in turn may involve breaches of international law, thereby removing the conflict from the reserved domain of domestic jurisdiction.

The resolution of internal or domestic conflict has been a dominant feature of recent peacekeeping operations and has involved the establishment of democratic governments culminating in the nation-building attempted for a time in Somalia, and currently underway in Kosovo. International administration of this kind, like peacekeeping itself, is not specifically provided for in the UN Charter. It is not subject to a clear UN doctrine, and it appears to be handled by the Department of Peacekeeping Operations more by default than by design. Operations in eastern Slavonia, Bosnia-Herzegovina, Kosovo and East Timor have been characterised by the UN and other international organisations assuming responsibilities that evoke the historically sensitive concepts

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[19] *The Peacekeepers Handbook* (New York: International Peace Academy, 1984), p. 362.

[20] D. Fleck (ed.), 'Present and Future Challenges for the Status of Forces (Ius in Praesentia): A Commentary to Applicable Status Law Provisions', in *The Handbook of the Law of Visiting Forces* (Oxford: Oxford University Press, 2001), p. 47.

of trusteeship and protectorate.[21] Making such administrations accountable and preventing them from adopting neo-colonial roles is imperative. Any interventions by UN forces may, intentionally or otherwise, alter the delicate balance of power between the warring parties.[22] Maintaining impartiality can present peacekeepers with a dilemma, especially when they confront situations in which civilians are victimised, or when UN forces are themselves the subject of attack.[23] The question of the consent of the host state or parties to a conflict to a UN presence is particularly problematic in these situations and the blue berets involved must be prepared to resort to force rather than be bystanders to large-scale human rights abuses or even genocide.

Peacekeeping and enforcement operations

There is a great deal of semantic and conceptual confusion surrounding peacekeeping and peace enforcement operations.[24] In general terms, peacekeeping involves non-coercive intervention and is based on the consent of the parties to a conflict and the non-use of force, except in self-defence.[25] Many discussions are characterised by a failure to distinguish traditional peacekeeping from peace enforcement, and to understand the grey zone that lies between the two.[26] This was especially evident in debates on Somalia, which involved a combination of operations and mandates embodying all three elements mentioned, and more besides. Not surprisingly, the continuum from peacekeeping to peace enforcement can be difficulty to track. Peacekeeping remains quite distinct from the enforcement measures envisaged under the UN

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[21] M. Berdal and R. Caplan, 'The Politics of International Administration' (2004) 10 *Global Governance* 1–5 at 2.

[22] J. Peck, 'The UN and the Laws of War: How Can the World's Peacekeepers Be Held Accountable' (1995) 21 *Syracuse Journal of International Law* 283–310 at 288.

[23] United Nations, *The Blue Helmets*, p. 5.

[24] J. G. Ruggie, 'Wandering in the Void: Charting the UN's New Strategic Role' (1993) 72(5) *Foreign Affairs* 26; and A. Roberts, 'From San Francisco to Sarajevo: The UN and the Use of Force' (1995–6) 37(4) *Survival* 26; and generally E. Schmidl, *Peace Operations Between War and Peace* (London: Frank Cass, 2000); and I. J. Rikhye, *The Politics and Practice of United Nations Peacekeeping: Past, Present and Future* (Clementsport, NS: Canadian Peacekeeping Press, 2000).

[25] A. James, *Peacekeeping in International Politics* (London: Macmillan, 1990), pp. 1–13; and White, *Keeping the Peace*, pp. 232–47.

[26] T. Weiss, 'Rekindling Hope in UN Humanitarian Intervention', in W. Clarke and J. Herbst (eds.), *Learning From Somalia* (Boulder: Westview Press, 1997), pp. 207–228 at p. 211.

Charter. Nonetheless, both concepts are based on similar conditions, in particular, the availability of military forces and the effective co-operation of members of the Security Council. Consequently, there is considerable confusion regarding these very distinct and separate concepts. Deployments in the late 1990s in Albania (1997) and East Timor (1999–2002) could be described as hybrid operations comprised of coalitions of the willing based on consent; but the consent involved, especially in the case of East Timor, was somewhat qualified by the international pressure brought to bear on the Indonesian government at the time.

Peace enforcement must also be distinguished from enforcement action as envisioned under the collective security provisions of Chapter VII of the UN Charter. Peace enforcement does not involve identifying an aggressor, but it may involve the threat and actual use of force to 'compel or coerce' the implementation of international norms or mandates.[27] For this reason, the two most important characteristics that distinguish traditional peacekeeping from the more robust peace enforcement operations are the use of force and the issue of host state consent to the presence of the UN force. Closely linked to these issues, and also of crucial importance, is the principle of impartiality. Impartiality is easily maintained in traditional peacekeeping, but difficult in enforcement operations. Insistence that interventions in intra-state conflict adhere to the principles of host state consent and impartiality is not always practical and may prove counterproductive. It is generally accepted that the peacekeeping force in Lebanon (UNIFIL, 1978) was based on the traditional peacekeeping model, and that the UNITAF (Unified Task Force, 1992) and UNOSOM II (United Nations Operation in Somalia II, 1993–5) may be categorised as peace enforcement operations. In Kosovo (UNMIK/KFOR, 1999), the UN was authorised under Chapter VII of the Charter to undertake a mission that was unprecedented in both its scope and structural complexity. No other mission had ever been designed in such a way that other multilateral organisations were full partners under UN leadership. In this way, it may be

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[27] D. Daniel, 'Wandering Out of the Void? Conceptualizing Practicable Peace Enforcement', in A. Morrison, D. Fraser and J. Kiras (eds.), *Peacekeeping with Muscle: The Use of Force in International Conflict Resolution* (Cornwallis: Canadian Peacekeeping Press, 1997), pp. 1–15 at p. 4. The quote is from *FM 100–23: Peace Operations* (Washington, DC: Department of the Army, 1994), p. 12.

described as the quintessential multi-dimensional peace operation with a peace enforcement mandate.

The recent UN Secretary-General's report on threats and challenges has referred to the characterisation of peacekeeping missions in terms of 'Chapter VI' or 'Chapter VII' (of the UN Charter) operations as somewhat misleading.[28] It acknowledges that there is a distinction between operations in which a robust use of force is integral to the mission, and the more 'traditional peacekeeping' where there is a reasonable expectation that force may not be used. However, in peacekeeping as much as peace enforcement cases, it is now the usual practice for a Chapter VII mandate to be given (even if it is not always welcomed by troop contributors). This practice is easily explained: an otherwise benign environment can turn hostile, and it is desirable that there is complete certainty about the mission's capacity to respond with force, if necessary.

The semantic confusion is not helped by the application of the term 'peace enforcement' to large-scale international military operations, such as the First Gulf War.[29] It undermines the credibility of genuine attempts by the UN to keep or enforce the peace, as the case may be, when operations involving enforcement measures by a group of states are erroneously portrayed in these terms. In practice, few situations can accurately be described as peace enforcement operations, for example, the NATO-led force (IFOR) in the former Yugoslavia following the Dayton Accords and the more recently deployed Kosovo Force (KFOR). The notion of host state consent also marks an important distinction between peacekeeping and related humanitarian aid missions on the one hand and humanitarian intervention on the other. Humanitarian intervention is generally understood to mean intervention by a third party in the affairs of another without that country's consent in order to prevent serious human rights violations being

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[28] United Nations, *A More Secure World: Our Shared Responsibility, Report of the High-Level Panel on Threats, Challenges and Change*, UN Doc. A/59/565, 2 December 2004, paras. 212–14. See also S. Chesterman, 'The Use of Force in UN Peace Operations', External Study, Best Practices Unit (UN DPKO, 2004), p. 6.

[29] The term is often used by UN officials: see D. Shagra, Legal Officer, Office of Legal Affairs, and R. Zacklin, Director and Deputy to the Under-Secretary-General, Office of Legal Affairs, 'The Applicability of International Humanitarian Law to United Nations Peace-keeping Operations: Conceptual, Legal and Practical Issues', *Symposium on Humanitarian Action and Peacekeeping Operations Report* (Geneva: ICRC, 1994), p. 40.

inflicted on the local population. However, its meaning can be of much broader scope, depending on the circumstances.[30]

Collective security and the role of the Security Council

While the Security Council has 'primary' responsibility for the maintenance of international peace and security, it does not possess an exclusive competence in this area.[31] Peace was to be maintained by international co-operation, as embodied in the UN Organization itself, rather than through some kind of new world governmental system. However, the collective security provisions were seriously flawed, as the basic premise of major power consensus in international affairs did not materialise and the provisions upon which so much depended were inoperable from the beginning. In this way, the former allies became classical victims of their own propaganda.

In hindsight, it is difficult to see how the drafters of the Charter could have expected this system to work. The so-called 'big powers' or Permanent Five (P-5) had a right of veto in the Security Council rendering collective security unenforceable against them, yet it was they that posed the greatest potential threat to international peace. In spite of the fact that this created a ruling oligarchy within the Security Council that was to some extent imposed on the smaller states, the UN did not confer power where it did not in fact already exist. It merely reflected the reality of post-World War II economic and political dominance. Unfortunately, peoples and nations not part of the formal state system were not represented at all. However, in examining the collective security provisions of the Charter, it is important to bear in mind that peace depends more upon international co-operation than on the mechanisms contained in the Charter. While the threat or actual use of the veto may prevent the UN from taking action, the real problem is a

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[30] J. L. Holzgrefe and R. O. Keohane (eds.), *Humanitarian Intervention* (Cambridge: Cambridge University Press, 2003); and International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001), pp. 8–9.

[31] Goodrich, Hambro and Simons, *Charter of the United Nations*, pp. 257–343; S. D. Bailey and S. Daws, *The Procedure of the United Nations Security Council* (3rd edn, Oxford: Clarendon Press, 1998), pp. 353–77; and H. McCoubrey, 'International Law and National Contingents in UN Forces' (1994) 12 *International Relations* 39–50.

lack of consensus among the major powers, and the veto merely reflects the reality of the international political system.[32]

Since no formal agreement exists under the Charter for the provision of troops to the UN, member states are under no legal obligation to supply the Security Council with armed forces. They do so only on a voluntary basis. In recent years stand-by arrangements and other 'offers' have been made by states, and it is on this basis, in contrast to what was intended for enforcement measures, that states usually provide the necessary troops to make up a peacekeeping force. The course of UN peacekeeping has not always run smoothly and the crisis that occurred during the operation in the Congo threatened the existence of the whole Organization for a time.[33]

Peacekeeping and contemporary issues

Since its establishment, the UN has been kept on a tight rein and prevented from developing its full potential. During the Cold War, both sides used the threat of veto in the Security Council to good effect, and both shared a common interest in hindering the General Assembly from developing its full capacity. The collapse of the Soviet Union and the end of the Cold War has given rise to a situation where there is in effect one superpower, the United States. The 'new world order' was intended to unlock the UN mechanism for the maintenance of international peace, and exploit opportunities for peacekeeping and nation-building.[34] Instead, there is a perception and fear in the countries of the global South that the UN is being exploited to police a world order based on the interests of the powerful few.[35] This fear is linked to the lack of

[32] For proposed reform of the Security Council, see *Report of the High-Level Panel on Threats, Challenges and Change*, paras. 244–60; B. Fassbender, *UN Security Council Reform and the Right of Veto: A Constitutional Perspective* (The Hague: Kluwer, 1998), chapters 8 and 9; and D. Malone, *Decision Making in the UN Security Council: The Case of Haiti, 1990–1997* (Oxford: Clarendon Press, 1998), pp. 7–36.

[33] E. Lefever, *Crisis in the Congo: A United Nations Force in Action* (Washington, DC: Brookings Institution, 1965); and McCoubrey and White, *International Organizations and Civil Wars*, pp. 177–8.

[34] A. Roberts, *Humanitarian Action in War* (Adelphi Paper 305, Oxford: Oxford University Press, 1996), pp. 10–31.

[35] J. Ciechanski, 'Enforcement Measures under Chapter VII of the UN Charter: UN Practice after the Cold War', in M. Pugh (ed.), *The UN, Peace and Force* (London: Frank Cass, 1996), pp. 82–104, esp. pp. 97–99; and I. Johnstone, *Aftermath of the Gulf War: An Assessment of UN Action* (International Peace Academy, Occasional Paper Series, Boulder and London: Lynne Rienner, 1994), p. 10 and pp. 43–5.

success in reforming the Security Council in order to make it more representative.[36] It was also evident in the debate surrounding the composition of the Peacebuilding Commission.[37] However, one of the biggest problems confronting the UN remains one of its most banal, i.e. lack of finance. This problem more often than not reflects political division among members, rather than financial difficulty.

In June 1992, the UN Secretary-General, Boutros Boutros-Ghali, published *An Agenda for Peace*.[38] This was an important report that stimulated a major international debate about the role of the UN, and the international community, in securing and maintaining peace in the post-Cold War era. The report expressed the optimism and confidence of the time, but these were to be very short lived. Subsequent events have highlighted the deficiencies in the UN system, in particular the controversy over UN action and policy in Somalia and Rwanda, and the failure to secure peace and protect Bosnia in the former Yugoslavia. Despite the noble aspirations of the Charter, for many millions the world is still a dangerous and miserable place in which to exist. War, famine, pestilence and disease continue to ravage the peoples of this planet, especially those subsisting in the abject poverty prevalent in most states of the global South. These exacerbate pre-existing cultural, ethnic and political tensions. The end of the Cold War has witnessed a resurgence of conflict, especially within states, as old enmities come to the fore.

The UN and the international system seemed unprepared and ill-equipped for the potential consequences of the 'new world order'. Not surprisingly, the UN has come under considerable criticism, much of which is warranted. Some have even suggested replacing the UN with another organisation or 'alliance of democracies'.[39] However, the criticism is sometimes misplaced in that it fails to identify the real problems of the

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[36] See generally M. Reisman, 'The Constitutional Crises in the United Nations' (1993) 87(1) *American Journal of International Law* 85–6; and O. Otunnu, 'Maintaining Broad Legitimacy for United Nations Action', in Roper, Nishihara, Otunnu and Schoettle, *Keeping the Peace in the Post-Cold War Era*, pp. 67–83.

[37] The new Commission has thirty-one members: seven (including the five veto-holding members) drawn from the Security Council; seven from the fifty-four-nation Economic and Social Council; five from the ten top contributors to the UN; five from the ten top troop-contributing countries to peacekeeping operations; and another seven to ensure geographical balance by regional grouping. W. Hoge, 'UN Creates Commission to Assist Nations Recovering from Wars', *New York Times*, 21 December 2005; and E. Leopold, 'UN Creates New Body to Help States out of War', Reuters, 20 December 2005.

[38] UN Doc. A/47/277-S/24111 (June 1992).

[39] S. Charat, 'An Alliance of Democracies', *Washington Times*, 27 January 2005, p. A17.

Organization as a whole and to recognise its many achievements. In addition, there is sometimes a failure to distinguish between the UN and its separate organs, especially the Security Council. In this context, there is merit in remembering that the institution is only as strong or effective as its member states will allow. Therefore, some of the blame for the ineffectiveness of the institution can be laid at the feet of the member states that vote to take action, but then fail in subsequent resolutions to provide the means to support the very operations they had earlier deemed critical.

The end of the Cold War has also heralded a significant increase in the UN's willingness to pursue its role in the maintenance of international peace and security by the adoption of military solutions. The importance attached to the Security Council's power to order military measures did not stem from expectations that it would often be necessary to do so. It was thought that the threat of military action would be sufficient to deter aggression and to induce states to comply with measures deemed appropriate by the Security Council to maintain or restore international peace. However, the reality is that, although the military agreements envisioned under Article 43 of the Charter did not materialise, the UN has had a significant involvement in military operations of one kind or another since the first major UN-authorised operation during the Korean conflict in 1950.

The adoption by the UN of resolutions under Chapter VII of the Charter involving enforcement measures has been one of its most controversial actions in recent years. The real problem is not the legality of such activity, but the question of which states decide when it is appropriate and the criteria used to form that decision.[40] The current practice allows the permanent members of the Council to determine the agenda, thus facilitating a very selective, secretive and undemocratic response to international crises. The situation is made worse by the ambiguity surrounding the extent to which peaceful settlement procedures, including diplomatic efforts, must be exhausted before military sanctions are applied.[41] The problem has been compounded by the willingness of

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[40] This is so despite the fact that the practice of the Security Council authorising states to use armed force does not correspond to the express text of Chapter VII of the UN Charter.

[41] This was a source of controversy and debate before the adoption of Resolution 678 (1991), which authorised collective measures against Iraq and led to Operation Desert Storm. O. Schacter, 'United Nations in the Gulf Conflict' (1991) 85 *American Journal of International Law* 452; and L. C. Green, 'Iraq, the UN and the Law' (1991) 29(3) *Alberta Law Review* 560.

states to take action outside the framework of the UN such as occurred in Iraq (2003) and Kosovo (1999), and the role of the industrialised G-8 group of nations, especially in relation to Kosovo, which has been to function as a kind of shadow Security Council, but with no real accountability.

Co-operation with regional bodies and coalitions of the willing is a characteristic of contemporary UN-approved operations, a situation which has been brought about by a number of factors, not least the lack of finance.[42] Substantial co-operation between NATO and the UN was compelled by the need to respond to the Yugoslav crisis. A similar situation arose between the UN and the African Union (formerly the Organization of African Unity) with regard to the situation in Darfur, Sudan.[43] 'Outsourcing' peace enforcement operations to coalitions of the willing is now common. The complex nature of many contemporary conflicts requires significantly larger and more heavily equipped forces and this, in turn, has led to greater participation by the permanent members of the Security Council. The distinction between peacekeeping and enforcement action remains crucial. Nonetheless, this distinction has become blurred in the grey area that exists between peacekeeping and peace enforcement, and by the number and complexity of peace-keeping operations in the post-Cold War era. Prior to 1990, the UN had authorised two enforcement missions, those against North Korea in 1950 and the Congo in 1960 (ONUC). The ONUC operation was complex in nature and amounted to at least *de facto* enforcement action against a party to the conflict as opposed to action against a state under Chapter VII of the UN Charter.[44] The Security Council has since approved a number of major operations with similar characteristics, in Kuwait, Somalia, the former Yugoslavia, Kosovo, East Timor, Albania (which had elements of traditional peacekeeping and peace enforce-ment combined in one mandate), the Central African Republic, Sierra Leone, the Democratic Republic of the Congo, Liberia, Côte d'Ivoire

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[42] Though costs are minuscule compared to the national defence budgets: E. Schoettle, 'Financing Peacekeeping', in Roper, Nishihara, Otunnu and Schoettle, *Keeping the Peace in the Post-Cold War Era*, pp. 17–48 at p. 20.

[43] E. Leopold, 'UN Contemplates Military Operation for Darfur', Reuters, 4 December 2005.

[44] N. D. White, 'The UN Charter and Peacekeeping Forces: Constitutional Issues', in Pugh (ed.), *The UN, Peace and Force*, pp. 43–63 at p. 53. See further *Certain Expenses of the UN* – Article 17(2), Advisory Opinion, 20 July 1962, (1962) ICJ Reports 177, where the ICJ said that 'the operation did not involve "preventative or enforcement measures" against any state under Chapter VII'.

and Sudan. However, some of these are UN-mandated forces, while others are merely authorised 'coalitions of the willing'.[45]

It is difficult to find a working definition of contemporary peace-keeping operations that does justice to the multiplicity of complex tasks undertaken. It is evident that there are clear differences between governing a province like Kosovo, and keeping the peace in south Lebanon or along the border between Ethiopia and Eritrea. The International Peace Academy has defined peacekeeping as:

> the prevention, containment, moderation and termination of hostilities between or within states through the medium of third party intervention, organized and directed internationally, using multinational military, police and civilian personnel to restore or maintain peace.[46]

The broad nature of the definition is such that it is still useful today, but it does not reflect the complex developments in the field since then. In 1992, the then UN Secretary-General, Boutros Boutros-Ghali, defined peacekeeping in his *An Agenda for Peace* as:

> the deployment of a UN presence in the field, hitherto with the consent of the parties, normally involving UN military and/or police and frequently civilians as well. Peacekeeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace.[47]

In general, the definitions provided in textbooks and elsewhere are so vague that it is best to understand the nature of any single mission by examining its mandate and how it sets about achieving the mission.[48]

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[45] It is best to view the action by NATO forces in Kosovo during 1999 as *sui generis*: see B. Simma, 'NATO, the UN and the Use of Force: Legal Aspects' (1999) 10 *European Journal of International Law* 1–22; K. Ambos, 'NATO, the UN and the Use of Force: Legal Aspects: A comment on Simma and Cassese' (1999) 2 *Humanitäres Völkerrecht, Deutsches Rotes Kreuz* 114–15; A. Cassese, 'Ex Iniuria Ius Oritur: Are We Moving Towards International Legitimation of Forcible Humanitarian Countermeasures in the World Community?' (1999) 10 *European Journal of International Law* 23–30; and C. Guicherd, 'International Law and the War in Kosovo' (1999) 41(2) *Survival* 19–34. See also 'The Kosovo Crisis and International Humanitarian Law' (2000) 837 *International Review of the Red Cross*, in which the whole issue is devoted to contributions on the topic.

[46] *The Peacekeepers Handbook* (New York: International Peace Academy, 1984), p. 22.

[47] UN Doc. A/47/277-S/24111 (June 1992), p. 11.

[48] Lett offers some good insights into finding a workable definition in his analysis on why peacekeeping fails: D. C. Lett, *Why Peacekeeping Fails* (New York: Palgrave, 2001), pp. 13–20.

According to the *Handbook on UN Multidimensional Peacekeeping Operations*, depending on its mandate and with a significant civilian component, a multidimensional peacekeeping operation (also referred to as peace operations) may be required to:

- Assist in implementing a comprehensive peace agreement;
- Monitor a ceasefire or cessation of hostilities to allow space for political negotiations and a peaceful settlement of disputes;
- Provide a secure environment encouraging a return to normal life;
- Prevent an outbreak of spillover of conflict across borders;
- Lead states or territories through a transition to stable government based on democratic principles, good governance and economic development; and
- Administer a territory for a transitional period, thereby carrying out all functions that are the normal responsibility of government.[49]

This latter task facilitated the development of the Integrated Mission concept adopted in 1999 to ensure an effective division of labour between different actors operating on distinct mandates of peace implementation in Kosovo.[50] It largely succeeded in resolving day-to-day 'technical' issues, but failed to overcome the lack of cohesion among major powers, especially relating to differing and contradictory goals that contributed to the overall incoherence of the international response mechanisms. The concept was revised and adapted to UN missions in Timor-Leste, Sierra Leone, Afghanistan, Liberia, the Democratic Republic of the Congo, Burundi, Haiti, Iraq, Côte d'Ivoire and Sudan. The UN adopts a broad approach to integrated missions according to the following interrelated principles:

- Restoration of stability, law and order;
- Protection of civilians;
- Providing the foundations for long-term recovery, development and democratic governance.[51]

In the circumstances, it should come as no surprise that military establishments are revising doctrine to reflect the changing nature of

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[49] *Handbook on UN Multinational Peacekeeping Operations* (New York: UN, 2003), pp. 1–2.

[50] E. B. Eide, A. T. Kasperen, R. Kent and K. von Heppel, *Report on Integrated Missions*, Independent Study for the Expanded UN ECHA Core Group (May 2005), p. 12.

[51] *Ibid.*

peacekeeping operations.[52] The challenges confronting such operations in the 1990s, particularly in the Balkans, prompted a wide range of European states, including the United Kingdom, Sweden and Ireland, to re-evaluate their peacekeeping doctrine.[53] Some commentators have even gone so far as to argue that the era of Chapter VI operations is now past.[54] The United Kingdom's manual on peace support doctrine reflects the evolutionary process taking place and defines peace support operations as:

> An operation that impartially makes use of diplomatic, civil and military means, normally in pursuit of UN Charter purposes and principles, to restore or maintain peace. Such operations may include conflict prevention, peacemaking, peace enforcement, peacekeeping, peacebuilding and/or humanitarian operations.[55]

It goes on to provide that the UK government usually undertakes action of this nature as part of a UN-led operation, or as part of a multinational endeavour. Occasionally, unilateral action may be undertaken, as occurred in Sierra Leone in 2000. The NATO definition and policy is similar:

> Normally NATO will be invited to act in support of an internationally recognized organization such as the United Nations (UN) or Organization for Security and Co-operation in Europe (OSCE). In exceptional circumstances, the North Atlantic Council (NAC) may decide to take unilateral action.[56]

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[52] S. Wills, 'Military Interventions on Behalf of Vulnerable Populations: The Legal Responsibilities of States and International Organizations Engaged in Peace Support Operations' (2004) 9 *Journal of Conflict and Security Law* 387–418 at 395.

[53] The FINABEL group (France, Italy, Netherlands, Germany, Belgium, Spain, Luxembourg – and now also Portugal and Greece) also revised peacekeeping doctrine: Lt-Col. P. Wilkinson, 'Sharpening the Weapons of Peace: The Development of a Common Military Doctrine for Peace Support Operations', International Security Information Service (ISIS), Briefing Paper No. 18 (April 1998), http://www.isis-europe.org/isiseu/english/no18.html.

[54] Gen. R. Daillaire, former UN commander in Rwanda, quoted by C. Offman, 'Everything Humanely Possible', *Financial Times Magazine*, 12 March 2005, pp. 14–15.

[55] UK Ministry of Defence, *The Military Contribution to Peace Support Operations*, Joint Warfare Publication (JWP) 3-50 (2nd edn, Shrivenham: Joint Doctrine and Concepts Centre, 2004), Glossary, para. 7.

[56] Allied Joint Publication (AJP) 3.4.1, *Peace Support Operations* (July 2001), para. [0102].

Hence, there were calls for NATO troop deployment, with UN authorisation, to support the African protection mission in Darfur.[57] The UK manual acknowledges the need to integrate doctrine with the emerging practice of humanitarian intervention, and provides that:

> There are occasions when a national government or sub-national organs of government fail to uphold international norms. They may be unable or unwilling to prevent abuse, or perhaps prove to be the sponsors of abuse; they may be unable or unwilling to prevent a faction or group being subject to or threatened with significant harm ... Consequently, a responsibility to provide protection may fall upon the international community ... [T]hose who are tasked with, or choose to assist with, upholding, renewing or restoring acceptable governance need an expansion of the concepts and doctrine that guide their actions.[58]

While acknowledging that the legality of some of these operations is controversial, it goes on to state that recent debates have struggled to balance the precepts of sovereignty with theories that support a higher imperative to protect human rights. It suggests that state and regional organisation practice, coupled with UN precedents, indicates that changes in international law, or its interpretation, are occurring. This would also seem to be the view of the recent high-level report on UN reform, commissioned by the Secretary-General, Kofi Annan, on 'threats, challenges and change', which suggests that military intervention for human rights protection may be necessary as a last resort.[59] While it was once argued that only major powers could threaten international security,[60] there is a growing consensus today that disputes between smaller states and internal conflicts may also endanger international peace.

The report declares that the most widely respected authority for a peacekeeping operation is that conferred by a UN mandate; this is qualified by the statement that regional mandates can provide for a timelier preventive or responsive action than might be possible through the UN. At the same time, it recognises that the legitimacy of unilateral action is often challenged and that this can compound the underlying causes of the conflict, especially when an operation is perceived as

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[57] M. Albright and others, 'NATO to Darfur', *International Herald Tribune*, 26 May 2005.
[58] *The Military Contribution to Peace Support Operations*, JWP 3-50, para. [113].
[59] *Report of the High-Level Panel on Threats, Challenges and Change*, paras. 199–203.
[60] R. Thakur, *International Peacekeeping in Lebanon* (Boulder and London: Westview, 1987), p. 16.

reflecting colonialist or hegemonic pretensions and a disregard for international law. Nevertheless, it concludes that regional mandates can offer an attractive compromise between responsiveness and political legitimacy.

The NATO approach differs in some significant respects from that adopted by the majority of states in Africa and elsewhere. Africa is the region where extensive efforts have been made to formalise the relationship between the UN and the regional organisation, in this case the African Union.[61] Africa remains the primary focus of contemporary UN peacekeeping, and the current missions in the Democratic Republic of the Congo (MONUC, 1999) and Sudan (UNMIS, 2005) may well come to be viewed as pivotal missions in Africa and the ultimate test of contemporary UN peacekeeping doctrine. MONUC's adoption of a robust response to civilian protection, even if late in coming, may herald a new era that acknowledges the lessons of Srebrenica and Rwanda. But similar comments were made in relation to Somalia in the early 1990s. Militias cannot defeat any reasonably equipped and competently commanded UN force, but they can adapt tactics and embark on insurgency-style attacks against soft targets such as happened in Iraq. They may then wage a war of attrition until the next crisis deflects attention elsewhere and the UN ultimately leaves. The question may also be asked, why the Ituri region in the Congo and not Darfur?

The African manual, *Peace Support Operations: A Working Draft Manual for African Military Practitioners* (DWM 1-2000),[62] emphasises the need for an appropriate legal basis under the UN Charter, and respect for international humanitarian law (IHL). Much greater stress is placed on the non-use of force and state sovereignty. These are similar to the views of the UN's Special Committee on Peacekeeping Operations, which did not support the doctrinal shift proposed in the Brahimi report's review of peacekeeping operations.[63] This is in contrast

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[61] See M. Vogt, 'Cooperation between the UN and the OAU in the Management of African Conflicts', in M. Malan (ed.), *Whither Peacekeeping in Africa?*, ISS Monograph 36 (Pretoria: Institute for Security Studies, April 1999).

[62] *Peace Support Operations: A Working Draft Manual for African Military Practitioners*, DWM 1-2000 (February 2000), www.iss.co.za/Pubs/Other/PeaceSupportManualMM, produced as a result of a workshop held at the SADC Regional Peacekeeping Training Centre in Harare, Zimbabwe, 24–26 August 1999.

[63] *Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects*, UN Doc. A/57/767, 28 March 2003, para. 46; and *Report of the Panel on UN Peacekeeping Operations* (Brahimi Report), UN Doc. A/55/305-S/2000/809, 23 August 2000.

to the responsibility-to-protect principle outlined, *inter alia*, in the *Report of the High Level Panel on Threats, Challenges and Change*[64] and endorsed in less forthright terms at the World Summit in September 2005.[65] Given the human rights record of many of the governments in the region, the motivation may have as much to do with fear of intervention by outside states or organisations as with support for provisions relating to domestic jurisdiction and non-use of force contained in the UN Charter. Nonetheless, in July 2000, the Constitutive Act of the African Union included a right to intervene in a member state 'in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity'.[66]

Reporting in 2003 on the implementation of the UN Millennium Declaration, the Secretary-General stated that serious debate among member states is required on the future of 'robust peacekeeping'.[67] Such a debate has yet to take place in earnest. He went on to state:

> There are instances where peace must first be established and the situation stabilized before a peacekeeping presence can be deployed. In such circumstances, the 'Blue Helmets' are not the appropriate instrument. For these reasons I advised against their deployment in favour of multinational forces under the operational control of lead nations in Afghanistan, Côte d'Ivoire, Bunia in the Democratic Republic of the Congo, and, more recently, Liberia.[68]

As the institutional capacity of the UN is stretched to conduct military operations under Chapter VII, regionalised peacekeeping operations offer what may seem an attractive alternative to deficiencies in the UN system. However, these are not without their inherent pitfalls. The idea of a regional approach to global security was considered and rejected in the debates that led to the establishment of the UN. Among the reasons for rejecting this approach were fears of encouraging semi-imperial spheres of influence and the inherent inequality in resources and capacity of different regions. These reservations are equally valid today. The practice of regional responses has been uneven, and the League of Arab

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[64] *A More Secure World: Our Shared Responsibility: Report of the High-Level Panel on Threats, Challenges and Change*, UN Doc. A/59/565, 2 December 2004.

[65] A/RES/60/1, 24 October 2005, para. 139.

[66] Constitutive Act of the African Union, adopted in Lomé, 11 July 2000, Art. 4(h).

[67] *Report of the Secretary-General – Implementation of the United Nations Millennium Declaration*, UN Doc. A/58/323, 2 September 2003, para. 35.

[68] *Ibid.*

States has often complained that the Security Council does not deal with regional organisations on an equal footing.

The success of European Union (EU) peacekeeping operations in the Democratic Republic of the Congo and Macedonia reflect a significant development in the EU's Common Security and Defence Policy. However, these were relatively limited operations. EURFOR in Bosnia-Herzegovina marks an important precedent and coming of age for EU activities in the field of international peace and security. Similarly, while small units of British and French soldiers had some success in Sierra Leone in 2000 and the eastern Congo in 2003, the United States' airlift and military capacity is required for operations of a larger scale and longer duration. The will to change the reliance on NATO (i.e. American) military assets does not seem to exist in Europe. Furthermore, the EU's relationship with the UN is unclear. The UK and France have indicated that they do not regard operations under the EU's Common Security and Defence Policy to be subordinate to the Security Council. This view is not shared by other EU states. In 2003, the United States Secretary for Defense, Donald Rumsfeld, called for the creation of a multi-national peacekeeping force under United States command and outside the auspices of the UN.[69] Although in searching to expand international forces in Iraq the United States modified this position, such developments have serious implications for the UN's system of collective security, and its primary role in the maintenance of international peace and security.

The end of the Cold War has not brought the realisation of the early optimism associated with it, and the ambitions for the UN and the Security Council reflected in the Secretary-General's *An Agenda for Peace* have not materialised. The Secretary-General sought to give legitimacy to the concept of peace enforcement by formally proposing the establishment of such units. However, the concept of peace enforcement can prove to be a contradiction in terms, and it was disastrous when attempted in Somalia. Ultimately, it merely served to discredit UN activities in the maintenance of international peace and security. A more sobering and reflective sequel to this was published a short time later, in which the Secretary-General acknowledged certain limitations.[70]

[69] R. Thakur, 'US Considers UN Approval of Force Optional', *UNU Update*, No. 25, June 2003; and P. Slevin and V. Loeb, 'UN Troops Considered for Iraq Duty', *Washington Post*, 28 August 2003, p. A01.

[70] *Supplement to An Agenda for Peace* (New York: United Nations, 1995).