

# Reexamining Peacekeeping: The 'Brahimi Report' and Onward\*

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## Introduction

The first UN peacekeeping operation (PKO)<sup>1</sup> was the UN Truce Supervision Organization (UNTSO) created after the end of the Arab-Israeli War in 1948.<sup>2</sup> According to the UN Department of Peacekeeping Operations (DPKO), a total of 60 peacekeeping missions have since been established around the world, of which 17 were active as of April 2005.<sup>3</sup>

It is well-known that peacekeeping came to be used much more actively in the post-Cold War period. This is clear from the fact that the number of PKOs created in the Cold War period totaled 18 missions,<sup>4</sup> while the PKOs created since the formation of the UN Iraq-Kuwait Observation Mission (UNIKOM, April 1991) have totaled 42 missions, more than double the number prior to that date.

However, even more important than this increase in quantity is the qualitative change that occurred with peacekeeping in the 1990s and later. Of course, even during the Cold War peacekeeping had been changing. In fact, there are no provisions regarding peacekeeping in the United Nations Charter, nor is this activity based on a coherent doctrine or theoretical underpinning. Rather, peacekeeping was a term that always followed practice: it was the nomenclature under which certain actions came to be grouped together only in hindsight. In this sense, "peacekeeping" was the term always meant to be revised in view of facts on the ground. It is nevertheless a reality that the practice of the Cold War period had led to a shared consensus within international society regarding the basic character of peacekeeping. This consensus centered on the principles of neutrality/impartiality, use of force only in

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<sup>1</sup> The term "peacekeeping" was initially used with hyphenation ("peace-keeping"). In recent years, however, leaving the hyphen out has become the general practice. In PKO-related documents in the UN General Assembly and the Security Council, the hyphen-less version appears to have come into use around the 51<sup>st</sup> Session (September 1996 - August 1997). Cf., General Assembly Resolutions (GARs) 49/37 (December 9, 1994), 50/30 (December 6, 1995), 51/136 (December 13, 1996), and 52/69 (February 20, 1998).

<sup>2</sup> May 29, the day in 1948 when UN Security Council Resolution (SCR) 50 was adopted to lay the groundwork for the creation of UNTSO, was designated as the "International Day of UN Peacekeepers" 55 years later in 2003. GAR 57/129 (February 24, 2003).

<sup>3</sup> DPKO, United Nations Background Note (April 30, 2005). The backgrounder also mentions in a note the UN Assistance Mission in Afghanistan (UNAMA), which has been engaged in reconstruction assistance in Afghanistan since 2002.

<sup>4</sup> The last mission in this earlier period was the UN Observer Group in Central America (ONUCA), created in November 1989.

self-defense, and consent by the parties to a conflict.<sup>5</sup>

The experience in the post-Cold War period led to diversity in every aspect of peacekeeping, including these principles. First, regional organizations as well as (groups of) countries began to implement their own “peacekeeping” operations. The North Atlantic Treaty Organization (NATO) has engaged in post-conflict peacekeeping and peace-building operations in the former Yugoslavia (Kosovo, Bosnia, and Macedonia) and in Afghanistan, while the Organization for Security and Co-operation in Europe (OSCE) has done so in the former Soviet Union and Eastern Europe.<sup>6</sup> The European Union (EU) has also dispatched police missions to Bosnia and Macedonia. In Africa, the Economic Community of West African States (ECOWAS) has, since the early 1990s, been sending military observers to resolve the series of conflicts that have broken out in the West African region. In addition, the African Union (AU) in 2003 sent a peacekeeping unit called the African Mission in Burundi (AMIB) to Burundi, and is deploying peacekeeping operations in the Darfur conflict (Sudan).<sup>7</sup> Second, the range of responsibilities covered by peacekeeping operations has expanded. In addition to the traditional activities of the monitoring of ceasefires and related agreements (ceasefire lines and buffer zones), activities now include disarmament, demobilization, and reintegration (DDR); assistance to the reconstruction of the state apparatus, including through support for the monitoring and holding of elections; human rights protection and monitoring; and protection of humanitarian assistance activities.<sup>8</sup> Third, peacekeeping is now frequently used in response to intra-state conflicts.<sup>9</sup> As a result, peacekeeping missions have become deeply involved in the post-conflict processes of reconstruction and national reconciliation. In addition, there have been cases in which these missions were deployed even for on-going conflicts (Bosnia and Somalia) in response to massacres and large-scale displacements. Fourth, and probably the most important point, is how force is used for peacekeeping. As will be seen below, some of these trends—the expansion of the scale of peacekeeping responsibilities, the increasingly common inclusion of civilian components into peacekeeping structures, as well as the frequent deployment of peacekeepers immediately after the end of an intra-state conflict or even while one is still in progress—led to cases in which peacekeepers

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<sup>5</sup> A detailed discussion of how these principles came to be formed can be found in Trevor Findlay, *The Use of Force in UN Peace Operations* (Oxford: Oxford University Press, 2002).

<sup>6</sup> Russia has organized peacekeeping missions on its own or in cooperation with neighboring countries in response to conflicts in the former Soviet Union countries of Central Asia (Georgia, Moldova, and Tajikistan). See John Mackinlay and Peter Cross, *Regional Peacekeepers: The Paradox of Russian Peacekeeping* (Tokyo: United Nations University Press, 2003).

<sup>7</sup> Decision on Darfur (Assembly/AU/Dec.54 (III), July 6-8, 2004). Also, in 1997 a group of six African nations neighboring the Central African Republic formed the Inter-African Mission to Monitor the Implementation of the Bangui Agreements (MISAB) to monitor a peace agreement in that country. This mission was later given authority under Chapter 7 of the UN Charter. SCR 1125 (August 6, 1997).

<sup>8</sup> In a statement by the President of the UN Security Council in December 1998, the Security Council recognized “the value of including, as appropriate, peace-building elements in the mandates of peacekeeping operations,” and called on the Secretary-General to make recommendations on this subject. Statement by the President of the Security Council (S/PRST/1998/38, December 29, 1998).

<sup>9</sup> Albrecht Schnabel and Ramesh Thakur, “From *An Agenda for Peace* to the Brahimi Report: Towards a New Era of UN Peace Operations?” in: *United Nations Peacekeeping Operations: Ad Hoc Missions, Permanent Engagement*, ed. Ramesh Thakur and Albrecht Schnabel (Tokyo: United Nations University Press, 2001), p. 248.

were faced with the possibility of using force in a way that went beyond the traditional limits; this has had a serious effect on peacekeeping as a whole.

The range of the term “peacekeeping operations” has thus broadened. As a result, the international consensus on just what sort of activity peacekeeping is has become even weaker than before. As John Gerald Ruggie has stated, since many of the peacekeeping operations authorized by the UN Security Council in the post-Cold War period do not conform to either the traditional understanding of peacekeeping or to the enforcement operations stipulated in the UN Charter, these operations “have wandered about in a conceptual void.”<sup>10</sup> In other words, there is a need now for a comprehensive review of past experiences and failures in order to discuss what peacekeeping should look like in the future.

The purpose of this article, therefore, is to grasp how the international community currently understands peacekeeping and its foundational principles. One institution that feels a sense of crisis regarding the above situation is none other than the United Nations, and awareness of these issues constitutes the tenor of the Brahimi Report issued by the Panel on United Nations Peace Operations (chaired by former Algerian Foreign Minister Lakhdar Brahimi) in August 2000.<sup>11</sup> In fact, the UN Secretary General explained in his Millennium Report (submitted to the UN General Assembly on April 3, 2000 for discussions at the Millennium Summit on September 6-8) that the purpose of the report is “to bring greater clarity to where we stand and how we can hope to progress with regard to United Nations peace operations.”<sup>12</sup> The Brahimi Report provides an important guidepost in understanding the current debates on peacekeeping, and the present article shall use this report as a starting point. While any consideration of peacekeeping could well include a fairly broad range of issues such as, for example, the relationship between military and non-military sectors, financing, equipment, personnel, command and control, and reform of the UN Secretariat, I shall limit my analysis to the basic principles of peacekeeping, i.e., traditionally, neutrality/impartiality, use of force only in self-defense, and consent by the parties to a conflict. Moreover, while the development of various peacekeeping doctrines may appear in regional organizations, or at the level of national governments, I shall focus on debates at the UN, which remains the core institution in this area.<sup>13</sup>

This article begins with a redefinition of the concept of peacekeeping as found in the Brahimi Report, and traces the history of this redefinition. The next section examines the reaction to the report’s reconstruction of the concept, approaching it from the viewpoints of both practice and theory at the UN. In other words, I will examine how this redefinition has been received in Security Council and PKO-related committee discussions, from when the

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<sup>10</sup> John Gerald Ruggie, “The UN and the Collective Use of Force: Whither or Whether?” in: *The UN, Peace and Force*, ed. Michael Pugh (London and Portland, OR: Frank Cass, 1997), p. 4.

<sup>11</sup> Report of the Panel on United Nations Peace Operations (A55/305-S/2000/809, August 21, 2000, Annex)

<sup>12</sup> Report of the Secretary-General: We the Peoples: the Role of the United Nations in the 21st Century (A/54/2000, March 27, 2000), pp. 48-49.

<sup>13</sup> In regards to other entities besides the UN engaging in operations equivalent to peacekeeping, there are two main analytical viewpoints. First is analysis of peacekeeping doctrines developed by individual governments or institutions (for more on this issue, see Findlay, *The Use of Force in UN Peace Operations*, Appendixes 1-2). Second is consideration for so-called multinational force operations similar to peacekeeping. While I do not take up these issues, they will deserve scrutiny in a separate article. See also Note 160.

Brahimi Report first came out through to the present day, and analyze how it has been reflected (or not) in each of the peacekeeping mandates that were actually organized during this period. Given the fact, mentioned above, that the concept of peacekeeping has evolved through the experiences of actual individual missions rather than committee discussions, this approach is more likely to be fruitful. In the conclusion, I sum up the foregoing discussion and consider its implications for contemporary international involvement into conflicts in general.

## I. The Concept of Peacekeeping in the Brahimi Report

First, in this section, I describe the redefinition of the peacekeeping concept in the Brahimi Report, and examine its backgrounds.

### A. Redefinition of the Concept of Peacekeeping

The Brahimi Report proposes that the principles of peacekeeping should be redefined as follows:

- 1) Consent by the parties to a conflict, neutrality/impartiality, and use of force only in self-defense<sup>14</sup> remain the bedrock principles of peacekeeping. However, consent is sometimes politically manipulated by the parties to a conflict, or it is difficult even to identify the local parties. PKOs in the past have not been able to respond effectively to these challenges.
- 2) Even in these situations, however, once they are deployed peacekeepers must be able to carry out their mandate successfully. This means that the military units in peacekeeping missions “must be capable of defending themselves, other mission components, and the mission’s mandate.” The rules of engagement (ROE) should allow ripostes sufficient to silence a source of deadly fire directed at UN troops or at the people they are charged to protect, and should not force them to cede the initiative to their attackers.
- 3) In such cases, therefore, the standard of action for peacekeepers should not be “neutrality or equal treatment of all parties in all cases for all time,” but rather be impartiality or “adherence to the principles of the Charter and to the objectives of a mandate that is rooted in those Charter principles.” The latter requires more realistic mission planning, clear, credible, and achievable mandates, clear authorization of the

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<sup>14</sup> These concepts were first articulated following the UN Emergency Force I (UNEF I, 1956-1967). UNEF I was dispatched to Egypt in November 1956 after the Second Arab-Israeli War in order to oversee the withdrawal of French, British, and Israeli forces from Egypt, as well as to monitor the disengagement of Israeli and Egyptian forces. Although predated by UNTSO and the UN Military Observer Group in India and Pakistan (UNMOGIP), UNEF I was the first peacekeeping mission with armed personnel. Dag Hammarskjöld introduced the three principles in his report to the UN General Assembly in October 1958. See Summary Study of the Experience Derived from the Establishment and Operation of the Force: Report of the Secretary-General (A/3943, October 9, 1958), paras. 154-180; Findlay, *The Use of Force in UN Peace Operations*, Ch.2.

use of force, “bigger forces, better equipped and more costly” that can pose “a credible deterrent threat,” and the readiness on the part of troop-contributing countries (TCCs) to accept risks in fulfilling the mandate.<sup>15</sup>

The report made many other recommendations regarding all aspects of peacekeeping, some of which were related to the above redefinition directly (for example, rapid and effective deployment<sup>16</sup>), and some indirectly (e.g., stronger information-gathering and analysis capabilities,<sup>17</sup> stronger DPKO resources and support capacity,<sup>18</sup> and other issues that are at least not at variance with the thrust of the redefinition).<sup>19</sup>

There are three points worth noting at this juncture.

First, this redefinition stops at setting a general standard of action for peacekeepers, and does not answer the question of what constitutes peacekeeping in substantive terms. At the very beginning of the Brahimi Report, the term “peacekeeping” is introduced as follows.

Peacekeeping is a 50-year-old enterprise that has evolved rapidly in the past decade from a traditional, primarily military model of observing ceasefires and force separations after inter-State wars, to incorporate a complex model of many elements, military and civilian, working together to build peace in the dangerous aftermath of civil wars.<sup>20</sup>

However, this ambiguity has conceptual and practical reasons. On the conceptual side, the meaning of peacekeeping is determined by its timing. In the report, UN peace operations are listed as encompassing conflict prevention, peacemaking, and peace-building. But this classification intrinsically relies on the timing of UN involvement, on whether the involvement takes place before a conflict occurs (conflict prevention), while the conflict is in progress (peacemaking), immediately after the conflict has ended (peacekeeping), or after the

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<sup>15</sup> A55/305-S/2000/809, Annex, paras. 48-52. The need for a clear, credible, and achievable mandate (paras. 56-64) was discussed in a separate section. But as this discussion takes place in the contexts of sending peacekeepers into dangerous circumstances (para. 56), and of protecting non-combatants in conflict situations “in support of basic United Nations principles” (para. 62), it is closely linked to the redefinition of peacekeeping in the preceding section.

<sup>16</sup> A55/305-S/2000/809, Annex, paras. 84-169. Ensuring effective deployment requires adequate financing, materials, training, and an operational strategy, while operations deploying into uncertain circumstances require a military and political center of gravity sufficient to overcome hitches in the peace process (para. 87). It is also proposed that traditional missions should be deployed within 30 days and others within 90 days (para. 88). Based on these premises, the report proposes the establishment of effective mission leadership (paras. 92-101), assurance of adequate and effective military personnel (paras. 102-145), improvement of public information capacities (paras. 146-150), and more efficient logistics and procurement processes (paras. 151-169). Moreover, to ensure the ready availability of military personnel, Member States are encouraged to enter into partnerships with each other via the UN Standby Arrangements System (UNSAS) to form several brigade-size forces that are capable of rapid deployment (paras. 115-117).

<sup>17</sup> A55/305-S/2000/809, Annex, paras. 65-75; see also paras. 246-264.

<sup>18</sup> A55/305-S/2000/809, Annex, paras. 170-233.

<sup>19</sup> Moreover, as will be seen below, the Brahimi Report extended its analysis to modes of UN involvement in conflicts other than peacekeeping, such as conflict prevention and preventive action (paras. 10 and 29-34), peacemaking (para. 11), and peace-building (paras. 13-14 and 35-47). In particular, the proposals for strengthening the capabilities of the UN Secretariat were made with these other activities in mind.

<sup>20</sup> A55/305-S/2000/809, Annex, para. 12.

conflict has ended and the process of reconstruction has begun (peace-building).<sup>21</sup> Since the basic characteristics of peacekeeping are determined by the timing of involvement, trying to define it in terms of its likely operational components does not produce a positive definition. In fact, if we look again at the above redefinition of peacekeeping, we can see that it does not define the *content* of that activity so much as its mere *form*. Another element is the fact that the actual tasks of peacekeepers vary from one mission to another. As noted above, with peacekeeping missions no longer limited to interstate conflicts alone, but also being used in civil wars, this trend will surely become more pronounced.

Second, the separation of impartiality from neutrality merits attention. The Brahimi Report insists that the two terms should be treated differently. With neutrality demanding nothing more than treating all parties to a conflict equally, the clearest and surest means toward this goal has been to not use force at all. In the past, peacekeeping operations based on neutrality have strictly emphasized avoidance of the use of force. By contrast, impartiality demands loyalty to peacekeeping mandates as well as the Charter principles on which they are based. As a result, this interpretation enables peacekeepers to take firm action against obstructions by some of the parties to the conflict in the discharge of their mandate.<sup>22</sup> The goal behind the introduction of this impartiality concept is to widen the range of potential action by peacekeepers in this direction.

Third, this differentiation also corresponds with two different types of peacekeeping. As explained above, the term “peacekeeping” can be classified into a traditional, primarily military model for ceasefire monitoring and force separation following an interstate conflict (hereafter called “traditional peacekeeping”), and a complex model in which military and civilian personnel cooperate together at peace-building in the dangerous conditions following a civil war (hereafter called “complex peacekeeping”). The Brahimi Report views neutrality as applicable to the traditional model, and then argues that, for the complex model, impartiality should be added to neutrality when the situation so demands. In addition, it should be made clear to all the parties which type a particular mission is.<sup>23</sup>

## B. The Report’s Background: Peacekeeping in the 1990s and the Impartiality Debate

In the Brahimi Report, PKOs are redefined as operations dispatched immediately after a conflict (regardless of whether the conflict is between states or within a state) that are basically based on the principles of consent of the parties in a conflict, neutrality, and use of force limited to self-defense, with the proviso that the traditional neutrality (as in the equal treatment of all parties in a conflict) may be replaced by impartiality (the achievement of the mission mandate based on the principles of the UN Charter) for some operations. Which principle applies to a particular mission will be determined by the level of risk in the given situation. A major innovation here is the introduction of the concept of impartiality as a separate principle from neutrality.

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<sup>21</sup> A55/305-S/2000/809, Annex, paras. 10-13.

<sup>22</sup> Ruggie, “The UN and the Collective Use of Force,” p. 14.

<sup>23</sup> A55/305-S/2000/809, Annex, para. 51.

How did the panel take up the concept of impartiality? The report begins by noting that, while the United Nations was originally founded “to save succeeding generations from the scourge of war,” the UN in the 1990s “has repeatedly failed to meet the challenge and it can do no better today.” It then goes on to argue the following.

There are many tasks which the United Nations peacekeeping forces should not be asked to undertake, and many places they should not go. But when the United Nations does send its forces to uphold the peace, they must be prepared to confront the lingering forces of war and violence with the ability and determination to defeat them.<sup>24</sup>

This assertion that peacekeeping units have the determination and ability to confront forces that try to challenge those operations reflects the concept of the impartial use of force described above. Moreover, this concept is clearly based on lessons learned from the experience of the 1990s. As has been seen, this experience was one in which complex PKOs came to be used frequently even before a civil war had come to an end. These missions were faced with increased risks as well as more and more complex tasks, but since there was not sufficient resources and authority for carrying out the assigned tasks, they soon found themselves unable to prevent situations from worsening or to create the conditions required for peace-building.<sup>25</sup>

The following will review the UN debates on the peacekeeping experiences during the 1990s, and how these debates tie into the report’s introduction of the concept of impartiality.<sup>26</sup>

### *An Agenda for Peace (1992)*

The Secretary-General’s report, *An Agenda for Peace*, released on June 17, 1992,<sup>27</sup> starts with a recognition that, with the end of the Cold War, the UN has been given an unparalleled opportunity to achieve the ideals of the UN Charter (international peace and security, human rights, etc.),<sup>28</sup> and proposes that the UN be more active in the four areas of preventive diplomacy, peacemaking, peacekeeping, and peace-building.

From our point of view, the most important item in the Agenda is the proposal for the

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<sup>24</sup> A55/305-S/2000/809, Annex, para. 1. See also paras. 2 and 6 (h).

<sup>25</sup> A55/305-S/2000/809, Annex, paras. 15-28.

<sup>26</sup> In the United Nations, the topic of how to manage peacekeeping has been a long-running issue continuing over many years. This issue is one of the established agenda items of the Special Political and Decolonization (Fourth) Committee, a standing committee of the UN General Assembly, and has been on the agenda of the Special Committee on Peace-keeping Operations ever since its establishment by the General Assembly in 1965 (General Assembly Resolution 2006[XIX], February 18, 1965). The Fourth Committee sends regular reports to the General Assembly. For activities in recent years, see “General Assembly and Peacekeeping”, online at <http://www.un.org/Depts/dpko/dpko/ctte/CTTEE.htm>, accessed May 19, 2004.

<sup>27</sup> *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping* (Report of the Secretary-General Pursuant to the Statement Adopted by the Summit Meeting of the Security Council on January 31, 1992) (A47/277-S/24111, June 17, 1992).

<sup>28</sup> A47/277-S/24111, para. 3; see also paras. 8-19.

introduction of peace-enforcement units. These units would be organized from personnel made available from UN Member States on a voluntary basis, would be more heavily armed than peacekeeping units, and would operate under the command of the Secretary-General under the authorization of the Security Council. The units would be required in situations in which the UN was called upon to send forces to restore and maintain ceasefires that were not being observed, and “this task can on occasion exceed the mission of peace-keeping forces and the expectations of peace-keeping force contributors.” This is proposed against the background that the “United Nations Force” described in the UN Charter—units provided based on agreements between the Security Council and Member States to respond to threats to peace—is “not likely to be available for some time to come.”<sup>29</sup>

Here, the issue is the relationship between peace-enforcement and peacekeeping. As can be seen from the above explanation, peace-enforcement units are propounded as being different from both the “United Nations Force” and PKOs. So how does the Agenda define peacekeeping? According to the Agenda, peacekeeping is for “expanding the possibilities for both the prevention of conflict and the making of peace,” and “a United Nations presence in the field, hitherto with the consent of all the parties concerned, normally involving United Nations military and/or police personnel and frequently civilians as well.”<sup>30</sup> While recognizing that peacekeeping has become more diverse, this definition, in including consent as a component and characterizing peacekeeping forces as resources for conflict prevention and peacemaking, both essentially diplomatic efforts, clearly presupposes the traditional model. It is easy to imagine that peacekeeping defined in this way would not be able to coexist with the proposed peace-enforcement units. If they were to be inserted into situations in which peacekeeping units had already been deployed, the latter would be viewed as similar to the former since they both serve under the same UN organization, a situation that would adversely affect their safety. In addition, if a peacekeeping unit were to be given the authority and resources to engage in a peace-enforcement operation in response to changed conditions, the security situation facing that unit would worsen at least temporarily, and, even assuming the operation was successful, the unit would have difficulty continuing with its non-enforcement activities.

Put another way, in the context of the peacekeeping operations defined in the Agenda, there are two problems with peace-enforcement. First, the Agenda assumes the existence of a fixed dividing line between peace-enforcement and peacekeeping. In reality, however, drawing such a line is difficult, particularly for parties to a conflict that could face peace-enforcement activities. Secondly, PKOs that are already deployed could therefore be confronted with further obstructions to the safety of their personnel and to their peacekeeping efforts.

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<sup>29</sup> A47/277-S/24111, para. 44. This same viewpoint can be seen in discussions regarding the safety of UN personnel. In other words, the Security Council should think about what actions to take when UN personnel are exposed to life-threatening risks, and should keep open the option of taking action under Chapter 7 of the UN Charter (paras. 66-68).

<sup>30</sup> A47/277-S/24111, para. 20; see also paras. 52-53.



*Supplement to an Agenda for Peace (1995)*<sup>31</sup>

Changes in UN security functions in the subsequent two and a half year period starkly revealed these problems with the Agenda. These changes, according to the *Supplement to An Agenda for Peace*, consisted of the following four points. First, there was a dramatic increase in the number of conflicts in which the Security Council was involved and, moreover, many of these new conflicts were intra-state conflicts. These conflicts were fought by militias and armed civilians with ill-defined chains of command, and often the state organization itself had been destroyed.<sup>32</sup> When peacekeepers were sent into such situations, they had to perform complex tasks while in “constant danger.”<sup>33</sup> Second, because humanitarian operations were often impossible to pursue in the severe conditions caused by intra-state conflicts, UN forces were now required to use force for their protection. Citing the cases of Bosnia and Somalia as examples of authorization of the use of force under Chapter 7, the Supplement argues that “the United Nations remains neutral and impartial between the warring parties, without a mandate to stop the aggressor (if one can be identified), or impose a cessation of hostilities.”<sup>34</sup> Third, this meant that peacekeeping had come to encompass a wide variety of civilian activities (including the return of refugees and displaced persons, humanitarian assistance, reconstruction and assistance for administrative and judicial systems, monitoring of elections, etc.).<sup>35</sup> And fourth, these “multifunctional peace-keeping operations” highlighted the role that the United Nations could play in peace-building after a conflict had ended<sup>36</sup>.

Operations conducted under fragile security conditions in the midst of a civil war, use of armed force to support humanitarian operations, and multifunctionality—these points<sup>37</sup> seem to suggest that Secretary-General Boutros Boutros-Ghali recognized the challenge of complex peacekeeping. So how did the Supplement understand the principles of peacekeeping?

The Supplement noted that there were three tasks in recent mandates that forced peacekeepers to abandon the three principles (neutrality, consent of the parties, and use of force only in self-defence). These were protection of humanitarian operations, protection of non-combatants in safe areas (described below), and pressing the parties in the conflict to move toward reconciliation at a pace faster than they were prepared to do. As the Supplement itself acknowledged, the cases that brought about this change in thinking were Bosnia and Somalia.<sup>38</sup> Boutros-Ghali then argued the following:

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<sup>31</sup> Supplement to an Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations (Report of the Secretary-General on the Work of the Organization) (A/50/60-S/1995/1, January 3, 1995). In addition to the four UN activities (preventive diplomacy, peacemaking, peacekeeping, and peace-building) taken up in the Agenda, the Supplement also touches on disarmament and economic sanctions.

<sup>32</sup> A/50/60-S/1995/1, paras. 8-14.

<sup>33</sup> A/50/60-S/1995/1, para. 15.

<sup>34</sup> A/50/60-S/1995/1, paras. 18-19. Here, impartiality is being used in the sense of neutrality.

<sup>35</sup> A/50/60-S/1995/1, paras. 20-21.

<sup>36</sup> A/50/60-S/1995/1, para. 22.

<sup>37</sup> While these points were presented as changes affecting the UN’s international security capabilities in general, including preventive diplomacy, peacemaking, and peace-building, most of the statements were actually made with reference to peacekeeping.

<sup>38</sup> A/50/60-S/1995/1, para. 34.

In reality, nothing is more dangerous for a peace-keeping force than to ask it to use force when its existing composition, armament, logistics support, and deployment deny it the capacity to do so. The logic of peace-keeping flows from political and military premises that are quite distinct from enforcement, and the dynamics of the latter are incompatible with the political process that peace-keeping is intended to facilitate. To blur the distinction between the two can undermine the viability of the peace-keeping operation and endanger its personnel... Peace-keeping and the use of force (other than in self-defense) should be seen as alternative techniques and not as adjacent points on a continuum, permitting easy transition from one to the other.<sup>39</sup>

The Supplement thus reconfirmed that the traditional three principles are the key to the success of peacekeeping.<sup>40</sup> Boutros-Ghali's assertion that PKOs and enforcement operations should not be seen "as adjacent points on a continuum" can be viewed as a criticism of his own recommendation in the Agenda for peace enforcement units. In fact, the Supplement was notably silent on this proposal.<sup>41</sup>

Based on the above, the Supplement appears to be asserting that peacekeeping should return to its traditional principles and that, while recognizing the wide range of potential tasks, PKOs should be fulfilling those tasks only to the extent that these principles permit.<sup>42</sup> The argument here does not allow for changes leading to the idea of impartiality. On the other hand, however, attention needs to be focused on two of the changes listed by Boutros-Ghali since the Agenda appeared: the risks related to sending peacekeepers into the midst of a civil war, and the use of force in support of humanitarian operations. In the Supplement, Boutros-Ghali takes a restrictive stance in general toward the use of force by peacekeeping units. At the same time, however, the Secretary-General appears to be aware of the problems implied here, as demonstrated by his asking such questions as how to ensure the safety of peacekeeping personnel in civil war conditions, and how to protect humanitarian operations.

The problem is that a call for a return to the traditional principles does not provide an adequate answer. This is because the experiences in Bosnia and Somalia have conclusively

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<sup>39</sup> A/50/60-S/1995/1, paras. 35-36.

<sup>40</sup> A/50/60-S/1995/1, para. 33. Other lessons concern a unified command structure, resource mobilization, and information-gathering skills (para. 37). It should be noted that virtually all of these items appeared later in the Brahimi Report as well.

<sup>41</sup> While Boutros-Ghali called for organization of a rapid reaction force (para. 44), this force was to be organized on the part of Member States and to be readied as a strategic reserve for rapid deployment. As such it is different from peace-enforcement units.

<sup>42</sup> This line of thinking assumes that the host country should also respect the traditional three principles. In fact, just one month before release of the Supplement (in December 1994), the General Assembly adopted the Convention on the Safety of United Nations and Associated Personnel (A/RES/49/59, December 9, 1994), and called on Member States to sign it. This Convention was designed to ensure the safety of troops engaged in UN activities through agreements between the United Nations and the host country (excluding enforcement action taken under Chapter 7 of the UN Charter). As noted in the preface (preambular para. 7), the Convention recognizes that conditions enhancing the safety of peacekeeping troops are obtained "with the consent and cooperation of the host State." In this sense, the Convention can be viewed as playing a complementary role to Boutros-Ghali's statements in the Supplement. The Convention went into effect on January 15, 1999.

shown that dependence on the traditional principles would not help deal with such situations and tasks. On the other hand, however, the Supplement did not actually go so far as to assert that peacekeepers should not become involved in risky situations or assist in humanitarian operations. In this sense, the Supplement attempted to straddle the gulf separating faithful adherence to the traditional principles from facing up to new situations and tasks, and only got partway in sorting out what peacekeeping should be.

*Debates in the Special Committee on Peace-Keeping Operations (1995-1999)*<sup>43</sup>

The Supplement's call for a return to the traditional principles was widely shared by members of the Special Committee on Peace-keeping Operations. At meetings held in April and May 1995, many of the participants<sup>44</sup> "expressed their agreement with the Secretary-General's views on the basic principles of peace-keeping operations" and stated that "the mandates and structure of peace-keeping operations under Chapter 6 of the Charter should be clearly distinguished from those that applied to operations under Chapter 7."<sup>45</sup> As a result, the Special Committee concluded that it agreed with the Secretary-General's observation in the Supplement.<sup>46</sup> This conclusion was repeatedly confirmed throughout the Special Committee discussions of 1996 to 1999.<sup>47</sup>

*The Srebrenica Report (November 1999)*<sup>48</sup>

A shift in this viewpoint was discernable in the Secretary-General's report on the fall of the Srebrenica safe area. During the Bosnia civil war (1992-1995), Srebrenica was one of six "safe areas" that had been established based on Security Council resolutions. In July 1995, however, Serbian forces attacked and captured Srebrenica. Although a total of about 150 peacekeepers from the UN Protection Force (UNPROFOR) were stationed in Srebrenica at the time, they were unable to offer any resistance to much larger (2,000 troops) and more heavily armed Serb

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<sup>43</sup> As already noted (see Note 26), the Special Committee has discussed peacekeeping on an annual basis since 1965. Here, however, I limit my survey to the debates within the United Nations that occurred in the period following the release of the Supplement.

<sup>44</sup> While the Special Committee had 35 countries as official members, participants included representatives of the UN Secretariat, the Under-Secretary-General for Peacekeeping Operations, and observers from many other countries not officially on the Committee.

<sup>45</sup> Comprehensive Review of the Whole Question of Peace-keeping Operations in All Their Aspects (Report of the Special Committee on Peace-keeping Operations) (A/50/230, June 22, 1995), para. 14.

<sup>46</sup> A/50/230, para. 40.

<sup>47</sup> Comprehensive Reviews of the Whole Question of Peace-keeping Operations in All Their Aspects (Reports of the Special Committee on Peace-keeping Operations) (A/51/130, May 7, 1996), paras. 8 and 37; Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects (Report of the Special Committee on Peacekeeping Operations) (A/52/209, June 28, 1997), paras. 12 and 41; Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects (Report of the Special Committee on Peacekeeping Operations) (A/53/127, May 21, 1998), paras. 11 and 48; Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects (Report of the Special Committee on Peacekeeping Operations) (A/54/87, June 23, 1999), paras. 13 and 49.

<sup>48</sup> Report of the Secretary-General pursuant to General Assembly Resolution 53/35: The Fall of Srebrenica (A/54/549, November 15, 1999).

forces, and could do nothing to stop the massacre of 7,000-8,000 Bosnian men that happened immediately after its fall. The report was prepared to critically examine the UN response.

In this report, Secretary-General Kofi Annan said that “many of the errors the United Nations made” could be traced to a misguided effort to “keep the peace and apply the rules of peacekeeping when there was no peace to keep.” He then argued:

Knowing that any other course of action would jeopardize the lives of the [UNPROFOR] troops, we tried to create—or imagine—an environment in which the tenets of peacekeeping—agreement between the parties, deployment by consent, and impartiality—could be upheld. We tried to stabilize the situation on the ground through ceasefire agreements, which brought us close to the Serbs, who controlled the larger proportion of the land. We tried to eschew the use of force except in self-defence, which brought us into conflict with the defenders of the safe areas, whose safety depended on our use of force.<sup>49</sup>

There is a clear awareness here that the traditional three principles as related in the Supplement have their limits (since the term “impartiality” is here used in the same context as agreement between the parties and the use of force for self-defence, we can interpret it to mean synonymous with neutrality). These limits are exposed by the following dilemma: a peacekeeping unit is deployed to protect non-combatants, mainly for humanitarian reasons, but since they belong to one of the parties to the conflict, the other parties come to view the peacekeepers as siding with their enemy; to avoid this perception, the peacekeepers are forced to take a more restrained posture based on the traditional three principles; as a result, they put themselves into the position of being unable to fulfil their task of protecting non-combatants.

To use the language of the report, this situation shows that “the old rules of the game no longer held.”<sup>50</sup> Then what changes does the report suggest on this issue? This can be answered by looking at the lessons that the report draws from Srebrenica. These lessons can be summarized as follows.

There are actually two types of safe areas. One is demilitarized based on international humanitarian law and established by agreement of the belligerents, while the other is a “truly safe area” protected by “a credible military deterrent.” The Srebrenica safe area was established “without the consent of the parties and without the provision of any credible military deterrent.” It was established without ever really becoming either of the two types, and herein lies the reason for its failure.<sup>51</sup> If safe areas are to be established, they must be established as one or the other type. And if a safe area is of the latter type, and if there is, as in Srebrenica, “a deliberate and systematic attempt to terrorize, expel, or murder an entire people,” that action “must be met decisively with all necessary means” and the international community must have the political will to carry out that policy.<sup>52</sup> The idea that large-scale

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<sup>49</sup> A54/549, para. 488; see also para. 492.

<sup>50</sup> A54/549, para. 493.

<sup>51</sup> A54/549, para. 499.

<sup>52</sup> A54/549, para. 502.

human rights infringements should be resisted with force shares common ground with the concept of impartiality, which requires loyalty to the objectives of the UN Charter (including respect for human rights), and to the objectives of the mandate.

But this report did not go so far as to call for this concept, which logically leads to the impartial use of force, to become the principle applicable *for peacekeeping*. For the report draws the following “general lessons” from Srebrenica:

The first of the general lessons is that when peacekeeping operations are used as a substitute for such political consensus they are likely to fail. There is a role for peacekeeping... and there is even a role for protected zones and safe havens in certain situations; but peacekeeping and war fighting are distinct activities which should not be mixed. Peacekeepers must never again be deployed into an environment in which there is no ceasefire or peace agreement. Peacekeepers must never again be told that they must use their peacekeeping tools - lightly armed soldiers in scattered positions - to impose the ill-defined wishes of the international community on one or another of the belligerents by military means. If the necessary resources are not provided - and the necessary political, military and moral judgments are not made - the job simply cannot be done.<sup>53</sup>

In other words, peacekeeping should be understood as based on consent of the parties, and as distinct from war fighting, and therefore as lacking the capability to force its will on hostile parties by military means. The concept of peacekeeping itself was still understood in terms of the traditional three principles. When it comes to safe areas, therefore, it would be reasonable to surmise that the role of providing a “credible military deterrence” for safe areas would not fall upon peacekeepers. Nevertheless, it should not be overlooked that the Srebrenica report clearly recognized the limits of the traditional principles and suggested the use of force to resist serious infringements of human rights.

*Report of the Independent Inquiry into the Rwanda Genocide (December 1999)*<sup>54</sup>

In Rwanda, Hutu militias and elements of the Rwandan army launched an organized massacre of Tutsis and moderate Hutus on April 6, 1994. It marked a complete collapse of a peace agreement that had been signed in August 1993 between the Rwandan government and the Rwandan Patriotic Front (RPF). This situation continued until mid-July, when the RPF was able to drive out the Hutu forces and proclaim the establishment of a new government. In the interim, about 800,000 people are believed to have become victims of the genocide.

The Report of the Independent Inquiry into the Rwandan Genocide states its purpose as that of reflecting on why the international community was unable “to prevent, and subsequently, to stop, the genocide,” from which viewpoint it critically examines the involvement of the United Nations and others. In the conclusion, the report argues that the failure in Rwanda was due to

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<sup>53</sup> A54/549, para. 498.

<sup>54</sup> Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda (S/1999/1257, December 16, 1999, Annex).

“a lack of resources and a lack of will to take on the commitment which would have been necessary to prevent or to stop the genocide,”<sup>55</sup> and placed responsibility on the UN Secretariat (particularly on the DPKO, headed at the time by Annan), the UN Assistance Mission in Rwanda (UNAMIR), the Security Council, and UN Member States. Since UNAMIR constituted virtually the only UN presence in Rwanda during the genocide and the period immediately preceding it, the report made the activities of UNAMIR one of its main points of focus.

UNAMIR was originally intended to support implementation of the peace agreement; as such, it was established in conformity with the traditional principles. Since its establishment in October 1993 (UNAMIR I),<sup>56</sup> UNAMIR was plagued by serious difficulties with regard to the number and quality of available personnel, speed of deployment, and procurement of material and equipment. But an even more fundamental problem was that the mandate itself was based on an overly optimistic view of the peace process, as a result of which it was neither mandated nor equipped to play a proactive and assertive role should the peace process fall into serious trouble. UNAMIR was expected to “preserve a neutral role... under a traditional peacekeeping mandate,” and this understanding was maintained despite the deteriorating security situation.<sup>57</sup> In fact, as the scope of the genocide was becoming clearer, the Security Council “in light of the current situation in Rwanda” decided in mid-April 1994 to lower the scale of the operation (from 2,539 troops to 270 troops) and to reduce the mandate to an intermediary role to secure a ceasefire agreement.<sup>58</sup> Although Security Council Resolution 918 (May 17) later expanded the scale of UNAMIR to 5,500 troops and recognized that it “may be required to take action in self-defence” against persons who threaten United Nations or other humanitarian personnel, the means of delivery and distribution of humanitarian relief, or protected sites and populations (UNAMIR II),<sup>59</sup> it was not an authorization under Chapter 7 that would recognize the humanitarian crisis in Rwanda as a “threat to international peace and security.” (Moreover, a paucity of available troops meant that UNAMIR II did not actually begin deployment until after the genocide had ended).<sup>60</sup>

What UNAMIR exposed on the part of UN Member States was a “lack of will to commit to peacekeeping, and above all, to take risks in the field.”<sup>61</sup> Here, the “commitment” that was lacking can generally be traced to three elements: a lack of resources, a limited mandate, and a “lack of will.” To explain this, the report points out the generally frigid environment for peacekeeping at that time, in which the enthusiasm for peacekeeping had waned by the second half of 1993; the UN Secretariat had reached the limits of its capacity for organizing and administering peacekeeping missions; and peacekeepers were facing severe difficulties in many deployment locations.<sup>62</sup>

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<sup>55</sup> S/1999/1257, p. 30.

<sup>56</sup> SCR 872 (October 5, 1993).

<sup>57</sup> S/1999/1257, pp. 30-32.

<sup>58</sup> SCR 912 (April 21, 1994), para. 8.

<sup>59</sup> SCR 918 (May 17, 1994), para. 3.

<sup>60</sup> S/1999/1257, pp. 43-44.

<sup>61</sup> S/1999/1257, p. 39.

<sup>62</sup> S/1999/1257, p.39. In this connection, the Independent Inquiry suggests that the deaths in Somalia of

In regard to this lack of commitment, what is particularly important is UNAMIR's limited mandate which, based on the traditional principles of action, was not changed into a more proactive one in response to the changing situation on the ground. So what did the report propose should be done when peacekeepers are placed in similar situations in the future? Near the end of the conclusion, the report argues that in Rwanda, "the United Nations had an obligation to act which transcended traditional principles of peacekeeping," and then argued:

In effect, there can be no neutrality in the face of genocide, no impartiality in the face of a campaign to exterminate part of a population. *While the presence of United Nations peacekeepers in Rwanda may have begun as a traditional peacekeeping operation to monitor the implementation of an existing peace agreement, the onslaught of the genocide should have led decision-makers in the United Nations—from the Secretary-General and the Security Council to Secretariat officials and the leadership of UNAMIR—to realize that the original mandate, and indeed the neutral mediating role of the United Nations, was no longer adequate and required a different, more assertive response, combined with the means necessary to take such action.*<sup>63</sup>

Facing an attempt at genocide or ethnic cleansing, "whether or not an obligation to protect civilians is explicit in the mandate of a peacekeeping operation..., the United Nations must be prepared to respond to the perception and the expectation of protection created by its very presence."<sup>64</sup> In the Srebrenica report, peacekeeping continued to be understood in terms of the traditional principles, and (while showing awareness for their limitations) no recommendations were made for peacekeepers to play a role in protecting non-combatants from genocide or ethnic cleansing. By contrast, the Independent Inquiry report emphasizes the limitations of traditional PKOs, and calls on the UN to assume that role. That peacekeeping missions are included in this is clear from the following:

Planning for peacekeeping operations should whenever relevant include the prevention of genocide as a specific component. In situations in which a peacekeeping operation might be confronted with the risk of massive killings or genocide, it must be made clear in the mandate and Rules of Engagement of that operation that traditional neutrality cannot be applied in such situations, and the necessary resources be put at the disposal of the mission from the start.<sup>65</sup>

The idea of protecting non-combatants in a humanitarian crisis, which leads to the new conception of impartiality, was linked in the Independent Inquiry report to the principles of

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Pakistani peacekeepers (June 1993) and of U.S. soldiers in its Quick Reaction Force (October 1993, deployed independently of the UNISOM II command) had a serious effect. S/1999/1257, p. 41.

<sup>63</sup> S/1999/1257, pp. 50-51. In this quote, while the terms "neutrality" and "impartiality" are being used interchangeably, they can be understood as meaning "neutrality" for the purposes of this article.

<sup>64</sup> S/1999/1257, p. 51.

<sup>65</sup> S/1999/1257, p. 55; see also p. 57.

peacekeeping.

In this section, I have sketched how the idea of the impartial use of force made its appearance in UN debates on peacekeeping. The above review focused only on major UN reports. It is nevertheless possible to draw two generalizations. First, the context of the debate from the Srebrenica report to the Independent Inquiry report had a degree of influence on the thinking of the Brahimi Panel. In fact, where the concept of impartiality is explained, the report specifically refers to the Rwandan case with a quote from the Independent Inquiry report.<sup>66</sup>

The second point that bears mentioning is the effect that the context had on the debate. In other words, the context discussed by both reports was that PKO units were sent under fragile consent by the parties to a civil war; as a result, they found themselves in the midst of a serious humanitarian crisis, involving either ethnic cleansing (Srebrenica) or genocide (Rwanda); and the traditional principles could not provide the basis for effective response. The choice here was between waiting until action could be taken in accordance with the traditional principles, or introducing a new rationale so that action could be taken in response to the serious humanitarian crisis. On this point, where the debates prior to the Srebrenica report chose the first course, those after the two reports have proceeded based on the second choice. The concept of impartiality was the idea introduced against this background.

It is no coincidence that the concept of impartiality owed its emergence to serious humanitarian crises. The experience of the Holocaust and other atrocities in World War II led to the criminalization of inhumane acts, and the post-war period saw the development of the idea that each person should be able to enjoy basic human rights.<sup>67</sup> The most conspicuous example of this was the inclusion of the promotion of respect for human rights into the objectives of the United Nations. International human rights is mainly related to the relationship between the state and its citizens in peacetime, whereas international humanitarian law provides for a set of duties and obligations a state has vis-à-vis its enemy populations and members of third parties like international institutions. But what the two have in common is the idea that human dignity should be universally guaranteed. Therefore, if large numbers of people have lost that guarantee in the course of a conflict, restoration of the guarantee becomes a universal demand based on human rights and humanitarian standards, and such action will not carry the attribute (or at the very least, the intention) of benefiting just one side of that conflict. The logic found within the concept of impartiality, in which an action that acts on universally endorsed values is also universally justified, has been influenced by the emergence of these human rights and humanitarian standards—or, more broadly, the tradition of natural law.<sup>68</sup> Through peacekeepers' involvement in humanitarian crises in the

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<sup>66</sup> A/55/305-S/2000/809, paras. 50 and 62.

<sup>67</sup> For the development of human rights and humanitarian standards, for example, see Jack Donnelly, *International Human Rights* (Boulder, CO: Westview Press, 1998), and Gerald I.A.D. Draper, "The Development of International Humanitarian Law," in: United Nations Educational, Scientific and Cultural Organization, *International Dimensions of Humanitarian Law* (Dordrecht: Martinus Nijhoff, 1989), pp. 67-90.

<sup>68</sup> Regarding this point, see Chapter 2 of Hideaki Shinoda, *Heiwa kochiku to ho no shihai—Kokusai heiwa katsudo no rironteki kinoteki bunseki* (*Peace-building and the Rule of Law: Theoretical and Functional*



1990s, this logic came to find a place in the thinking behind peacekeeping.

## II. Peacekeeping after the Brahimi Report—Theory and Practice

In the previous section, I started with a summary of what peacekeeping should be like as recommended in the Brahimi Report. One point that came out was the realization that traditional neutrality has come to be juxtaposed by a new principle of impartiality. The latter part of that section therefore analyzed how the concept of impartiality came to the fore in the process of debates on peacekeeping, using major UN reports since the Agenda for Peace. From here on, I shall first summarize the points of debate in the United Nations regarding the nature of peacekeeping in the period after the report. Next, I shall look at the mandates of the peacekeeping missions that have been established or at least comprehensively re-organized in that period, and discuss how they relate to the ideas floated in the report.

### A. Recent Debates on Peacekeeping

In a letter sent along with the Brahimi Report to the UN General Assembly and the Security Council, Secretary-General Annan called its analysis “frank and fair,” and its recommendations “far-reaching, yet sensible and practical.”<sup>69</sup> The General Assembly and the Security Council both passed resolutions requesting<sup>70</sup> or deciding<sup>71</sup> that the recommendations be “expeditiously” considered.

Two months later, Annan presented a report<sup>72</sup> on how to implement the recommendations in the Brahimi Report,<sup>73</sup> and in June of the following year the UN Secretariat submitted a detailed proposal regarding reform of peacekeeping management. Meanwhile, the Special Committee on Peacekeeping Operations continued its debates on peacekeeping, taking into account the report’s recommendations and the subsequent proposals for reform. Of course, reactions to the report were not restricted to these official fora, as the report sparked responses in many quarters—though not always based on a fair understanding<sup>74</sup>—and its effect was

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*Analyses of International Peace Operations*) (Tokyo: Sobunsha, 2003).

<sup>69</sup> Identical Letters Dated August 21, 2000 from the Secretary-General to the President of the General Assembly and the President of the Security Council (A/55/305-S/2000/809, August 21, 2000).

<sup>70</sup> GAR 55/2 (September 18, 2000), para. 9. This resolution was included in the UN Millennium Declaration adopted on the final day of the Millennium Summit (September 8, 2000).

<sup>71</sup> SCR 1318 (September 7, 2000), Annex, para. IV.

<sup>72</sup> Report of the Secretary-General on the Implementation of the Report of the Panel on United Nations Peace Operations (A/55/502, 20 October 2000); see also Resource Requirements for Implementation of the Report of the Panel on United Nations Peace Operations (A/55/507, 27 October 2000).

<sup>73</sup> Implementation of the Recommendations of the Special Committee on Peacekeeping Operations and the Panel on United Nations Peace Operations (A/55/977, 1 June 2001).

<sup>74</sup> For example, Dennis C. Jett criticized the Brahimi Report, saying that it clings to the three principles of consent of the local parties, neutrality, and the use of force only in self-defense and that, while acknowledging that none of these principles are possible in recent conflicts, it makes no attempt to describe effective ways to deal with these limitations. In the same way, Frederick H. Fleitz, Jr. also criticized the Brahimi Report for taking the “contradictory position” that local consent is a peacekeeping principle, while also calling for preparations to defend mandates if that consent is manipulated or withdrawn. However, assuming that the Brahimi Report holds that peacekeeping operations are regulated only by the traditional three principles is

major.<sup>75</sup> In this section, I shall focus mainly on the debates within the United Nations, to examine how understanding of the concept of peacekeeping developed in the debates after the report's release.

### *Distinction between Complex and Traditional Peacekeeping Operations*

The distinction between complex and traditional peacekeeping as proposed in the Brahimi Report appears to have become more institutionalized over time. We can see this most clearly through the debate on the rapid deployment of peacekeeping units. In the report, the traditional and complex types are presumed to be distinct in terms of their different timelines for deployment: 30 days for traditional missions and 90 days for complex ones. In other words, progress in the institutionalization of these 30/90-day deployment deadlines implies the corresponding establishment of the two types of peacekeeping in UN thinking.

In Annan's report (October 2000) regarding implementation of the Brahimi Report, he touched on the Special Committee's long-held emphasis on the need for rapid and effective deployment, and stated agreement with the Panel's opinion that a definition on what "rapid" and "effective" deployment actually means is needed, and then instructed the Secretariat to review peacekeeping operations so that deployment could become achievable within the timelines proposed in the report.<sup>76</sup> In response, the Special Committee met in December of that same year, when it urged the Secretariat to expedite its work so that deployment could become achievable within the proposed time frames.<sup>77</sup> In the Secretary-General's follow-up report in June 2001, the difference between complex and traditional peacekeeping was laid out as follows:

Traditional: 5,000 troops (50% self-sustaining), 100 substantial staff, 200 military observers and civilian police, 200 administrative staff

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reaching a conclusion too hastily. Fleitz also asserted that the Brahimi Report merely repeated "previously proposed reform initiatives," and contained "few substantive recommendations," that the proposals for increased staff numbers and resources merely added a new "layer of bureaucracy" between the field and headquarters, and that it omitted any mention of corruption in procurement. In regards to the issue of corruption, there is a need to improve transparency in the procurement process, and surely the recent discovery of corruption in the Oil-for-Food Program in Iraq, and the process of investigation that followed, will become a lesson for the UN. However, the other criticisms are not really founded on anything substantial. In any case, peacekeeping reform has been progressing steadily since the Brahimi Report, and this process deserves continual and careful analysis. Dennis C. Jett, *Why Peacekeeping Fails* (New York, NY: Palgrave, 2001), p. xviii; Frederick H. Fleitz, Jr., *Peacekeeping Fiascos of the 1990s: Causes, Solutions and U.S. Interests* (Westport, CT and London: Praeger, 2002), pp. 86-87 and 161-162.

<sup>75</sup> For reports offering analyses of the Brahimi Report, see the International Peace Academy/Center on International Cooperation, *Refashioning the Dialogue: Regional Perspectives on the Brahimi Report on UN Peace Operations* (Regional Meetings, February-March 2001: Johannesburg, Buenos Aires, Singapore, London), and William J. Durch et al., *The Brahimi Report and the Future of UN Peace Operations* (Washington, DC: The Henry L. Stimson Center, 2003).

<sup>76</sup> A/55/502, paras. 67-68.

<sup>77</sup> Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects (Report of the Special Committee on Peacekeeping Operations) (A/C.4/55/6, December 4, 2000), para. 15.

Complex: 10,000 troops (25% self-sustaining), 300 substantial staff, 1,000 military observers and civilian police, 1,000 administrative staff<sup>78</sup>

Moreover, four major improvements are listed as necessary for enabling rapid deployment, including: procurement of materials for the United Nations Logistics Base (UNLB) in Brindisi, Italy; procedures for initial deployment expenses and support; availability of military and civilian police officers; and availability of civilian specialists.<sup>79</sup> In response, at a meeting of the Special Committee held during the following month (July 2001), many of the members stated that the Secretariat should work toward the establishment of a 30/90-day deployment schedule,<sup>80</sup> and expressed agreement with the Secretary-General's assessment that UN Member States should contribute their personnel and materials for the establishment of a rapid deployment capability.<sup>81</sup> The Secretary-General's report released later that year, in December, lists enhancement of rapid deployment capability as one of the five strategic goals set by the DPKO for peacekeeping reform,<sup>82</sup> while all ensuing Secretary-General reports (January 2003, January 2004, and December 2004) have reported on the state of implementation of the above four recommendations.<sup>83</sup> In the January 2003 report, the Secretary-General presented the goal of "developing and implementing comprehensive strategies for recurrent challenges faced by complex peacekeeping operations," and listed the sectors included in these "challenges" as support for reform of the security sector, disarmament, demobilization, and reintegration (DDR), establishment of the rule of law, and incorporation of human rights, child protection, and gender perspectives.<sup>84</sup> Moreover, the debates at the annual meetings of the Special Committee (March 2002, March 2003, April 2004, and February and April 2005) in response to these Secretary-General reports have repeatedly confirmed the importance of reform based on this distinction between traditional and complex missions.<sup>85</sup>

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<sup>78</sup> A/55/977, para. 113. Here, "substantive staff" presumably refers to personnel engaged in mission decision making, political negotiations, etc.

<sup>79</sup> A/55/977, paras. 116-143.

<sup>80</sup> Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects (Report of the Special Committee on Peacekeeping Operations) (A/55/1024, July 31, 2001), para. 29.

<sup>81</sup> A/55/1024, paras. 65-70.

<sup>82</sup> Implementation of the Recommendations of the Special Committee on Peacekeeping Operations and the Panel on United Nations Peace Operations (A/56/732, December 21, 2001), para. 7. The other four goals include strengthening the relationship with UN Member States and UN decision-making bodies, reforming the PKO management system, re-orienting the relationship with field missions, and strengthening relationships with other institutions in the UN system.

<sup>83</sup> A/56/732, paras. 22-34; Implementation of the Recommendations of the Special Committee on Peacekeeping Operations (A/57/711, January 16, 2003), paras. 29-51; Implementation of the Recommendations of the Special Committee on Peacekeeping Operations (A/58/694, January 26, 2004), paras. 20-40; Implementation of the Recommendations of the Special Committee on Peacekeeping Operations (A/59/608, December 15, 2004), paras. 12-39.

<sup>84</sup> A/57/711, paras. 23-28; A/58/694, paras. 41-51; A/59/608, paras. 41-70. These reports also discussed such issues as integration of past lessons learned into operational planning and coordination; implementation of quick impact projects; enhancement of peacekeeping capacity at the regional level, particularly in Africa; mine clearance; strengthening of public relations and information outreach capacity; and response to AIDS issues.

<sup>85</sup> Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects (Report of

*The Use of Force in Complex Peacekeeping Operations*

In regards to the concept of the use of force for peacekeepers as proposed in the Brahimi Report, however, there appears to be a gap in attitudes between Annan and the UN Secretariat on the one hand, and the Special Committee on Peacekeeping Operations and the Security Council on the other. But this gap was not immediately revealed at the time the report was released. For example, in Resolution 1327 (November 13, 2000), the Security Council reconfirmed the importance of maintaining “a credible deterrent capability” in peacekeeping operations where appropriate and within their mandates.<sup>86</sup> In addition, the Special Committee’s first meeting report (December 4, 2000) after the release of the report argued that UN peacekeepers “once deployed... must be capable of accomplishing the mission’s mandate and of defending themselves and, where mandated, other mission components,”<sup>87</sup> and emphasized the importance of consultation between the Security Council and TCCs.<sup>88</sup> In addition, the Special Committee stated that the UN Secretariat should provide adequate information when a mission’s mandate and concept of operations, including provisions on the use of force, has changed due to a deteriorating situation, and that when “authorizing the use of force, the Council should adhere to all relevant provisions of Chapter 7 of the Charter.”<sup>89</sup> It would appear, at least from the tone of these statements, that the concept of the impartial use of force to “defend themselves and, where mandated, other mission components,” is broadly supported among UN Member States.

Entering the year 2001, however, all talk of the need to fulfill these mandates and protect personnel, or of the possibility of action under the Chapter 7 authorization in response to circumstances, disappeared from the debates in the Special Committee and the resulting recommendations. In their place appeared—or re-appeared, if we look back on the debates in the Special Committee during the period between the Supplement and the Brahimi Report—the argument that the consent of the parties, neutrality, and the non-use of force except in self-defense is “essential to its success.”<sup>90</sup> Moreover, in regards to changes to mandates while a mission is in progress, the Special Committee would go no further than to

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the Special Committee on Peacekeeping Operations) (A/56/863, March 11, 2002), paras. 23-26 and 75-88; Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects (Report of the Special Committee on Peacekeeping Operations) (A/57/767, March 28, 2003), paras. 15-16, 22-33, 69-75, 80-96, 100-109, 114-122, and 125-140; Report of the Special Committee on Peacekeeping Operations and Its Working Group at the 2004 Substantive Session (A/58/19, April 26, 2004), paras. 11-13, 25-26, 78-93, and 99-110; Report of the Special Committee on Peacekeeping Operations and Its Working Group (2005 substantive session, 2005 resumed session) (A/59/19/ Rev.1, March 1, 2005), paras. 10-12, 17-18, 41-46, and 85-110.

<sup>86</sup> SCR 1327, Annex, I, para. 2.

<sup>87</sup> A/C.4/55/6, para. 8. This expression is taken virtually verbatim from the Brahimi Report (A/55/305-S/2000/809, para. 49).

<sup>88</sup> A/C.4/55/6, paras. 9-10. In concord with this proposal, the Security Council made detailed recommendations regarding consultation between TCCs, the Security Council, and the UN Secretariat, in Resolution 1353 (June 13, 2001).

<sup>89</sup> A/C.4/55/6, para. 11.

<sup>90</sup> A/55/1024, para. 40.

state that they “should be based on a thorough and timely reassessment by the Security Council” and should occur after “full discussion between contributing countries.”<sup>91</sup> In the debates on February 11-12, 2002, many of the participants insisted that peacekeeping operations should “strictly observe” the three traditional principles, and stated that peacekeeping “should neither be used as a substitute for a permanent solution, nor for addressing the root causes of conflict.”<sup>92</sup> These statements calling for a return to the traditional principles have been repeated by many delegations in Special Committee debates right up to the present,<sup>93</sup> and are often included in Special Committee recommendations.<sup>94</sup>

In regards to this point, a certain gap with the Secretariat appears to have existed. In the first Secretary-General’s report (October 2000) on implementation of the Brahimi Report, Annan was already calling for caution:

The [UN Special] Panel [on Peacekeeping Operations] recommendations regarding the use of force apply only to those operations in which armed United Nations peacekeepers have deployed with the consent of the parties concerned. I therefore do not interpret any portions of the Panel’s report as a recommendation to turn the United Nations into a war-fighting machine, or to fundamentally change the principles according to which peacekeepers use force. The Panel’s recommendations for clear mandates, “robust” rules of engagement, and bigger and better equipped forces must be seen in that light. They are practical measures to achieve deterrence through strength, with the ultimate purpose of diminishing, not increasing, the likelihood for the need to use force, which should always be seen as a measure of last resort. Indeed, the rules of engagement provide for a graduated response, precisely for that reason.<sup>95</sup>

What is most interesting here may be summed up in the following two points. First is the relationship between impartiality and consent of the parties. As we have already seen, the Brahimi Report argued that traditional and complex peacekeeping operations have characteristic standards for the use of force that are based on neutrality and impartiality respectively, and that the distinction between the two should be clearly shown to the parties in conflict. Where the report had brought this distinction to the fore, the Annan statement aims to

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<sup>91</sup> A/55/1024, para. 43; see also A/56/863, para. 55.

<sup>92</sup> A/56/863, paras. 9-10 and 52-53.

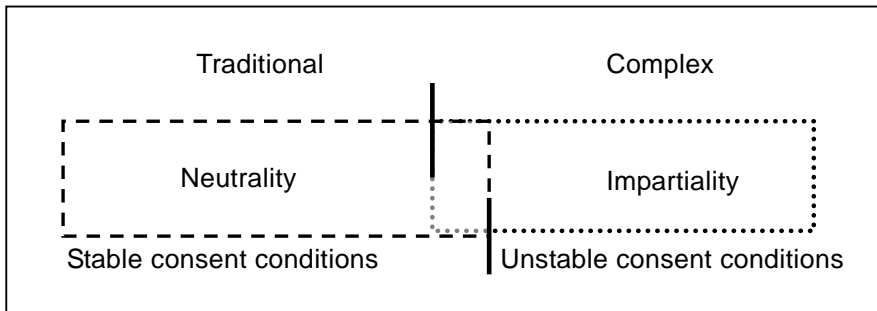
<sup>93</sup> A/57/767, paras. 9-10 and 46-49; A/58/19, paras. 9 and 36-39; A/59/19, paras. 9 and 30.

<sup>94</sup> Of course, the opinions of Member States regarding this point are not monolithic. For example, the hearings held in Africa and Europe regarding the Brahimi Report registered much stronger support for robust mandates based on impartiality than the ones in Latin America or Asia. Moreover, there were reports of participants within the same region voicing different opinions—in the Asia hearings, for example, support for application of impartiality was countered by one participant who argued that such action could instead lead to further conflict. As these meetings were attended not just by government officials but also representatives of nongovernmental organizations, researchers, and staff members of international and regional organizations, the tenor of opinions expressed at a particular hearing did not necessarily reflect the views of governments in that region. At the very least, however, it was possible to recognize that there exists a diversity of views regarding this issue in every country and region. International Peace Academy/Center on International Cooperation, *Refashioning the Dialogue*, pp. 5 and 21.

<sup>95</sup> A/55/502, para. 7(e).

clarify a shared assumption that may have been buried in making that distinction. In other words, the assertion that complex peacekeeping should possess more robust capabilities based on impartiality is only because there is a need to suppress parties that may be seeking to politically manipulate the agreement, and does not mean that peacekeeping should take on the role of unilateral military intervention. To put it another way, there are two types of consent: the kind of consent on which a peacekeeping mission may from the start be reliant; or another for whose maintenance deterrent military force is needed (see Figure).

Figure Distinction between neutrality and impartiality in peacekeeping



Note: Since there is a margin in which neutrality can be applied even to complex peacekeeping operations in stable consent conditions, we can expect some degree of overlap between the traditional-complex and neutrality-impartiality distinctions.

The second point of interest is the political background against which Annan made this explanation. If this kind of concern about turning “the United Nations into a war-fighting machine” did not exist among the UN Member States, there would be no point in putting this note at the very beginning of the report on implementation of the Brahimi Report. This concern can easily be seen in the statements seen above made in the Special Committee in 2001, and later about the need to return to the three traditional principles. For Annan, in other words, the statement was meant to dust off their concerns to gain support for the principle of impartiality as a characteristic of the use of force in complex peacekeeping.<sup>96</sup>

We can surmise the persistence of this gap on the impartial use of force from the Secretary-General’s report of January 2004, in which Annan again raised the issue. He stated that the success of peacekeeping operations in the “particularly threatening” environments of today must depend on a “shared understanding of the need for a robust force, deployed and configured not only to be able to use force, but also to keep the initiative and, if challenged, to defend itself and its mandate.” He then listed the following questions that the Security Council,

<sup>96</sup> That Secretary-General Annan has long supported the impartial use of force can be seen from a speech that he made in January 1999 at the US-based Council on Foreign Relations. In that speech, Annan said that the aggressor is more likely than the victim to benefit from isolation and abandonment by the international community, and then added, “Impartiality does not—and must not—mean neutrality in the face of evil: it means strict and unbiased adherence to the principles of the Charter—nothing more, nothing less.” Kofi Annan, “Podium: Impartiality Does Not Mean Neutrality,” *Independent*, January 22, 1999.

Member States, and the Secretariat must answer:

Are UN member states able and willing to provide the personnel and other resources required for Peacekeeping Operations?

How well can the UN respond to the present surge in demand for Peacekeeping Operations?

Should organizations other than the UN take responsibility for “robust” military Peacekeeping Operations?

Will countries contributing Peacekeeping Operation troops be able to provide troops in challenging environments that may include the possible use of force?

Do member states plan to directly provide the UN with rapid response capability?<sup>97</sup>

It is important to notice that most of these questions are actually aimed at Member States. In the background to Annan’s raising of this issue probably lay the recognition that while the UN Secretariat was moving ahead with peacekeeping reform, the pace of the reform had become stalled. He had thus concluded that the time had come to confront the issue head on. A more direct reason was that the bombing attack on the UN offices in Baghdad on August 22, 2003 had increased the sense of crisis in the Secretariat regarding the extent that UN personnel were being exposed to life-threatening risks in the field.<sup>98</sup> In any case, what is clearly spelled out here is that even today there does not exist a shared understanding regarding the idea of the impartial use of force in complex peacekeeping operations. In fact, as we have already seen, the Special Committee on Peacekeeping Operations again avoided the issues raised by Annan at a meeting held just three months after the release of the report (in April 2004), preferring instead to repeat the idea that consent of the parties, neutrality, and the non-use of force except in self-defence is “essential” to the success of PKOs, and that peacekeeping should not be used as a substitute for addressing the root causes of conflict.<sup>99</sup>

As can be seen from the above, while a consensus is emerging regarding the traditional-complex distinction that is being institutionalized through peacekeeping reform, it is also a reality that a gap exists between Member States and the UN Secretariat regarding the need for a robust response by peacekeepers and the idea of impartiality as the basis for such a response. In the conclusion, I will return to this point. But before that, I want to examine peacekeeping missions that were newly established or re-organized in the period when this debate was unfolding.

## B. Peacekeeping Operations after the Brahimi Report

As explained at the outset of this article, peacekeeping is not so much a concept later translated into action as a concept that was formulated through experience. In this sense, when we

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<sup>97</sup> A/58/694, paras. 4-6.

<sup>98</sup> A/58/694, paras. 7-11; see also Report of the Independent Panel on the Security and Safety of UN Personnel in Iraq (October 20, 2003).

<sup>99</sup> A/58/19, paras. 36-39.

examine how the concept of peacekeeping as formulated in the Brahimi Report has been received, it is not enough to merely address the debates that have occurred in the United Nations and elsewhere. I will therefore look at eight peacekeeping operations that were either newly organized or extensively re-organized in the period after the release of the report, to see how their mandates understand the concept of peacekeeping, in particular how they relate to the concept as proposed in the report.<sup>100</sup>

The first one that should be taken up in relation to the Brahimi Report is the expansion of the UN Mission in Sierra Leone (UNAMSIL) mandate, which was debated over a period that straddled its publication (August 21, 2000).

UNAMSIL was established in October 1999, to support implementation of the Lomé Peace Agreement signed in July 1999 that ended the civil war between the Sierra Leone government and the Revolutionary United Front (RUF).<sup>101</sup> Although the Security Council expanded the mandate in February 2000,<sup>102</sup> UNAMSIL units proved unable to mount an effective response to a series of attacks against them by the RUF in early May of that year,<sup>103</sup> and the Security

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<sup>100</sup> Peacekeeping missions active at the time of writing that did not undergo any major changes in mandate after the publication of the Brahimi Report include UNTSO, UNMOGIP, the UN Peacekeeping Force in Cyprus (UNIFCYP), the UN Disengagement Observer Force (UNDOF), the UN Interim Force in Lebanon (UNIFIL), the UN Mission for the Referendum in Western Sahara (MINURSO), the UN Observer Mission in Georgia (UNOMIG), the UN Interim Administration in Kosovo (UNMIK), and the UN Mission in Ethiopia and Eritrea (UNMEE). The majority of these have been active for long periods, and are traditional operations mainly assigned with the tasks of monitoring ceasefires or disengagement of forces. MINURSO has the additional task of overseeing a referendum on the country's future status. UNMIK differs fundamentally from the others, having been placed in provisional control of Kosovo and also charged with a mission, in cooperation with other regional institutions, to accomplish four pillars: 1) humanitarian assistance; 2) civil administration; 3) democratization and institution building; and 4) reconstruction and economic development (the first pillar was completed in June 2000 and replaced by a new pillar of police and justice). OSCE is responsible for 3) and the EU for 4), with NATO in charge of the military component (Kosovo Force, or KFOR). For the major mandates of each of these missions, see SCR 50 (May 29, 1948, UNTSO); SCR 47 (April 21, 1948), Agreement between Military Representatives of India and Pakistan regarding the Establishment of a Cease-fire Line in the State of Jammu and Kashmir (July 29, 1949, UNMOGIP); SCR 186 (March 4, 1964, UNIFCYP); SCR 350 (May 31, 1974, UNDOF); SCR 425 (March 19, 1978, UNIFIL); SCR 690 (April 29, 1991, MINURSO); SCR 937 (July 21, 1994, UNOMIG); SCRs 1312 (July 31, 2000), 1320 (September 15, 2000), 1430 (August 14, 2002, UNMEE); and SCR 1244 (June 10, 1999, UNMIK).

<sup>101</sup> Preceding UNAMSIL was the small-scale UN Observer Mission in Sierra Leone (UNOMSIL). ECOWAS had also sent the ECOWAS Military Observer Group (ECOMOG). With the establishment of UNAMSIL, the earlier UNOMSIL was absorbed into it, while ECOMOG was withdrawn in stages from January to May 2000 (with parts merged into UNAMSIL). SCR 1181 (July 13, 1998), para. 6; Findlay, *The Use of Force in UN Peace Operations*, pp. 297-299.

<sup>102</sup> While cooperation in implementation of the peace agreement, disarmament assistance, ceasefire monitoring, confidence-building, facilitating delivery of aid materials, and electoral assistance were included in the initial mandate (SCR 1270, para. 8), other tasks added later included security for key locations and government buildings, maintenance of the freedom of movement of people, goods, and humanitarian assistance at designated intersections, security for disarmament-related sites, support for law enforcement authorities, and control and disposal of weapons collected during disarmament (SCR 1289, February 7, 2000, para. 10).

<sup>103</sup> On the day of departure for the last ECOMOG unit (May 2), and as UNAMSIL was expanding its deployment area, the RUF moved to capture UNAMSIL troops and stage attacks against UNAMSIL units in many locations, and also launched an advance on the capital of Freetown. In response to a request from the Secretary-General, the British dispatched a rapid deployment "Joint Force" beginning on May 9. After that, the situation subsided and came steadily under control. Findlay, *The Use of Force in UN Peace Operations*, pp. 299-304.



Council responded by declaring its intention to further strengthen the mandate. The declaration in Resolution 1313 (August 4, 2000) called for a mandate to: maintain security in the Lungi and Freetown peninsulas, and their major approach routes; “to deter and, where necessary, decisively counter the threat of RUF attack by responding robustly to any hostile actions or threat of imminent and direct use of force;” to deploy at main population centers and at key strategic locations; to support the new government in the reconstruction of the state (expand areas of control, extend law and order, and stabilize the situation); to protect civilians under threat; to patrol the main access routes; and to assist in promoting the political process toward DDR<sup>104</sup>.

What deserves attention in this new mandate is the robustness of the use of force and the wide range of authorized activities. Since its establishment, UNAMSIL had been given freedom of movement in executing its tasks, and had been allowed to use force in ensuring the security and protection of non-combatants.<sup>105</sup> Under the new mandate, however, the authorization to use force was designed not just for the protection of civilians or control of key strategic locations, but also for responding to attacks from the anti-government forces (RUF)—moreover, this mandate was not limited to attacks already in progress, but also envisioned attacks that had not yet occurred. In addition, the designation of the RUF by name represented a clear departure from neutrality. We can also see that the tasks assigned moved beyond the confidence-building and election support measures of previous mandates to reach comprehensive assistance to the new government’s activities. Overall, the new UNAMSIL can be viewed as faithfully reflecting the complex peacekeeping model proposed in the Brahimi Report.<sup>106</sup>

It is also notable that Resolution 1313 did not constitute a decision regarding these tasks, cautiously stopping at “*Expresses its intention*” to strengthen the UNAMSIL mandate regarding these tasks.<sup>107</sup> What this means becomes clear in the next section of the resolution, which emphasizes that implementation of the strengthened mandate is dependent on Member States providing UNAMSIL with the necessary resources.<sup>108</sup> In other words, it steers away from first deciding on a mandate and then calling on Member States to provide the necessary troops and equipment, and moves toward first proposing the requirements of a new mandate,

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<sup>104</sup> SCR 1313 (August 4, 2000), para. 3; Sixth Report of the Secretary-General on the United Nations Mission in Sierra Leone (S/2000/832, August 24, 2000), para. 4. The Secretary-General’s report also touches on the possibility of UNAMSIL providing support for the newly established Special Court for Sierra Leone (para. 5).

<sup>105</sup> SCR 1270, para. 14; SCR 1289, para. 10.

<sup>106</sup> The UNAMSIL mandate later went through two more stages of change. To facilitate operations related to elections, Resolution 1389 (January 16, 2002) authorized UNAMSIL to support the preparation and operation of elections, to ensure the free movement of people, goods, and humanitarian assistance; and to provide security during the election periods, in which context the resolution also authorized the operation to take “necessary action” in performing these tasks. It also added tasks for UNAMSIL’s civilian police component to support the Sierra Leone police in carrying out election-related responsibilities, and authorized an increase in personnel for that purpose. In 2004, the Security Council decided to reduce the scale of UNAMSIL and refocused its range of tasks mainly to monitoring, but then specifically authorized UNAMSIL to take “all necessary means to carry out its mandate within its capabilities and its areas of deployment.” SCR 1389, paras. 1-3; SCR 1537 (March 30, 2004), para. 5; SCR 1562 (September 17, 2004), paras. 2-3 (quotes from para. 3).

<sup>107</sup> Para. 3

<sup>108</sup> SCR 1313, paras. 4 and 6.

and then making sure that proper resources will be forthcoming before finally confirming the mandate—a process which mirrors one of the prescient recommendations of the Brahimi Report.<sup>109</sup> In line with this thinking, in the Secretary-General’s report of August 24 (just three days after the release of the report),<sup>110</sup> Annan lays out a detailed concept of operations for achieving the new mandate. While taking into account the state of progress in force generation as of March 2001,<sup>111</sup> the Security Council practically confirmed Annan’s concept when it adopted Resolution 1346 (March 30, 2001) (“... encourages the Secretary-General to proceed to its completion”).<sup>112</sup>

As a result, in the content of its mandate and the process in which it was implemented, the expanded UNAMSIL can be seen as having a close relationship with the report’s recommendations. In fact, the Secretary-General himself admitted that the report had influenced the UN response to Sierra Leone. At the conclusion of the Secretary-General’s report released three days after the report’s publication, Annan specifically referred to it in arguing that the course taken by the Security Council, Member States, and the Secretariat in regard to the Sierra Leone situation represented “an important first test of our joint responsibility to implement the practical recommendations made by the Panel.”<sup>113</sup>

The other peacekeeping operations established or re-organized after the case of UNAMSIL do not have as many clear traces of the Brahimi Report’s recommendations. As we have already seen, and should reiterate again, what is most important in considering the shape of a mission is the local situation and its specific needs. Nevertheless, there are still a number of commonalities that can be seen in the PKOs of 2000 and later. Here follows a short summary of those mandates.

The UN Mission of Support in East Timor (UNMISSET) was established to follow up the UN Transitional Administration in East Timor (UNTAET) that had existed until the independence of East Timor (May 20, 2002), for the purpose of assisting nation-building in that country after its independence. Assisting with administration, providing interim security and law enforcement functions, and ensuring external and internal security<sup>114</sup> were the main activities of UNMISSET,<sup>115</sup> and it was authorized from the beginning under Chapter 7 to take

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<sup>109</sup> A/55/305-S/2000/809, para. 60. A similar method was used for the establishment of MONUC. In other words, Resolution 1279 (November 30, 1999) merely proposed the MONUC mandate and types of personnel without specifying the resource requirements (paras. 4-5). But since the establishment of the mission itself had been mandated by the Security Council, the Secretary-General proposed a specific mission size based on that decision, and commenced negotiations with Member States who could provide personnel. A later Security Council resolution then formalized the mission size (upper limit of 5,537 troops). Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of Congo (S/2000/30, January 17, 2000), paras. 60-65; SCR 1291 (February 24, 2000), paras. 4-5.

<sup>110</sup> S/2000/832.

<sup>111</sup> Ninth Report of the Secretary-General on the United Nations Mission in Sierra Leone (S/2001/228, March 14, 2001).

<sup>112</sup> Para. 3. While the original concept included a plan to increase the military component from 13,000 to 20,500 troops, the eventual level determined in March 2001 was 17,500. S/2000/832, para. 31; S/2001/228, para. 65; SCR 1346, para. 2.

<sup>113</sup> S/2000/832, para. 56.

<sup>114</sup> Within this framework, the details of this mandate have been revised. See, e.g., SCR 1473 (April 4, 2003), para. 1; SCR 1543 (May 14, 2004), para. 3.

<sup>115</sup> SCR 1410 (May 17, 2002), para. 2.

“the necessary actions...to fulfill its mandate”.<sup>116</sup>

In 2003, new missions for Liberia and Ivory Coast were organized, while an already existing mission in the Democratic Republic of the Congo had its mandate substantially changed in response to a new situation. First, the UN Mission in Liberia (UNMIL) was established under Chapter 7 in response to a ceasefire (July 17, 2003) and a peace agreement (August 18) in the Liberian civil war. Its tasks covered a broad range, including support for the implementation of the ceasefire agreement (including ceasefire monitoring, DDR, and protection of key government installations and infrastructure); protection of UN personnel, facilities, and non-combatants; support for humanitarian and human rights assistance (including provision of the necessary security for such activities); reform of the security sector (support for the establishment of new police and military institutions); and support for implementation of the peace agreement (establishment of administrative and judicial institutions, and support for preparation of national elections).<sup>117</sup> While ECOMIL,<sup>118</sup> the multinational force that existed for a short period (in August and September) before the arrival of UNMIL, had some overlapping tasks (DDR, maintenance of security, and support for humanitarian assistance, etc.),<sup>119</sup> UNMIL was also entrusted with additional tasks required for nation-building. On the other hand, the rules for the use of force at UNMIL were slightly more restrictive than for ECOMIL. ECOMIL was a force established by ECOWAS to stabilize a situation that was threatening to return to civil war after one of the anti-government forces (Liberians United for Reconciliation and Democracy) had broken the ceasefire agreement,<sup>120</sup> and the use of force to execute its tasks was clearly authorized<sup>121</sup>. UNMIL, as the follow-on mission to ECOMIL, was also defined as a stabilization force,<sup>122</sup> and was authorized to take action under Chapter 7. To borrow the words of the Secretary-General, in the background to this thinking lay recognition of the need for “a robust approach” that will “have the capacity to react adequately to changing circumstances and pre-empt potentially destabilizing events.”<sup>123</sup> For ECOMIL, however, the mandate did not go as far as to authorize the use of force to implement the mandate. For example, the responsibility for the protection of UN personnel, facilities, and non-combatants was explained as follows:

- (i) to protect United Nations personnel, facilities, installations and equipment, ensure the security and freedom of movement of its personnel and, *without prejudice to the efforts of*

<sup>116</sup> SCR 1410, para. 6. This authorization was also given to UNTAET. SCR 1272 (October 25, 1999), para. 4.

<sup>117</sup> SCR 1509 (September 19, 2003), para. 3. Later, the Security Council banned the sale of arms to the government led by President Charles Taylor, and also banned the transit of government officials, as well as the export of diamonds and timber products, and called on UNMIL to support the activities of the Committee and the Panel of Experts established to monitor the sanctions. SCR 1521 (December 22, 2003), para. 23.

<sup>118</sup> Report of the Secretary-General to the Security Council on Liberia (S/2003/875, September 11, 2003), paras. 10-12.

<sup>119</sup> SCR 1497 (August 1, 2003), para. 1.

<sup>120</sup> S/2003/875, paras. 9-10.

<sup>121</sup> SCR 1497, para. 5.

<sup>122</sup> SCR 1509, para.1; SCR 1497, paras. 1-2.

<sup>123</sup> S/2003/875, para. 57.

*the government, to protect civilians under imminent threat of physical violence, within its capabilities...*<sup>124</sup>

Here, what is of interest is the two restrictions placed on the task of protection—“within its capabilities,” a physical restriction, and “without prejudice to the efforts of the (new) government,” a political restriction. Where the first restriction is in relation to the protection of both UN personnel and of non-combatants, the second restriction is related only to the protection of local civilians. In other words, the restriction of “without prejudice to the efforts of the (new) government” *does not apply to the protection of UN personnel and facilities*. As long as ensuring the safety of UN personnel and facilities and their free movement is considered in itself to be an essential condition for the successful execution of the mandated tasks, these two formulations may be seen as complementary. However, the demand that protection of non-combatants exposed to physical violence be “without prejudice to the efforts of the local government” can be viewed as being based on a realistic consideration to avoid hindering the establishment of sovereignty by the government that has just been set up. But these constraints notwithstanding, the UNMIL mandate is endowed with a robust authorization over a wide range of activities.

The UN Operation in Côte d’Ivoire (UNOCI) was established as a follow-on force to the ECOWAS Mission in Côte d’Ivoire (ECOMICI) and the UN Mission in Côte d’Ivoire (MINUCI), a smaller political mission. UNOCI was created in response to the signing of a peace agreement (January 24, 2003) and the establishment of the Government of National Reconciliation (April 3).<sup>125</sup> As was the case with UNMIL, its tasks covered a broad range, including: monitoring a ceasefire agreement (signed on May 3), movements of armed groups, and the national border; DDR; protection of UN personnel, institutions, and civilians,<sup>126</sup> security for ministers of the Government of National Reconciliation, and security for the free movement of people and (humanitarian) materials; support for the peace process; protection of human rights; public information; and support for security and for establishing the authority of the judiciary and the rule of law.<sup>127</sup> All these tasks were adopted under Chapter 7 of the UN Charter and, unlike UNMIL, the mission was authorized to use “all necessary means” to carry out its mandate “within its capabilities and its areas of deployment.”<sup>128</sup> Furthermore, and this is a point of particular interest, the French forces that were deployed at the same time<sup>129</sup> were

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<sup>124</sup> SCR 1509, para. 3. Emphasis added.

<sup>125</sup> SCR 1528 (February 27, 2004).

<sup>126</sup> Protection of non-combatants was tasked “without prejudice to the responsibility of the Government of National Reconciliation,” virtually the same wording as was used for UNMIL. SCR 1528, para. 6(i).

<sup>127</sup> SCR 1528, para. 6. See also Report of the Secretary-General on the United Nations Mission in Côte d’Ivoire (S/2004/3, January 6, 2004), paras. 60-82. In addition, in regards to implementation of a ban on arms sales as part of sanctions imposed in 2004 in response to air strikes conducted by the Ivory Coast Air Force, the Security Council authorized UNOCI and French forces to use spot inspections to monitor the ban. SCR 1572 (November 15, 2004), para. 7; SCR 1584 (February 1, 2005), para. 2.

<sup>128</sup> SCR 1528, para. 8.

<sup>129</sup> These forces (Operation Licorne) had been dispatched based on a bilateral agreement between France and Ivory Coast (in October 2002). As with ECOMICI (its deployment had been decided at the ECOWAS Summit of September 2002, but actual deployment did not begin until January of the following year), its task was mainly to monitor the ceasefire agreement, to maintain security in the region around the ceasefire line, and to

also allowed to use force in support of UNOCI—specifically, to contribute to general security, to intervene at the request of UNOCI when security was threatened, to intervene against belligerent actions outside the areas controlled by UNOCI, and to protect non-combatants.<sup>130</sup>

Monitoring implementation of a ceasefire agreement (the Lusaka Ceasefire Agreement, July 1999)<sup>131</sup> was the initial reason for the establishment of the Mission de l'Organisation des Nations Unies en la République Démocratique du Congo (MONUC).<sup>132</sup> Later, however, the security situation deteriorated<sup>133</sup> so that, in February 2000, the Security Council sharply boosted the number of troops for MONUC<sup>134</sup> and expanded its mandate to: monitor the ceasefire; maintain contact with the various armed forces; develop an action plan for implementing the ceasefire agreement centered on DDR; release prisoners of war; supervise and verify disarmament; monitor compliance with ceasefire provisions regarding ammunition and other war-related material; monitor human rights; promote a national dialogue; and support mine removal activities.<sup>135</sup> Later, Resolution 1355 (June 15, 2001) added to the mandate the creation of a civilian police component and of a department to coordinate DDR activities, as well as support for DDR activities.<sup>136</sup> Moreover, regarding the use of force, the Security Council in its reorganization of the mandate in February 2000 authorized MONUC to take “necessary action in the areas of deployment of its infantry battalions and, as it deems it within its capabilities”<sup>137</sup> under Chapter 7, to protect UN-related personnel, facilities, and equipment, to ensure freedom of movement, and to protect non-combatants under threat of physical violence. However, since various armed groups and military units from neighboring countries remained active and instability continued with repeated armed clashes,<sup>138</sup> the Security Council reconfirmed that MONUC was authorized to use force to protect the safety and movement of UN-related personnel, and to protect non-combatants under the “imminent threat of physical violence.”<sup>139</sup>

In early May 2003, an armed clash broke out in the Ituri District in the northeast between the Hema and Lendu tribes (Rwanda and Uganda were believed to be behind the clashes). The Security Council called for the deployment of the French-led Interim Emergency

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protect humanitarian assistance activities. S/2004/3, paras. 48-53; SCR 1464 (February 4, 2003).

<sup>130</sup> SCR 1528, para. 16.

<sup>131</sup> Based on the Lusaka Agreement, a number of agreements for troop withdrawal and disarmament were later signed (April 8, November 27, and December 6, 2000), while Rwanda (June 30, 2002) and Uganda (September 6) both signed agreements to withdraw their forces from Congo. Later, the various armed groups agreed on December 17, 2002 and March 6, 2003 to a process toward the establishment of a transition government. The transition government was formally launched on June 30.

<sup>132</sup> SCR 1279, para. 5.

<sup>133</sup> During this period, clashes were reported in the northwest between the Movement for the Liberation of the Congo (MLC) and the government army, as well as armed activities in the east by the former Rwandan government forces, Hutu militias (the Interahamwe), Burundian rebels, and various local Congolese armed groups (the Mai-Mai). S/2000/30, paras. 9-13.

<sup>134</sup> SCR 1291, para. 4.

<sup>135</sup> SCR 1291, para. 7.

<sup>136</sup> SCR 1355, paras. 31-32.

<sup>137</sup> SCR 1291, para. 8.

<sup>138</sup> See SCRs 1304 (June 16, 2000), 1341 (February 22, 2001), 1355, 1376 (November 9, 2001), 1399 (March 19, 2002), 1417 (June 14, 2002), 1445 (December 4, 2002), 1468 (March 20, 2003).

<sup>139</sup> SCR 1417, para. 7.

Multinational Force (IEMF) for the limited period until September 1, and authorized it to take “all necessary measures” to complete its tasks, including: to contribute to the stabilization of security conditions in Bunia, the main city in the northeastern region, and to improve the humanitarian situation there; to protect the Bunia airport and camps of internally displaced persons; and to contribute to the safety of refugees, UN personnel, and humanitarian aid personnel.<sup>140</sup> Later, with the establishment of a transition government (June 30) and withdrawal of the IEMF, the mandate for MONUC was again expanded to provide assistance to the transition government in the areas of security sector reform and preparation for elections. At the same time MONUC was authorized to use “necessary measures” to: protect UN personnel, facilities, and installations; ensure the security and freedom of movement of UN personnel (particularly people engaged in monitoring and DDR activities); protect civilians exposed to threats of violence; and ensure the security conditions required for humanitarian assistance.<sup>141</sup> Meanwhile, the Security Council decided to impose an arms embargo since the flow of weapons via neighboring countries was threatening to make the conflicts worse,<sup>142</sup> and then authorized an additional task for MONUC to seize or collect any weapons viewed as being in violation of the embargo.<sup>143</sup> So where the MONUC mandate had initially been limited to a traditional mandate of monitoring the military situation, the Security Council had steadily expanded its scope of operation to encompass a diversity of tasks in the military and civilian areas.<sup>144</sup> Moreover, in the course of this process, the use of force was repeatedly authorized to ensure the execution of the mandate and to implement its protection duties.

In 2004, two new missions were established. The UN Stabilization Mission in Haiti (MINUSTAH) was created to deal with the unstable Haiti situation after armed conflict instigated by an anti-government faction broke out in early February. Haitian President Jean-Bertrand Aristide fled the country on February 29, and the president of the interim government, Boniface Alexandre, submitted a request to the UN to send troops to assist in stabilization of the country. Based on this request,<sup>145</sup> the US-led Multinational Interim Force was first deployed to Haiti. MINUSTAH was established as a follow-on mission by Resolution 1542 (April 30, 2004). Its broad mandate included: maintenance of public safety (including reform of and support for the national police, DDR, and protection of UN personnel, facilities, and non-combatants);<sup>146</sup> support for promotion of the democratic process (including election support); promotion and monitoring of respect for human rights; support for the investigation of human rights and humanitarian infringements, and for reform of the judicial system; and

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<sup>140</sup> SCR 1484 (May 30, 2003), paras. 1 and 4.

<sup>141</sup> SCR 1493 (July 28, 2003), paras. 5 and 25-26.

<sup>142</sup> SCR 1493, para. 20.

<sup>143</sup> SCR 1533 (March 12, 2004), para. 4.

<sup>144</sup> Resolution 1565 (October 1, 2004) re-organized the tasks that had been assigned to MONUC through a number of previous resolutions, and also confirmed its cooperative relationship with the newly established UN Operation in Burundi (ONUB). This same resolution also called for MONUC’s strength to be increased by 5,900 personnel (including 341 civilian police personnel).

<sup>145</sup> SCR 1529 (February 29, 2004).

<sup>146</sup> Protection of UN personnel, facilities, and non-combatants should be “without prejudice to the responsibilities of the Transitional Government and of police authorities,” the same restriction as UNMIL and UNOCI. SCR 1529, para. 7(f).

support for humanitarian activities.<sup>147</sup> Moreover, although there was no clear expression allowing the use of force, the mission was authorized under Chapter 7 and the concept of operations laid out by the Secretary-General envisaged it as operating “under robust rules of engagement with sufficient capacity to be able to deal with threats to the implementation of its mandate.”<sup>148</sup>

Another peacekeeping operation organized in 2004 was in Burundi. Even after a peace agreement was signed (August 28, 2000) and a transitional government established (November 1, 2001), a number of armed groups had refused to accept the ceasefire and continued their anti-government activities. Nevertheless, by the end of 2003 nearly all political and armed groups (with the exception of the Palipehutu-Forces Nationales de Libération) had agreed to sign the ceasefire agreement and participate in the peace process, thus laying the conditions for progress on the basis of the peace agreement.<sup>149</sup> The UN Operation in Burundi (ONUB) was established by Resolution 1545 (May 21, 2004) as a follow-up to AMIB, which had been organized by the African Union in April 2003 (mainly to support the DDR).<sup>150</sup> Its mandate tasked the mission to monitor the ceasefire; establish confidence between the armed groups and carry out the disarmament and demobilization portions of the DDR program; monitor reduction in and reorganization of the government armed forces; monitor the illegal flow of arms; protect humanitarian assistance activities and facilitate the return of refugees; ensure security for holding elections; protect non-combatants; protect UN personnel; and clear mines. The mission was authorized to use “all necessary means” to fulfil these tasks.<sup>151</sup> Furthermore, the resolution called on ONUB to offer the government support and cooperation in such sectors as monitoring the borders; reforming the defense and security forces; electoral activities; judicial reform; human rights protection; extending state authority to the entire country; and DDR.<sup>152</sup>

The most recently established peacekeeping operation is the UN Mission in Sudan (UNMIS), established in January 2005. While there had been an armed stand-off between the government and the anti-government Sudan People’s Liberation Movement/Army (SPLM/A), a Comprehensive Peace Agreement was signed on January 9, 2005 as a result of mediation efforts by the UN and the regional Intergovernmental Authority in Development (IGAD).<sup>153</sup>

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<sup>147</sup> SCR 1542, paras. 7-8; see also Report of the Secretary-General on Haiti (S/2004/300, April 16, 2004), para. 70.

<sup>148</sup> S/2004/300, para. 105. The specific tasks envisioned included maintenance of security in key towns, areas, facilities, and roads, deterrence of violence by armed groups, protection of access to humanitarian infrastructure, disarmament, response to riots and organized violence, protection of UN personnel and non-combatants, and monitoring the security situation.

<sup>149</sup> Report of the Secretary-General on Burundi (S/2004/210, May 16, 2004), paras. 4-18.

<sup>150</sup> In reality, AMIB was envisioned as forming the core of the ONUB military component, while the already active UN Office in Burundi was to form the core of the civilian component. S/2004/210, para. 64.

<sup>151</sup> Para. 5. Here, as well, protection of non-combatants was limited to actions “without prejudice to the responsibility of the transitional Government of Burundi.”

<sup>152</sup> Paras. 6-7.

<sup>153</sup> While this conflict was concentrated mainly in the south, a separate conflict broke out in the western region of Darfur around February 2003, led by the anti-government Justice and Equality Movement (JEM) and Sudan Liberation Army (SLA), after which the local populace were subjected to increasingly severe attacks by armed groups (Janjaweed) apparently backed by the government. JEM and SLA did not participate

UNMIS is a peacekeeping operation established for the purpose of supporting implementation of the Comprehensive Peace Agreement; establishing the necessary security conditions for humanitarian assistance and the return of refugees; supporting mine clearance; and protecting human rights and vulnerable groups.<sup>154</sup> Authorization for the use of force used virtually the same wording as for MONUC, namely, to take “necessary action” under Chapter 7 to protect the safety and freedom of movement of personnel engaged in UN or humanitarian-related activities, as well as of non-combatants under “imminent threat of physical violence.”<sup>155</sup>

There are two points that can be discerned from the above review.

First, actual peacekeeping practice suggests the dominance of complex peacekeeping. All of the missions newly organized after the issuance of the Brahimi Report have mandates that are not limited to military measures to prevent a re-occurrence of conflict, but also include activities over a broad range of civilian sectors for the purpose of peace-building. In addition, missions such as UNAMSIL or MONUC that have undergone major re-organization are having additional new tasks added to their mandates in response to changes in the local situation.

Second, thinking on the use of force has shifted, with impartiality rather than neutrality becoming prevalent. It is important to note that all of the eight missions described above were given authorization to act under Chapter 7 of the UN Charter. There are two specific purposes for this authorized use of force. One is to authorize the use of “all necessary means” to execute the mandated tasks. For UNMISSET, UNOCI, MONUC, and ONUB, this wording is found in the texts of their foundational resolutions, and while the same wording is not used for MINUSTAH, the concept of operations articulated by the Secretary-General can be viewed as having this intent. The other is to ensure the safety and freedom of movement of UN personnel, and protect non-combatants faced with imminent threat to their lives (UNAMSIL, UNMIL, and MONUC). Of course, the idea of UN personnel being allowed to use force in self-defence has long been recognized. However, recent peacekeeping goes beyond this tradition to include assurance of freedom of movement for these personnel in executing their tasks, and of the security of their facilities. In this sense, this type of force is not based on mere self-defense of individual peacekeepers, but rather on the need for proper execution of the mandates. In addition, the use of force for the protection of non-combatants can be viewed as coming directly from the concept of impartiality discussed in the first half of this article, in other words, as a clear reflection of the lessons learned from the failures in the 1990s to respond to many humanitarian crises.

For the period from the release of the Brahimi Report down to the present, complex

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in the Comprehensive Peace Agreement of January 2005. As of the time of writing, the Security Council’s response has been limited to an arms ban, a freeze on financial assets, a travel ban, and a referral to the International Criminal Court, with no prospect in sight for a settlement. SCR 1556 (July 30, 2004), paras. 7-9; SCR 1591 (March 29, 2005), para. 3; SCR 1593 (March 31, 2005), para. 1.

<sup>154</sup> SCR 1590 (March 24, 2005), para. 4; see also Report of the Secretary-General on the Sudan (S/2005/57, January 31, 2005), paras. 28-29.

<sup>155</sup> SCR 1590, para. 16(i). In regards to protection of non-combatants, the resolution followed the wording of the previous examples of UNMIL, UNOCI, and ONUB, limiting the mandate to action that is “without prejudice to the responsibility of the Government of Sudan.”



peacekeeping operations with impartial use of force have indeed been organized. This is partially in accord and partially at variance with the debate that took place during this period, which was examined in the first part of this section. On the one hand, the fact that complex peacekeeping has actually been organized so often encourages its institutionalization as a type of peacekeeping distinguished from the traditional one. But on the other, the fact that the concept of the impartial use of force has been actively incorporated in practice contradicts a persistent gap in perception between UN Member States and the Secretariat on its relevance. In the conclusion, I will examine what this might mean.

## Conclusion<sup>156</sup>

This article aims to describe the current international understanding on what peacekeeping means through an examination of peacekeeping practices since the publication of the Brahimi Report. Turning attention to the concept of peacekeeping in the report, I first distinguished peacekeeping operations in traditional and complex types and articulated neutrality and impartiality as their respective principles on the issue of the use of force by peacekeepers. Since the biggest characteristic in this proposal was the introduction of the concept of impartiality, I analyzed how this concept has been treated in major UN reports starting with *An Agenda for Peace*, and found out that in the background for its introduction were: experiences of peacekeeping missions sent into ongoing civil war situations that showed that conventional standards of action were inadequate for responding to humanitarian crises; and the effects of humanitarianism and human rights that inform the idea of impartiality. Next, I examined the debate centering on the UN, and analyzed how the recommendations in the Brahimi Report were digested. The peacekeeping reforms arising from the report's recommendations on the traditional-complex distinction were institutionalized (such as, for example, through efforts for rapid deployment), and UN Member States consistently expressed support. By contrast, there arose a gap between the UN Secretariat that wanted to establish the impartial use of force, and UN Member States that were placing increased emphasis on the three traditional principles. But a look at the peacekeeping mandates established or re-organized after the time of the report, however, shows that all of them were complex missions that were authorized under Chapter 7 to use force for the execution of their tasks and for the protection of UN-related personnel and civilians at risk. Here, I want to examine what this last point—that the impartial use of force has been extensively practiced and yet met with an ambiguous reception on the part of UN Member States—might mean.

The first question is why has support from Member States remained unclear? I want to return briefly to the point touched upon by Annan in his report of October 2000, that is, the concerns of Member States that peacekeeping missions might be being turned into “war-fighting machines.” This concern is not limited to discussions about UN peacekeeping.

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<sup>156</sup> The conclusions in this section take into account feedback received for a paper presented on October 5, 2004, at a NIDS- Australian Strategic Policy Institute (ASPI) workshop in Canberra. I wish to express appreciation for the participants. Hikaru Yamashita, “Peace Support and Changing Terms of International Involvement” (Paper Presented at the NIDS-ASPI Workshop in Canberra, October 5, 2004).

At the time the United Nations was established, it was envisaged that its members would enter into special agreements to make available the necessary “armed forces, assistance, and facilities” (Article 43) for military action under Chapter 7 (Article 42), while the Security Council was to receive the advice of a Military Staff Committee (Article 47) to draft plans for the application of armed force (Article 46). The fact that all of these provisions for creating something close to an actual “UN Force” failed from the start was not due merely to the start of the Cold War, with its attendant rifts among the permanent members of the Security Council, or various obstructions on a practical level to obtaining such things as equipment, funding, and training; a more fundamental reason was that for sovereign states that hold the monopoly on the means of violence,<sup>157</sup> the existence of a “UN Force” would have constituted a serious challenge to their sovereign status.<sup>158</sup> As a result, despite the existence of rules incorporated right in the UN Charter, from the very start the United Nations lacked the means for a military response to threats against “international peace and security.” In the background lay a natural wariness of allowing entities other than sovereign states to be in permanent possession of standing armies or other instruments of violence.

In this situation, the devices the UN came to utilize when military personnel were needed for various purposes were multinational forces and peacekeeping operations. Multinational forces were formed when some Member States received authorization to act from the Security Council, and the forces acted under the command of their own countries, which meant that these forces do not present challenges to the requirements of state sovereignty. Peacekeeping operations, on the other hand, serve under the command of the Secretary-General (or of his special representative) and, as has been seen with the three traditional principles, are operations characterized by non-coercion and a minimum use of force against parties in a conflict. In terms of the relationship with state sovereignty, this last point can be rephrased to mean that Member States contributed their military personnel to UN peacekeeping *only because of this presumption of non-coercion and a minimum use of force*. From the point of view of Member States, expanding the character of peacekeeping operations to include the possibility of the impartial use of force constituted the collapse of this presumption, and meant that they would be asked to support peacekeeping missions that would have a certain degree of independence in the use of force for the fulfilment of their mandates.

If this is the case, why then have peacekeeping operations in a form challenging to sovereign states been organized in recent years? In the final analysis, the United Nations is an inter-governmental institution consisting of representatives from sovereign states, and it is these same representatives who make the final decision about PKO mandates. If so, then the

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<sup>157</sup> See, e.g., Philip Bobbitt, *The Shield of Achilles: War, Peace and the Course of History* (London: Penguin Books, 2002); Max Weber, “The Profession and Vocation of Politics,” in: *Political Writings*, trans. and ed. Peter Lassman and Ronald Speirs (Cambridge: Cambridge University Press, 1994), pp. 309-369.

<sup>158</sup> The idea of a permanent force that could be used by an international organization existed even before the United Nations’ founding. In creating the UN, however, the five permanent Security Council members assumed that the UN Force concept would encounter various practical and political (national sovereignty) difficulties, and so inserted into the UN Charter a slightly toned down version of rules guiding the creation of a practical UN Force. Norrie MacQueen, *The United Nations since 1945: Peacekeeping and the Cold War* (London and New York, NY: Longman, 1999), p. 10.

Member States should be able to block any changes to peacekeeping mandates in a direction that they do not want. There are at least three reasons why the actual trend has been for the organization one after another of complex peacekeeping operations equipped with robust use-of-force authorization. The first reason is that many of the conflicts requiring intervention are within states rather than between states. In internal conflicts, the governing capability of the state has itself collapsed, and multiple factions are competing for the leadership and form of governance of that state. As a result, when a peacekeeping mission is sent to such a state, the mission must be involved with reconstruction of the state itself, and in that process likely confront resistance or obstruction from some of the warring parties who might be dissatisfied with the course of that reconstruction. As the Brahimi Report pointed out, in such a case there needs to be an option available for the use of force as a deterrent.<sup>159</sup>

Second, one thing that we should be cautious about is that even if establishment of a peacekeeping operation with a robust mandate has been authorized, it may not actually be implemented as mandated. This point has been starkly revealed even in some recent peacekeeping operations, which often lack the capabilities for responding to security situations even though they have been granted enough authorization to deal with them. In this context I might add that there have been cases in recent years where states sent their own units for security stabilization (Sierra Leone), or where multinational forces and peacekeeping operations were operating at the same time (Ivory Coast).<sup>160</sup> Whether it be UNAMSIL or UNOCI, these were peacekeeping operations with authorization under Chapter 7, and their mandates mean that they should have been able to engage in actions required to fulfill their tasks. But in these examples, rather than giving the peacekeeping missions the military capabilities required to execute their mandates on their own, states and multinational forces played the decisive roles in recovering and maintaining security. It is not difficult to see that the stances taken by the states involved in these cases were instigated by the same motivation as those states that had resisted the “impartial use of force”—concern for state sovereignty.

Third, while ideas about state sovereignty have long informed the stance taken by Member States toward peacekeeping, there are signs that those ideas are beginning to change. The traditional concept of state sovereignty consists of monopoly on violence as the supreme authority within a fixed territory (internal supremacy), no subordination to outside authority (external independence), and inseparable linkage of these two. Viewed from this perspective,

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<sup>159</sup> Increased concern in recent years in the UN and elsewhere about risks to the safety of UN personnel has been one factor spurring moves in this area. While the terrorist attack on the UN Assistance Mission in Iraq (UNAMI) that occurred in Baghdad on August 19, 2003, was surely a decisive turning point, the UN General Assembly has been engaged in debate on this issue since the early 1990s, adopting the Convention on the Safety of United Nations and Associated Personnel on December 9, 1994 (see Note 42). Moreover, in October 2004, Secretary-General Annan recommended that the security situation at the Secretariat be strengthened by amalgamating the United Nations’ three existing security offices (Office of Security Coordinator, UN Security and Safety Services, and the security component of the DPKO) into a single new bureau (Directorate of Security) and the personnel numbers increased. A Strengthened and Unified Security Management System for the United Nations (Report of the Secretary-General) (A/59/365, October 11, 2004).

<sup>160</sup> There are other examples in recent years of peacekeeping operations being established as follow-on forces to security units provided by multinational forces or regional organizations (such as East Timor and Liberia). How these peacekeeping operations and multinational forces engage in a “division of labor” is an important issue that is worth examining in the future.

any entity other than a sovereign state that organizes and uses force in an independent form for action has the potential for threatening it. In recent years, however, there have been moves to revise this concept. One is the move to re-interpret state sovereignty not as a right but as a responsibility to the people of that state. Viewed from this perspective, the sovereign state does not hold the right to take action against its people and international society, but rather the reverse, that is, it holds obligations to fulfil responsibilities conferred by the people and international society. Therefore, in cases in which these obligations are not being fulfilled—or in cases where they behave in contravention of these obligations in the form of human rights violations or mistreatment of minority groups—the United Nations and other international or regional entities should shoulder the responsibility to implement these obligations.<sup>161</sup> Another idea is to unbundle the inseparable connection in state sovereignty between internal supremacy and external independence. In other words, in the reconstruction of state functions in the post-conflict period, international society should show respect to residual governing capabilities, while at the same time intervene in areas where governance is inadequate, thus working jointly toward the early establishment of full sovereignty.<sup>162</sup> The common point of these two new theories of sovereignty is that the concept of state sovereignty has become relative, opening the way for the possibility of international intervention.<sup>163</sup> While we could view the frequent use of complex peacekeeping operations as a straightforward reflection of this trend, what I want to emphasize here is the idea that, under these theories, the state monopoly on violence has also become relative. If it is recognized that the classic civil war condition means inability to maintain this monopoly, and that the sovereignty of a state in conflict has become elastic so that international society must “shoulder” a part of its sovereignty, there will be relatively less resistance to the idea of the use of force by peacekeepers to perform this “shouldering” operation.<sup>164</sup>

This phenomenon of a gap between theoretical resistance and practical acceptance on the part of Member States shows that international understanding is in a state of transition with regard to the question of how sovereign states and the international community should act in

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<sup>161</sup> International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001); Michael Ignatieff, “State Failure and Nation-building,” in: *Humanitarian Intervention: Ethical, Legal and Political Dilemmas*, ed. J.L. Holzgrefe and Robert O. Keohane (Cambridge: Cambridge University Press, 2003), pp. 299-321.

<sup>162</sup> Robert O. Keohane, “Political Authority after Intervention: Gradations in Sovereignty,” in: Holzgrefe and Keohane, *Humanitarian Intervention*, pp. 275-298; see also Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton, NJ: Princeton University Press, 1999).

<sup>163</sup> See, e.g., Hikaru Yamashita, “Fighting Terrorism and Fighting Humanitarian Emergencies: Two Approaches to ‘Elastic’ Sovereignty?” *Cambridge Review of International Affairs* 18, no.1 (April 2005), pp. 105-117.

<sup>164</sup> Another possible factor is the character of the Security Council and Special Committee organizations. The Security Council must react to each crisis situation as it comes up, and it is generally led by Western countries that do not necessarily supply many of the personnel for UN peacekeeping operations. By contrast, the Special Committee is set up for hearing the views of TCCs, and it is therefore an easier location for such countries to air concerns about wanting to avoid exposure of their troops to danger. Moreover, many of these TCCs are non-Western countries. In this sense, the cautious stance taken by members of the Special Committee can be viewed as a criticism of Western countries that, while having practical control of decision-making in the Security Council, are not contributing many personnel to peacekeeping missions. Interview at the DPKO (March 1, 2005).

the context of post-conflict reconstruction. While Member States remain basically shackled by the conceptual framework of international politics centered on sovereign states, already there are signs that hint at acceptance of peacekeeping operations that partly exceed this framework, and theoretical ideas underpinning this move are steadily coming forth. The trend since the Brahimi Report for complex peacekeeping with robust use-of-force authorization for the implementation of the mandated tasks and protection of UN personnel and non-combatants demonstrates this state of affairs.