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United Nations Peace Operations: Creating Space for Peace

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U.S. Military Operations

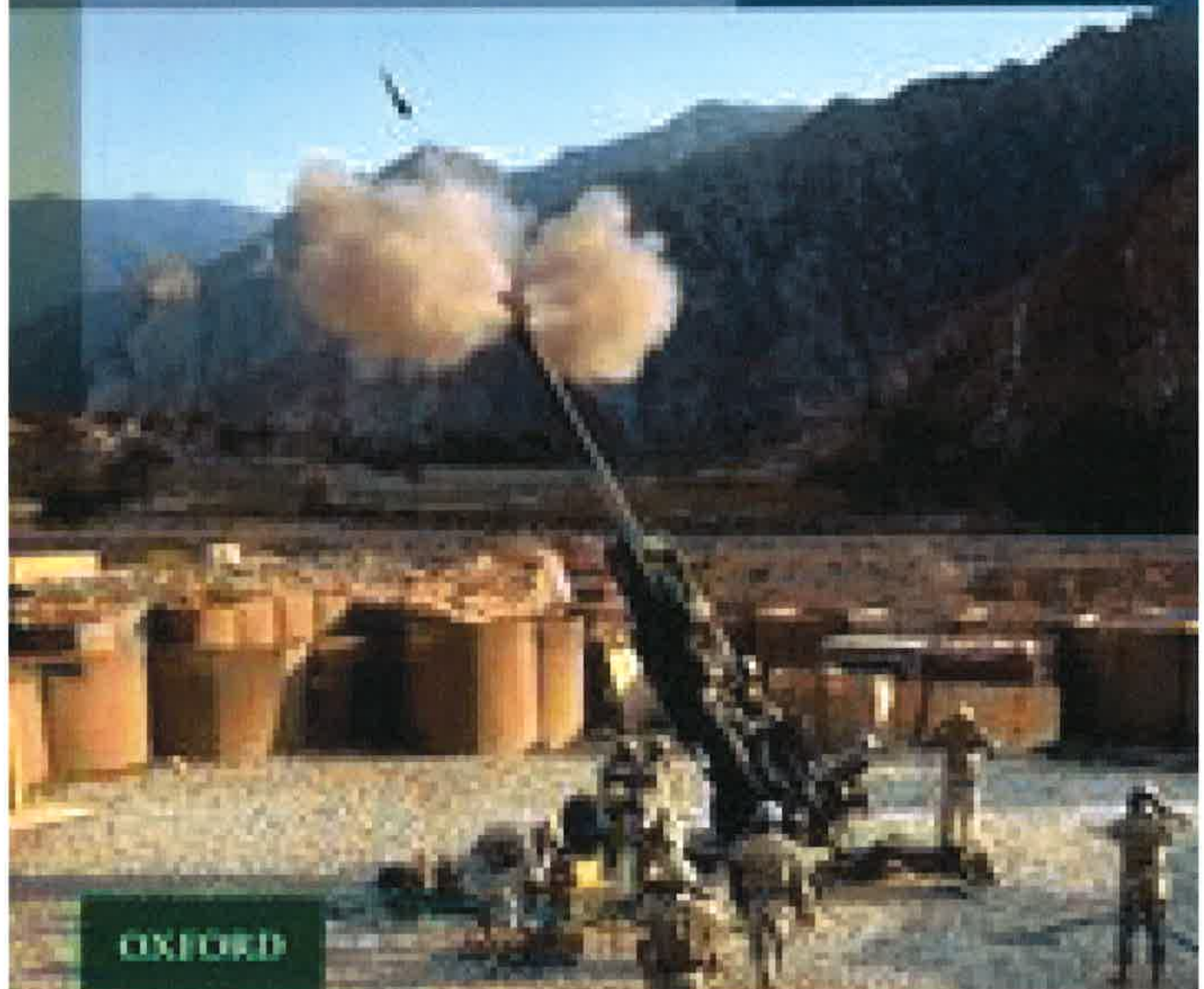
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OXFORD

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United Nations Peace Operations

CREATING SPACE FOR PEACE

Chris Jenks*

*Peacekeeping is not a job for soldiers, but only a soldier can do it.*¹

DAG HAMMARSKJÖLD, SECOND SECRETARY GENERAL OF THE
UNITED NATIONS

I. Introduction

In 2013, a hundred and twenty countries contributed over 118,000 military, police, civilian employees, and contractors² in support of sixteen different United Nations

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¹ Dag Hammarskjöld quoted in U.S. DEP'T OF ARMY, FIELD MANUAL 100-23 PEACE OPERATIONS para. 1 (Dec. 30, 1994). Hammarskjöld is the only U.N. Secretary General to die in office. Hammarskjöld died in a plane crash in 1961 on the way to negotiate a ceasefire in what is now the Democratic Republic of the Congo.

² United Nations Peacekeeping Statistics, <http://www.un.org/en/peacekeeping/resources/statistics/> (follow "Partnerships" hyperlink) (last visited Sept. 11, 2014) [hereinafter Peacekeeping Statistics]. When equipment and funds are factored in, all 193 U.N. member states support U.N. peacekeeping efforts, but to varied degrees. Technically under Article 17 of the U.N. Charter every member state is obligated to pay "their respective share towards peacekeeping" and does so through "a special scale of assessments under a complex formula that Member States have established." Financing Peacekeeping, <http://www.un.org/en/peacekeeping/operations/financing.shtml> (last visited Sept. 11, 2014) [hereinafter Financing Peacekeeping].

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(UN) peace operations missions around the world.³Peacekeepers protected civilians, observed ceasefire compliance, monitored elections, trained military and police, cleared mines, and disarmed, demobilized, and reintegrated armed groups socially and economically into society.⁴Peacekeepers also conducted offensive operations using attack helicopters, artillery, and surveillance drones to neutralize recalcitrant warring factions.

Peace operations are a growth industry: since 2000 there has been a steady increase in the number of troops and equipment from around the world deployed as part of a U.N. peacekeeping mission.⁵The cost of these efforts for peace totaled \$US 7.83 billion in 2013 alone. Of infinitely greater significance, 106 U.N. personnel were killed in 2013 while serving on a U.N. peacekeeping mission.⁶

Despite the number of missions, countries involved, and the cost (both financial and in human lives), not much is known about peace operations. Perhaps this is because for the First World, although peace operations are arguably how the international community endeavors to fulfill the charge of the U.N. Charter “to

³ The current U.N. peacekeeping missions include: United Nations Mission for the Referendum in Western Sahara (MINURSO), United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), United Nations Stabilization Mission in Haiti (MINUSTAH), United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), African Union-United Nations Hybrid Operation in Darfur (UNAMID), United Nations Disengagement Observer Force (UNDOF), United Nations Peacekeeping Force in Cyprus (INFICYP), United Nations Interim Force in Lebanon (UNIFIL), United Nations Interim Security Force for Abyei (UNISFA), United Nations Mission in the Republic of South Sudan (UNMISS), United Nations Operation in Cote d'Ivoire (UNOCI), United Nations Interim Administration Mission in Kosovo (UNMIK), United Nations Mission in Liberia (UNMIL), United Nations Military Observer Group in India and Pakistan (UNMOGIP), and United Nations Truce Supervision Organization (UNTSO). In 2014, the United Nations began its newest peacekeeping mission, United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA). In addition to those peacekeeping missions, the U.N.'s Department of Peace Keeping Operations directs one political mission, the United Nations Assistance Mission in Afghanistan.

⁴ United Nations Peacekeeping Issues, <http://www.un.org/en/peacekeeping/issues/>.

⁵ Peacekeeping Fact Sheet, <http://www.un.org/en/peacekeeping/resources/statistics/factsheet.shtml> (last visited Sept. 11, 2014) [herein after Peacekeeping Fact Sheet]. The logistics in supporting such missions involve 56 aircraft, 12 ships, 144 helicopters, over 34,000 vehicles, 30 hospitals, and 284 medical clinics. Peacekeeping Statistics, *supra* note 2. As referenced in the introduction and discussed later in this chapter, the United Nations also now employs attack helicopters, artillery, and even unmanned aerial systems, or “drones.”

⁶ United Nations Peacekeeping Fatalities by Year, http://www.un.org/en/peacekeeping/fatalities/documents/stats_1.pdf (last visited Sept. 11, 2014). Causes of death range from accident to illness but also malicious actions. And here the term “U.N. personnel” includes military members, military observers, police, international civilians, and local civilians working for the United Nations. In 2013, malicious acts claimed the lives of some thirty-six U.N. personnel, the highest number in over twenty years. Unfortunately 2014 is not looking any better. As of August 31, 2014 the United Nations reported some seventy-one U.N. personnel killed on peacekeeping missions thus far in 2014. And at the very end of August, 2014, the Syrian branch of al Qaeda captured forty-five U.N. peacekeepers in Southern Syria and held them the hostage for almost two weeks before releasing them. U.N. News Centre, *UN: Detained Fijian Peacekeepers in Golan Released in Good Condition*, <http://www.un.org/apps/news/story.asp?NewsID=48687&Cr=Golan&Cr1=#.VBMtuxqYaiI> (last visited Sept. 11, 2014). The sixty-nine peacekeeping missions the United Nations has undertaken since 1948 have claimed the lives of over 3,250 U.N. personnel. Peacekeeping Fact Sheet, *supra* note 5.

[AU: Perhaps update?:

save succeeding generations from the scourge of war,” those wars and associated peace operations occur in the Third World.⁷ And many U.N. peacekeepers are also from Third World countries, limiting the West, for the most part, to fund operations that, but for occasional media coverage, are out of sight and mind. This chapter seeks to alter, however slightly, the information deficit surrounding peace operations. Whether prompted by concern for the increased number of missions and what that suggests about the human condition, or concern about where and how money is being spent, today’s global citizen should know something about U.N. peace operations.

II. U.N. Charter Foundation for Peace Operations

Peace operations “describes a very broad range of peace and security interventions in international conflict management.”⁸ Peace operations are “crisis response and limited contingency operations conducted by a combination of military forces and non military organizations.”⁹ The personnel involved range from military units, to individual military observers, to police, to international and local civilian U.N. workers, to contractors, to volunteers and aid organizations. This chapter follows the common practice of referring to the personnel, including civilian and military, assigned to and participating in any type of U.N. peace operation as peacekeepers.

There are a variety of types of peace operations, including peacekeeping, peace enforcement, peace building, peace making, and conflict prevention. A given mission may involve only one type of peace operation, but more often a mission involves multiple types, sometime occurring sequentially, sometimes in parallel. This chapter begins by explaining the U.N. Charter foundation for two types of peace operations: peacekeeping and peace enforcement. The chapter then explains the historical development of peace operations and their organizational structure. Next the chapter details some challenges in peace operations,

⁷ Terms such as “First World” and “Third World” are defined in a variety of ways. This chapter uses “Third World” to refer to the bottom portion of the United Nations Human Development Index, which includes countries such as Pakistan, Ethiopia, Bangladesh, and Rwanda. United Nations Development Programme, Human Development Index and Its Components, <https://data.undp.org/dataset/Table-1-Human-Development-Index-and-its-components/wxub-qc5k> (last visited Sept. 11, 2014) [hereinafter Human Development Index]. These same countries represent four of the top five troop-contributing countries to U.N. peacekeeping missions. Ranking of Military and Police Contributions to U.N. Operations, <https://data.undp.org/dataset/Table-1-Human-Development-and-its-components/wxub-qc5k> (last visited Sept. 11, 2014) [hereinafter UN Troop-Contributing Countries].

⁸ Corinna Kuhl, *The Evolution of Peace Operations, From Interposition to Integrated Missions*, Remarks at the 31st Roundtable on Current Problems of International Humanitarian Law, International Institute of Humanitarian Law, Sanremo, Italy, 70 (Sept. 4–6, 2008), available at https://www.icrc.org/eng/assets/files/other/sanremo-2008_peace_ops.pdf.

⁹ JOINT CHIEFS OF STAFF, JOINT PUB. 3-073 PEACE OPERATIONS, vii (Oct. 17, 2007) [hereinafter PEACE OPERATIONS].

including identifying the applicable law and accountability for peacekeeper misconduct. The chapter then utilizes the U.N. mission in the Democratic Republic of the Congo (DRC) as a case study to explore both how well the United Nations has implemented lessons learned and the ramifications of a peacekeeping force with a mandate to carry out offensive operations.

The international community established the United Nations on October 24, 1945, by ratifying the United Nations Charter.¹⁰ The United Nation's formation followed two world wars that claimed millions of lives within twenty-five years of each other. Unsuccessful efforts to ensure peace following World War I included the League of Nations,¹¹ an intergovernmental organization designed to maintain world peace, and the Kellog-Briand Pact's idealistic ban on warfare.¹² Although the United Nation's formal establishment was not until the Charter's ratification after the conclusion of World War II, some fifty states signed the Charter in June 1945 when the war with Japan was still ongoing. In fact, China, the Soviet Union, the United Kingdom, and the United States developed the Charter the preceding summer, in 1944, roughly a year before the end of the war with Germany.

Lest there be any doubt as to the role World War I and II, and the international communities inability to prevent them, on the development of the United Nations, the Charter begins with "we the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind . . ."¹³ The stated purpose of the United Nations is "to maintain international peace and security and to that end to take effective collective measures for the prevention and removal of threats . . . [and] for the suppression of acts of aggression."¹⁴

The U.N. Charter vests the U.N. Security Council (UNSC) with primary responsibility for maintaining international peace and security. The Security Council issues resolutions (UNSCR), which serve as the mandate for a peace operation. These resolutions specify, often in general terms, the operations size, length, and objectives.¹⁵ But the United Nations has no dedicated military forces and depends on member countries to contribute troops, equipment, and funds.

¹⁰ United Nations *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, available at <http://www.un.org/en/documents/charter/> (last visited 11 Sept. 2014) [hereinafter U.N. Charter].

¹¹ League of Nations Covenant, available at http://avalon.law.yale.edu/20th_century/leagcov.asp (last visited 11 Sept. 2014). In the preamble, the high contracting parties to the Covenant agreed to accept the obligation not to resort to war.

¹² Under the pact, states agreed to not use war to settle "disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them." Kellog Briand Pact art. II, available at <http://www.yale.edu/lawweb/avalon/imt/kbpact.htm> (last visited Sept. 11, 2014).

¹³ U.N. Charter, *supra* note 10.

¹⁴ *Id.*, art. 1.

¹⁵ Almost by definition, any region where a peace operation is needed is to varying degrees chaotic and confusing. As a result the UNSC resolutions authorizing a peace operation are generally not able to specify size of the force, objectives, and expected length. For example, in 1962 the UNSC issued a resolution authorizing a peacekeeping mission in Cyprus. The resolution left the composition and size of the force to the Secretary-General and stated that the objective of the force should be "in the interest of preserving international peace and security, to use its best efforts to prevent a recurrence of fighting and, as necessary, to contribute to the maintenance and restoration of law

Interestingly the U.N. Charter does not contain a single reference to any type of peace operations. Instead, the Charter authority for peace operations is inferred from Chapter VI for peacekeeping and Chapter VII for peace enforcement. The confusing results include peace operations that may be based on one or the other chapter without referring to either, and peace operations' mandates with aspects of both and the resulting concept of a "Chapter VI and a half" mission.¹⁶ One reason for the lack of clarity in many UNSCR is that the resolutions are the result of a bureaucratic and highly politicized process. The proponents of a resolution lobby for not only what they feel is appropriate language, but language for which there can be sufficient agreement that the resolution passes.¹⁷ Accordingly, strategic ambiguity sometimes plays a role in why UNSCRs often lack explicit reference to Chapter VI or VII.

A. CHAPTER VI AND PEACEKEEPING

Chapter VI of the Charter deals with pacific settlement of disputes and is associated with peacekeeping missions. Chapter VI requires that the parties to a dispute "[s]hall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice."¹⁸ Where the parties have determined a peaceful means, a U.N. peacekeeping mission may then

and order and a return to normal conditions." Finally, the UNSC recommended that "the stationing of the Force shall be for a period of three months." S.C. Res. 186, ¶ 6, U.N. Doc. S/RES/186 (Mar. 4, 1964). As of this writing in 2015, the recommended three-month-long U.N. mission in Cyprus established in 1964 remains ongoing.

¹⁶ For an example of a traditional Chapter VI mission that was not clearly stated as such for some time, consider the United Nations Mission for the Referendum in Western Sahara (MINURSO). The UNSC established MINURSO in 1991, "under its authority" while never specifying the authority. S.C. Res. 690, ¶ 4, U.N. Doc. S/RES/690 (Apr. 29, 1991). The role and mission of MINURSO in monitoring a ceasefire and with the consent of the former warring factions is very much aligned with Chapter VI. Yet it was not until 2003 that the UNSC issued a MINURSO resolution that clearly stated that it was "[a]cting under Chapter VI of the Charter of the United Nations." S.C. Res. 1495, preamble, U.N. Doc. S/RES/1495 (July 31, 2003). Although there have been any number of peace operations thought of as "Chapter VI" missions, it is rare for a UNSCR to identify Chapter VI as a stated basis of authority. Examples of a Chapter VII mission are easier to find and include the most recent U.N. peacekeeping mission in the Central African Republic, MINUSCA. The UNSCR establishing MINUSCA states the UNSC is "acting under Chapter VII of the Charter of the United Nations." S.C. Res. 2149, preamble, U.N. Doc. S/RES/2149 (Apr. 10, 2014). Additionally, UNSCR 2149 authorizes MINUSCA to "take all necessary means to carry out its mandate." *Id.* ¶ 29. For those resolutions, which, unlike 2149, lack a clear reference to Chapter VII, the use of "all necessary means" conveys that the mission is more properly thought of as a Chapter VII mission in which force may be more readily used other than in self-defense.

¹⁷ Security Council decisions on other than procedural issues require affirmative votes by nine of the fifteen members, and the absence of a veto by any of the permanent members (China, France, Russia, the United Kingdom, and the United States). The Security Council is comprised of the five permanent members and ten representatives from other U.N. member states elected for two-year. See UN Charter, *supra* note 10, at art. 27.

¹⁸ U.N. Charter, *supra* note 10, at art. 33.

assist in maintaining that peace. This is done through a UNSCR establishing the peacekeeping mission.¹⁹

Unhelpfully, such a resolution generally does not mention Chapter VI. As the United Nations reminds, “the Security Council need not refer to a specific Chapter of the Charter when passing a resolution authorizing the deployment of a UN peacekeeping operation and has never invoked Chapter VI.”²⁰ For example, in 1993 the United Nations established a U.N. observer mission to verify the ceasefire between the Republic of Georgia and forces in Abkhazia.²¹ Although this is a traditional peacekeeping mission whose authority derives from Chapter VI, the resolution makes no reference to that chapter.

Peacekeeping can and does take a variety of different forms. The United Nations categorizes peacekeeping missions as:

- Observer missions, consisting of unarmed officer observers who monitor the implementation of cease-fire agreements
- Peacekeeping forces, consisting of lightly armed troops generally organized on conventional unit lines and
- Combined observer/force missions²²

More broadly, peacekeeping operations

Consist of military operations undertaken with the consent of all major parties to a dispute, and are designed to monitor and facilitate implementation of an agreement to support diplomatic efforts to reach a long-term political settlement. *Before peacekeeping operations begin, a credible truce or cease fire must be in effect and the parties to the dispute must consent to the operation.* Peacekeeping operations take place following diplomatic negotiation and agreement among the parties to a dispute, the sponsoring organization, and the potential troop-contributing nations.²³

On a traditional peacekeeping mission, peacekeepers may use force only in self-defense, of themselves and designated others. Observer and peacekeeping

¹⁹ Although outside the scope of this chapter, there is a debate as to whether resolutions based on Chapter VI are legally binding. See generally HANS KÖCHLER, *THE CONCEPT OF HUMANITARIAN INTERVENTION IN THE CONTEXT OF MODERN POWER* (2001) (arguing that measures adopted under Chapter VI are nonbinding); but see Rossalyn Higgins, *The Advisory Opinion on Namibia*: Which UN Resolutions Are Binding under Article 25 of the Charter?*, 21 INT'L & COMP. L.Q. 270 (1972) (arguing that under Article 25 of the U.N. Charter, “[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.” Judge Higgins notes that Article 25 is not located in, and does not make any reference to, either Chapter VI or Chapter VII of the U.N. Charters, so member states are obligated to carry out the decisions of the Security Council period, regardless upon which Chapter they are acting).

²⁰ Mandates and the Legal Basis for Peacekeeping, <http://www.un.org/en/peacekeeping/operations/pkmandates.shtml>, (last visited Sept. 11, 2014).

²¹ S.C. Res. 858, U.N. Doc. S/RES/858 (Aug. 24, 1993).

²² United Nations Department of Peacekeeping Operations, United Nations Peacekeeping Training Manual, 15 (undated).

²³ PEACE OPERATIONS, *supra* note 9, at xi (emphasis added).

missions are difficult and risky endeavors performed by lightly armed U.N. personnel in relatively small numbers. The degree of difficulty and risk often depend on how much the reality on the ground corresponds with the definition of when peacekeeping operations are appropriate, notably a credible truce or cease fire and all major parties consenting to the presence and role of the United Nations. When there is not even a transitory peace to keep or consent of the parties, the United Nations turns to peace enforcement. Peace enforcement is a different kind of mission requiring different force size, equipment, and mandate.

B. CHAPTER VII AND PEACE ENFORCEMENT

Chapter VII addresses “action with respect to threats to the peace, breaches of the peace, and acts of aggression.”²⁴ Chapter VII outlines the measures not involving the use of armed force, including “complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.”²⁵ But Chapter VII also provides that if the Security Council considers those measures inadequate, the council “may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.”²⁶

As with peacekeeping, a UNSCR initiates the operation and provides the mandate and objectives. Unlike peacekeeping, the UNSCR for contemporary peace enforcement missions generally *does* make specific reference to the U.N. Charter Chapter upon which the mission is based.²⁷ For example, the 2000 UNSCR expanding the U.N. mission in the DRC states that the United Nations was “[a]cting under Chapter VII of the Charter of the United Nations.”²⁸ Another indication of whether a peace operation falls under Chapter VII is language authorizing the mission to use “all necessary means or measures.” That is the most robust grant of authority the UNSCR can confer, and allows a U.N. mission to use force in situations other than in self-defense.

Peace Enforcement Operations (PEO)

are generally coercive in nature and rely on the threat of or use of force; however, PEO may also be co-optive in nature, relying on the development of working relationships with locals. PEO may include the enforcement of sanctions and exclusion zones, protection of personnel conducting foreign

²⁴ U.N. Charter, *supra* note 10, at Chapter VII.

²⁵ *Id.* at art. 41.

²⁶ *Id.* at art. 42.

²⁷ As challenging as interpreting contemporary UNSCR is, their historical predecessors are even more perplexing. For example, in 1950 the UNSC authorized members states to respond to North Korea's invasion of South Korea, and while finding that North Korea had breached the peace, never mentioned Chapter VII. S.C. Res. 83, U.N. Doc. S/RES/1511 (June 27, 1950).

²⁸ S.C. Res. 1291, ¶ 8 U.N. Doc. S/RES/1291 (Feb. 24, 2000).

humanitarian assistance missions, restoration of order, and forcible separation of belligerent parties or parties to a dispute. However, the impartiality with which the [peace operations] force treats all parties and the nature of its objectives separates PEO from major operations.²⁹

An overarching challenge surrounding peace operations is while the Chapter VI/VII dichotomy is rigid, the operating environment tends to be fluid. Missions can and do morph, peace develops and erodes, and parties change alliances and withdraw previously provided consent. When the United Nations has encountered difficulties in peace operations, more often than not the problems stem from either misidentifying a peace enforcement mission as peacekeeping or failing to timely alter a mission that was at the outset peacekeeping but that has eroded to peace enforcement. As the history of U.N. peace operations demonstrates, there is nothing more damaging to the United Nation's credibility or dangerous to the lives of peacekeepers and civilians alike than calling and resourcing a peace enforcement mission as a peacekeeping operation.³⁰

III. Historical Development of Peace Operations

The United Nation's first experience with peace operations came in 1948 with the United Nations Truce Supervision Organization (UNTSO), an unarmed observer mission initially established in order to supervise a truce between Israel and several Arab countries, and that subsequently supported the implementation of an armistice.³¹

The first armed U.N. peacekeeping force was the United Nations Emergency Force (UNEF), established in 1956 by the first emergency session of the U.N. General Assembly to "secure and supervise the cessation of hostilities, including the withdrawal of the armed forces of France, Israel and the United Kingdom from Egyptian territory and, after the withdrawal, to serve as a buffer between the Egyptian and Israeli forces"³²

²⁹ PEACE OPERATIONS, *supra* note 9, at I-7.

³⁰ Some of the more glaring examples include U.N. efforts in Bosnia and Rwanda. Both are discussed later in this chapter. In each, there was a classic mismatch between reality on the ground and the type and kind of peace operations. The U.N. force, in size, equipment, and mandate, was based on the utterly flawed premise that there was peace to keep; there was not. In both Bosnia and Rwanda, thousands (in the case of Srebrenica) and hundreds of thousands (in the case of Rwanda) died with U.N. peacekeepers already deployed to the respective countries. The size, equipment, and mandate needed to enforce peace is exceedingly different than to keep peace that already exists.

³¹ The Early Years, <http://www.un.org/en/peacekeeping/operations/early.shtml> (last visited Sept. 11, 2014). This first mission, begun in 1948, was followed in early 1949 by the U.N. Military Observer Group in India and Pakistan to supervise the ceasefire between those two countries. Both these missions have continued to present day.

³² UNEF I Mandate, <http://www.un.org/en/peacekeeping/missions/past/unefimandate.html> (last visited Sept. 11, 2014).

Both UNTSO and UNEF are examples of types of peacekeeping, unarmed military observers in UNTSO and an armed U.N. force in UNEF. But in each, the former warring factions had agreed to a ceasefire and to the presence and role of the United Nations. Arguably peacekeeping was the only peace operation the international community could agree on in the early days of the United Nations.

The start of the Cold War not long after the United Nation's founding resulted in the peace enforcement measures envisioned by the Charter being unrealized. Permanent members of the Security Council—the United States, France, Great Britain, China, and Russia—were unable to agree on issues, and each was able to veto any proposed action.³³

Additionally, Chapter VII established a Military Staff Committee to “advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.”³⁴ The committee, consisting of the military Chiefs of Staff of the permanent members of the Security Council, also proved ineffectual.³⁵

The response to the seemingly intractable political problems flowing from the permanent members of the Security Council, according to the second U.N. Secretary-General (UNSG), Dag Hammarskjöld, was an “alternative method of maintaining the peace” that fell under “Chapter VI and a half.”³⁶ This theory was based on Language in Chapters V³⁷ and VII.³⁸

³³ See generally SIMON CHESTERMAN, THOMAS M. FRANCK & DAVID M. MALONE, *LAW AND PRACTICE OF THE UNITED NATIONS DOCUMENTS AND COMMENTARY* (2008) (describing the legal, political, and institutional aspects of U.N. decision-making).

³⁴ U.N. Charter, *supra* note 10, at art. 47.

³⁵ The military staff committee does exist. Military representatives of each of the permanent Security Council members meet in New York every two weeks. But what if anything the committee accomplishes remains unclear. One commentator has labeled the military staff committee “a dead letter from the start.” Council on Foreign Relations, *The Effectiveness of the UN Security Council: Online Debate* (Sept. 29, 2006), available at <http://www.cfr.org/international-organizations-and-alliances/effectiveness-un-security-council/p11520> (quoting Joshua Muravchik of John Hopkins School of Advanced International Studies).

³⁶ See Henry Wiseman, *UN Peacekeeping: An Historical Overview*, in *PEACEKEEPING: APPRAISALS AND PROPOSALS* (Henry Wiseman ed., Pergamon 1983). Wiseman credits Hammarskjöld with developing the term “Chapter VI and a half.” Some contend that Hammarskjöld was simply “referring to the absence of UN Charter references to armed peacekeeping missions rather than [i]nserting combat troops to impose international will on belligerents.” DAVID S. ALBERTS & RICHARD E. HAYES, *COMMAND ARRANGEMENTS FOR PEACE OPERATIONS* (1995). Others are more critical, claiming that “[t]he popular phrase, ‘Chapter VI and a half operation,’ seemingly a cute way to note the clever ambiguity of international diplomacy, was in fact a recipe for disaster in which members of the international community inserted themselves into a conflict situation with the mindset, forces, and posture of a peacemaker.” *Id.* (quoting from Center for Advance Command Concepts Workshop on Combined and Coalition Peace Operations).

³⁷ Chapter V of the U.N. Charter provides that the Security Council “may establish such subsidiary organs as it deems necessary for the performance of its functions.” U.N. Charter, *supra* note 10, at art. 29.

³⁸ Chapter VII states that prior to resorting to enforcement, the Security Council may “call on the parties concerned to comply with such provisional measures as it deems necessary or desirable

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This approach, termed the interposition model, is essentially peacekeeping, meaning that parties to the conflict must consent and cooperate with the UN's involvement.³⁹ And, of course, there must be a peace to keep. Under or through this approach, the majority of the peacekeeping operations the United Nations established during the Cold War were comprised of lightly or even unarmed military observers monitoring ceasefires.⁴⁰

Although never saying "Chapter VI and a half" the United Nations has explained the area between Chapter VI and VII operations as:

In certain volatile situations, the Security Council has given UN peacekeeping operations "robust" mandates authorizing them to "use all necessary means" to deter forceful attempts to disrupt the political process, protect civilians under imminent threat of physical attack, and/or assist the national authorities in maintaining law and order.

Although on the ground they may sometimes appear similar, robust peacekeeping should not be confused with peace enforcement, as envisaged under Chapter VII of the United Nations Charter.

- Robust peacekeeping involves the use of force at the tactical level with the authorization of the Security Council and consent of the host nation and/or the main parties to the conflict.
- By contrast, peace enforcement does not require the consent of the main parties and may involve the use of military force at the strategic or international level, which is normally prohibited for Member States under Article 2(4) of the Charter, unless authorized by the Security Council.⁴¹

Despite the United Nation's inability to keep the peace, its early peacekeeping efforts were largely perceived as successful.⁴² As the Cold War ended in 1989, that

... without prejudice to the rights, claims or position of the parties concerned." U.N. Charter, *supra* note 10, at art. 40.

³⁹ See TREVOR FINDLAY, *THE USE OF FORCE IN UN PEACE OPERATIONS* (2002) (describing interpositional strategy or policy whereby U.N. peacekeepers literally interpose or insert themselves between former warring factions. This creates a much greater likelihood that the peacekeepers will subsequently be able to permissibly use force in self-defense, one of the few bases for doing so when not under Chapter VII or a peace enforcement mission).

⁴⁰ These early peacekeeping operations included deployments to India, Pakistan, Israel, Egypt, the Belgian Congo, Dominican Republic, New Guinea, Yemen, Cyprus, and Lebanon.

⁴¹ Principles of UN Peacekeeping, <http://www.un.org/en/peacekeeping/operations/principles.shtml> (last visited Sept. 11, 2014).

⁴² See 60 Ways the United Nations Makes a Difference, http://www.un.org/wcm/webdav/site/visitors/shared/documents/pdfs/Pub_United%20Nations_60%20ways.pdf (last visited Sept. 11, 2014). Under "Making Peace" the United Nations explains that "since 1945, the U.N. has assisted in negotiating more than 170 peace settlements that have ended regional conflicts. Examples including ending the Iran-Iraq war, facilitating the withdrawal of Soviet troops from Afghanistan and ending the civil wars in El Salvador and Guatemala. The United Nations has used quiet diplomacy to avert imminent wars." *Id.* at 7. Indeed the perception of the efficacy of the first forty years of UN

perception proved problematic as it fostered a belief that peacekeeping could be effective in resolving a widening array of conflicts. Dangerously, this included conflicts where there was no peace to keep, as the conflict was ongoing and the parties to the conflict not only did not cooperate but hindered and even targeted peacekeepers. Horrific U.N. failures in Somalia,⁴³ Bosnia,⁴⁴ and Rwanda⁴⁵ in the 1990s were the price of failing to recognize and align the reality in a conflict area with a corresponding peace operation's size, equipment, and mandate. But those same failures did prompt significant institutional reform in how the United Nations organizes peace operations.

peacekeeping led to the awarding of the Nobel Peace Prize in 1988 to "the peacekeeper." But as the United Nations itself notes, "[t]he general success of earlier missions raised expectations for UN Peacekeeping beyond its capacity to deliver." Post Cold-War Surge, <http://www.un.org/en/peacekeeping/operations/surge.shtml> (last visited Sept. 11, 2014).

⁴³ The United Nations established the first of two Somalia peacekeeping mission in 1992 to "monitor the ceasefire in Mogadishu and escort deliveries of humanitarian supplies to distribution centres in the city." United Nations Operation in Somalia I, <http://www.un.org/en/peacekeeping/missions/past/unosomi.htm> (last visited Sept. 11, 2014). Despite the deployment of over thirty thousand peacekeepers and close to \$1.5 billion in funding, the missions were viewed as unsuccessful. U.N. Sec. Council, *Report of the Secretary-General on the Situation in Somalia*, ¶s 41, 49 S/1995/231 (Mar. 28, 1995). United Nations' peacekeepers suffered one of the worst attacks in U.N. history in Somalia when in 1993 Somalia rebels killed twenty-three Pakistani peacekeepers and wounded some fifty-nine more. Michael R. Gordon, *U.S. Attacks Somalia Clan Chief Support U.N. Peacekeepers*, N.Y. TIMES, June 12, 1993, available at <http://www.nytimes.com/1993/06/12/world/us-attacks-somali-clan-chief-to-support-un-peacekeepers.html?pagewanted=all&src=pm> (last visited Sept. 11, 2014). That attack led to increased U.S. military involvement in Somalia in support of the United Nation's efforts, culminating in the deaths of eighteen U.S. service members in an incident referred to and depicted in the movie by the same name, "Black Hawk Down." Following the U.N. Missions in Somalia, the UNSG commented that there were lessons to be learned about the "theory and practice of multifunctional peacekeeping operations in conditions of civil war and chaos and especially about the clear line that needs to be drawn between peacekeeping and enforcement action". Somalia—UNOSOM II Background, <http://www.un.org/en/peacekeeping/missions/past/unosom2backgr2.html#five> (last visited Sept. 11, 2014). Although that is true, it is not clear how well those lessons have been learned or clear lines drawn in PSOs since Somalia.

⁴⁴ A 1995 attack of a U.N.-designated safe area, Srebrenica, by the Army of Republika Srpska led to the mass murder of some eight thousand Bosniaks. Then U.N. Secretary-General Kofi Annan labeled the attack the worst crime to be committed on European soil since World War II. See Press Release, United Nations, "May We All Learn and Act on the Lessons of Srebrenica", Says Secretary-General, in Message to Anniversary Ceremony, U.N. Doc. SG/SM/9993 (Nov. 7, 2005). The International Court of Justice later ruled the attack constituted genocide. Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), 2007 I.C.J. 43 (Feb. 26).

⁴⁵ The 1994 genocide in Rwanda claimed the lives of roughly a million people. And the massacres occurred with U.N. peacekeepers deployed to Rwanda, albeit far too few. As a UNSC press release accompanying the release of an independent inquiry into U.N. actions in Rwanda stated, "we failed." Press Release, Security Council, Chairman of Independent Inquiry into United Nations Actions during 1994 Rwanda Genocide Presents Report to Security Council Security Council U.N. Doc. SC/6843 (Apr. 14, 2000) and Letter from the Secretary-General to the President of the Security Council, U.N. Doc. S/1999/1257 (Dec. 16, 1999).

IV. Peace Operations Organizational Structure

United Nations Secretary-General Boutros Boutros-Ghali created the Department of Peace Keeping Operations (DPKO) in 1992. The DPKO

provides political and executive direction to UN Peacekeeping operations around the world and maintains contact with the Security Council, troop and financial contributors, and parties to the conflict in the implementation of Security Council mandates. The Department works to integrate the efforts of UN, governmental and non-governmental entities in the context of peacekeeping operations. DPKO also provides guidance and support on military, police, mine action and other relevant issues to other UN political and peacebuilding missions.⁴⁶

Four main offices make up DPKO: Office of Operations, Office of the Rule of Law and Security Institutions, Office of Military Affairs, and the Policy Evaluation and Training Division. Prior to DPKO, the United Nations Office of Special Political Affairs coordinated peacekeeping missions. Establishing DPKO would ultimately prove a positive and significant step. But in the years immediately following DPKO's establishment the United Nations failed efforts (notably Somalia, Bosnia, and Rwanda) called the concept of peacekeeping into question.

Following those failures, and likely because of them, the next most significant milestone came in 2000 when the UNSG appointed a panel to evaluate the U.N. peace operations system. The panel created what is known as the "Brahimi Report" named after Lakhdar Brahimi, an Algerian U.N. envoy who chaired the panel.⁴⁷ The report stated at the outset that between 1990 and 2000 the United Nations had "repeatedly failed" to meet the challenge of the U.N. Charter to "save succeeding generations from the scourge of war." The report also noted that

There are many tasks which 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.⁴⁸

The report reiterated that "[a]s the United Nations has bitterly and repeatedly discovered . . . no amount of good intentions can substitute for the fundamental ability to project credible force if complex peacekeeping in particular is to succeed."⁴⁹ To

⁴⁶ Department of Peacekeeping Operations, <https://www.un.org/en/peacekeeping/about/dpko/> (last visited Sept. 11, 2014).

⁴⁷ Identical Letters dated 21 August 2000 from the Secretary General to the President of the General Assembly and the President of the Security Council, U.N. Doc. A/55/305—S/2000/809 (Aug. 21, 2000).

⁴⁸ *Id.* at viii.

⁴⁹ *Id.*

better ensure “clear, credible, and properly resourced Security Council mandates,” Brahimi called for:

- renewed political commitment on the part of Member States;
- significant institutional change;
- increased financial support.

One of the most significant aspects of the report was that its recommendations focused on concrete “operational and organizational areas of need” more than nebulous policy and strategy. This led to the United Nations increasing efforts to systematize and standardize a number of aspects of peacekeeping operations. This entailed adopting common terminology and understanding of what that terminology means. Numbers of troops or police or observers of course matter, but clarifying what activities they need to be able to perform and equipment they do or not need to bring (and whether that equipment will remain with the peace operation or return to the troop-contributing country) is equally or possibly more important. From there DPKO was able to develop reimbursement rates for troop-contributing countries and develop baseline standards for troops, police, and military observers.⁵⁰

More recently, the UNSG restructured DPKO in 2007 to strengthen the United Nation’s capacity to manage and sustain new peace operations.⁵¹ This restructuring created the Department of Field Support (DFS), which is responsible for “for delivering dedicated support to United Nations field operations, including on personnel, finance, procurement, logistical, communications, information technology and other administrative and general management issues.” The DFS is separate from DPKO, though as the organizational chart reflects, DFS shares capacities with DPKO. The organization chart also demonstrates the administrative complexity and challenges of peace operations.⁵²

The DPKO continues to evolve, developing a capstone doctrine that provides peacekeeping principles and guidelines.⁵³ Far from the basic logistical problems that plagued early peace operations, the United Nations now seeks to identify capability gaps and improve its force generation process.⁵⁴ Nonetheless, peace operations encounter a wide range of challenges. Some are inherent in multinational operations, others brought on by the United Nation’s increased assertiveness in how peace operations are conducted.

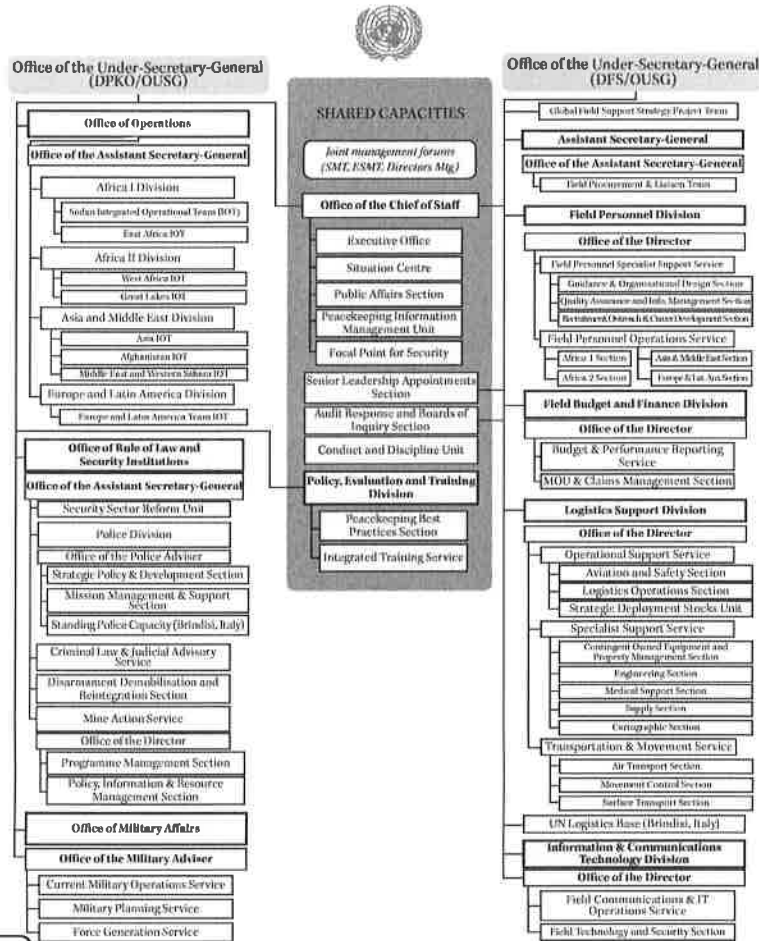
⁵⁰ Forming a New Operation, <http://www.un.org/en/peacekeeping/operations/newoperation.shtml> (last visited Sept. 11, 2014); see also Financing Peacekeeping, *supra* note 2.

⁵¹ U.N. Sec. Gen., Comprehensive Report on Strengthening the Capacity of the United Nations to Manage and Sustain Peace Operations, U.N. Doc. A/61/858 (Apr. 13, 2007).

⁵² United Nations Peacekeeping Group: Capacities to Ensure Integration http://www.un.org/en/peacekeeping/documents/dpkodfs_org_chart.pdf (last visited Sept. 11, 2014).

⁵³ UNITED NATIONS DEPARTMENT OF PEACEKEEPING OPERATIONS DEPARTMENT OF FIELD SUPPORT, UNITED NATIONS PEACEKEEPING OPERATIONS PRINCIPLES AND GUIDELINES (2008).

⁵⁴ ADAM C. SMITH & ARTHUR BOUTELLIS, RETHINKING FORCE GENERATION: FILLING THE CAPABILITY GAPS IN UN PEACEKEEPING PROVIDING FOR PEACEKEEPING No. 2 (2013).

UNITED NATIONS PEACEKEEPING GROUP:
CAPACITIES TO ENSURE INTEGRATION

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RE 20.1 U.N. Peacekeeping Organizational Chart.

V. Peace Operations Challenges

A. WHAT LAW APPLIES?

An overarching question that has an unsatisfyingly vague answer is: What law applies during a peace operation? First, one must consider the range of options of possible law and legal relationships. There is the domestic law of the state in which the peace operation is occurring, and whether and to what extent it could or should apply to U.N. peacekeepers. As a general proposition, if there is a peace operation occurring in a state, its rule of law is either not well developed and/

or implemented. Hence a Status of Forces Agreement (SOFA) between the United Nations and the host country answers the question of relevant legal framework.

The SOFA is “one of the key documents that govern a U.N. peace operation.”⁵⁵ The SOFA for a given peace operation derives from the model SOFA, which the UNSG developed in 1990 in response to a General Assembly request.⁵⁶ A SOFA is a “negotiated formal agreement between the UN and the host country that defines the legal status of both the peace keeping mission and the individual peace keeper . . . [SOFAs] grant the facilities and rights, including privileges and immunities, required by peacekeepers to enable them to fulfill the peace operations mandate.”⁵⁷

Second is the extent that the law of armed conflict (LOAC) or international humanitarian law applies to peace operation. Imbedded in this question are several subordinate questions or issues, such as the triggering event for the LOAC to apply. The LOAC is triggered by armed conflict. The International Criminal Tribunal for the Former Yugoslavia defined when this threshold is reached as being when a state resorts to the use of armed force with another state, or when there is “protracted armed violence between governmental authorities and organized armed groups or between such groups in a State.”⁵⁸

So the first challenge is whether the threshold to trigger the application of the LOAC has been reached in a host country. Further complicating things is that there is different law for different types of armed conflict. So if there is a state-on-state conflict, this international armed conflict (IAC) triggers one body of law, notably the Hague and Geneva Conventions and their Protocols. Peace operations though tend to occur more often amid the other category of armed conflict, that is armed conflict not involving state against state. This non-international armed conflict (NIAC) could be in the form of government forces fighting one or more insurgent or rebel groups, or it could be various insurgent or rebel groups fighting other such groups.⁵⁹ Such NIACs draw from a subset of the Geneva Conventions and Additional Protocols.⁶⁰ Somewhat perversely although NIACs occur with far greater frequency than IACs, there is far less law applicable to NIAC than IAC.⁶¹

⁵⁵ BRUCE OSWALD, HELEN DURHAM & ADRIAN BATES, *DOCUMENTS ON THE LAW OF UN PEACE OPERATIONS* 34 (2010) [hereinafter UN Documents].

⁵⁶ U.N. Sec. Gen., *Comprehensive Review of the Whole Question of Peace-Keeping Operations in All Their Aspects Model Status of Forces Agreement for Peace-Keeping Operations Report of the Secretary-General*, U.N. Doc. A/45/594 (Oct. 9, 1990).

⁵⁷ U.N. Documents, *supra* note 55, at 34. “The model SOFA develops the principles of law articulated in 104 and 105 of the Charter of the United Nations. . . . These articles provide that the UN shall enjoy legal capacity, and such privileges and immunities in the territory of each of its Members as are necessary for the fulfillment of its purposes.” *Id.*

⁵⁸ *The Prosecutor v. Tadić*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-T, ¶ 70 (Oct. 2, 1995).

⁵⁹ See YORAM DINSTEIN, *NON-INTERNATIONAL ARMED CONFLICTS IN INTERNATIONAL LAW* (2014).

⁶⁰ Article 3 of the 1949 Geneva Conventions applies to NIAC, and NIAC is the subject of Additional Protocol II.

⁶¹ For example, according to the North Atlantic Treaty Organization (NATO), in 2000 there were twenty-five armed conflicts around the world. NATO Statistic on Armed Conflicts around

This discussion deals with the law applicable to the parties in different kinds of armed conflicts. Historically the United Nations was not thought of as a party to the conflict, but that view is changing.⁶² And as discussed in this chapter, the U.N. force operating in the DRC is most certainly a party to that NIAC.⁶³ There the United Nations is allied with the DRC in fighting various militia groups, so even though the United Nations is a party to the armed conflict, its classification remains NIAC.⁶⁴ But under different circumstances, the United Nations as a party to a conflict could transform the classification from NIAC to IAC, and with it, the applicable laws governing the conduct of hostilities.⁶⁵

In terms of legal analysis, the U.N. Charter recognizes the United Nations has legal capacity,⁶⁶ and the International Court of Justice has held that the United Nations is an “international person,”⁶⁷ meaning that it can be subject to international law, such as the LOAC. Indeed the United Nations has recognized as much and issued guidance as to the application of the LOAC to U.N. forces conducting

the World, <http://nato.gov.si/eng/topic/threats-to-security/statistics/> (last visited Sept. 11, 2014). Of those, only one, the conflict between India and Pakistan, was of an international nature. See also Armed Conflict Database Armed Conflict by Type, 1946–2012, http://www.pcr.uu.se/digitalAssets/196/196093_conflict_types_2012.jpg (last visited Sept. 11, 2014).

⁶² Tristan Ferraro, *The Applicability and Application of International Humanitarian Law to Multinational Forces*, 561 INT’L REV. RED CROSS 95 (2013)

(reiterating that “no IHL provisions preclude multinational forces from becoming a party to an armed conflict” and that “[t]he argument that multinational forces may not be deemed a party to an armed conflict . . . does not rest on any firm basis.”) Ferraro goes on to quote from various military field manuals that “expressly qualify peace forces as a party to an armed conflict.”)

⁶³ According to one noted commentator, referring to MONUSCO,

whether a UN peacekeeping force engaged in armed conflict with opposing forces should be considered a party to the conflict (for the purposes of applying international law) has been controversial for a number of decades. The UN has never publicly admitted that its peacekeepers are parties to the conflicts in which they engage, notwithstanding the fact that on a number of occasions it has acknowledged that its peacekeeping forces have engaged in offensive operations against armed groups. As a matter of law, it is difficult to conclude that the Brigade would not be a party to the conflict in situations where it conducts offensive operations. As a party to the conflict, the Brigade would be required to abide by international humanitarian law.

Bruce Oswald, *The Security Council and the Intervention Brigade: Some Legal Issues*, 17 ASIL INSIGHTS 15 (2013), available at <http://www.asil.org/insights/volume/17/issue/15/security-council-and-intervention-brigade-some-legal-issues>.

⁶⁴ See *id.* and Ferraro, *supra* note 62.

⁶⁵ *Id.*

⁶⁶ U.N. Charter, *supra* note 10, at art. 104 (stating that “[t]he Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.”).

⁶⁷ See Peter F. Chapman, *Ensuring Respect: United Nations Compliance with International Humanitarian Law*, 17 HUM. RTS. BRIEF 2 (2009) both generally and for citation to Interpretation of the Agreement of 25 March 1951 between the Who and Egypt, Advisory Opinion, 1980 I.C.J. 73, 89–90 (Dec. 20)(quoting that “[i]nternational organizations [such as the UN] are subjects of international law, and as such, are bound by any obligation incumbent upon them under general rules of international law.”).

operations under U.N. command and control. That guidance, titled “Observance by United Nations forces of international humanitarian law” states that

The fundamental principles and rules of [LOAC] set out in the present bulletin are applicable to United Nations forces when in situations of armed conflict they are actively engaged therein as combatants, to the extent and for the duration of their engagement. They are accordingly applicable in enforcement actions, or in peacekeeping operations when the use of force is permitted in self defense.⁶⁸

The United Nation’s guidance is then broken down in sections titled “Protection of the civilian population,” “Means and methods of combat,” “Treatment of civilians and persons hors de combat,” “Treatment of detained persons,” and “Protection of the wounded, the sick, and medical and relief personnel.”⁶⁹ But the “UN has not clarified exactly what constitutes ‘actively engaged’ in combat or what applicable ‘to the extent and for the duration of their engagement’ means.”⁷⁰ And the guidance recognizes that it does not “prejudice the application thereof, nor do they replace the national laws by which military personnel remain bound through the operation.”⁷¹

The confusing result is that

[d]ifferent instruments regulate each Member State of the UN, depending on the state’s accession to different IHL instruments. Indeed, because the UN has not ratified any IHL instrument, the organization cannot clearly dictate what applies to its forces. While some Member States may be subject to additional regulations, the UN itself likely is subject to those provisions of IHL that are classified as customary law.⁷²

This merely restarts the legal inquiry down another path without a definitive answer as to what part of LOAC is customary law. Different states/troop-contributing countries answer that question differently.⁷³ The end result is the very real possibility that different components of a U.N. peace operation would be subject to different legal regimes and restrictions, posing additional challenges for a U.N. force commander.⁷⁴ For example, such a commander may

⁶⁸ U.N. Sec. Gen, *Secretary General’s Bulletin Observance United Nations Forces of International Humanitarian Law*, ¶1.1 U.N. Doc. ST/SGB/1999/13 (Aug. 6, 1999) [hereinafter UNSG’s IHL Bulletin].

⁶⁹ *Id.*

⁷⁰ Chapman, *supra* note 67.

⁷¹ UNSG’s IHL Bulletin, *supra* note 68.

⁷² Chapman, *supra* note 67, quoting Brian D. Tittmore, *Belligerents in Blue Helmets*, 33 STAN J. INT’L L. 61, 96–97 (1997).

⁷³ And although not definitive, the International Committee of the Red Cross provides its perspective on the portions of LOAC that may be customary international law. JEAN-MARIE HENCKAERTS & LOUISE DOSWALD-BECK, *CUSTOMARY INTERNATIONAL HUMANITARIAN LAW VOLUME I: RULES* (2009).

⁷⁴ Arnaud De Borchgrave, *Commentary: NATO Caveats*, UPI, July 10, 2009, available at http://www.upi.com/Emerging_Threats/2009/07/10/Commentary-NATO-caveats/UPI-47311247244125/.

have one or more troop-contributing countries that have signed the Convention on Cluster Munitions participating in a peace operation with one or more countries that have not.⁷⁵ Hence the dilemma for the commander is whether that U.N. force can permissibly employ cluster munitions.⁷⁶

Likewise, there is likely to be a difference in attitudes toward Additional Protocols I and II to the Geneva Conventions among troop-contributing countries. Additional Protocol I applies to IACs while AP II applies to NIAC in which the nonstate group controls territory, so regardless of which type of conflict the peace operation is occurring in, at least one of the protocols will be at issue. Here the analysis is even more convoluted than with the Convention on Cluster Munitions. With the Additional Protocols one has the first problem of whether a troop-contributing country has or has not ratified and is thus bound by the protocol. But even in peace operations in which all the troop-contributing countries are signatories to whichever of AP I and/or AP II was deemed to apply, the differences in the reservations, understandings, and declarations submitted by the various countries results in the protocols meaning something very different for each signatory.⁷⁷

These legally based interoperability issues have not been a significant issue in U.N. peace operations. But that is only because the United Nations for the last several decades has not conducted offensive operations for a sustained period of time. As discussed later, that is changing. And with that change, the U.N. force commander may encounter similar frustrations akin to the NATO force commander in Afghanistan. In that conflict, different troop-contributing countries assert different national caveats or operational restrictions on the forces they provide NATO.⁷⁸ United States Army General John Craddock, former NATO

⁷⁵ Given that the Convention on Cluster Munitions has been signed by approximately 113 countries, and not signed by some 80 others, having troop-contributing countries with different legal obligations is quite possible, even likely. Particularly when one considers that none of the top four troop-contributing countries to U.N. peace operations are signatories (Pakistan, India, Ethiopia). See U.N. Troop-Contributing Countries, *supra* note 7, and United Nations Office at Geneva, Signatories and Ratifying States, [http://www.unog.ch/80256EE600585943/\(httpPages\)/67DC5063EB530E02C12574F8002E9E49?OpenDocument](http://www.unog.ch/80256EE600585943/(httpPages)/67DC5063EB530E02C12574F8002E9E49?OpenDocument) (last visited Sept. 11, 2014). Other notable non-signatories include Brazil, China, Russia, and the United States.

⁷⁶ The answer may lie in the difference between can and should, or law and policy. A commander from a country that is not a signatory to the Convention on Cluster Munitions could lawfully order their use. But that would mean the other troop-contributing countries that are not members could no longer participate in the mission. And the United Nations itself, the originator of the Convention, would be very unlikely to approve such use.

⁷⁷ See Julie Gaudreau, *The Reservations to the Protocols Additional to the Geneva Conventions for the Protection of War Victims*, 849 INT'L REV. OF THE RED CROSS 143 (2003).

⁷⁸ See Stephen M. Saideman & David Auerswald, *NATO at War: Understanding the Challenges of Caveats in Afghanistan*, American Political Science Association 2009 Toronto Meeting Working Paper, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1450476 (last visited Sept. 11, 2014).

Indeed NATO proposed, and member states passed a resolution calling for the elimination of undeclared caveats and to minimize the use of declared caveats. NATO Parliamentary Assembly Resolution 336 on Reducing National Caveats, available at <http://www.nato-pa.int/default.asp?SHORTCUT=828> (last visited November 15, 2005). The resolution is not binding.

Supreme Allied Commander Europe, once said he would gladly forgo additional NATO troops to fight the Taliban in Afghanistan if the troop-contributing countries dropped the caveats on the forces they provided to NATO.⁷⁹ Craddock contended that the caveats “increase the risk to every service member deployed in Afghanistan and bring increased risk to mission success.” They are also “a detriment to effective command and control, unity of effort and . . . command.”⁸⁰

B. INHERENT DIFFICULTIES

Bureaucracy at the DPKO level, language, and culture differences among member states amplify problems such as determining the applicable law just discussed and the section that follows on accountability. They also stand alone as challenges in and of themselves. With any bureaucracy comes some degree of politics. The United Nations, being what it is, may be overly blessed with the widest range of inputs and interests from literally every country in the world. More specific to peace operations, as previously discussed affirmative votes by nine of the fifteen UNSC members and the absence of a veto by any of the five permanent members is required for a UNSCR authorizing an operation. The result is that the most important quality a resolution possesses is that it be worded in such a way as to allow for its passage. Similar to domestic legislation, this translates to wording that may not provide the peace operation the clearest or most coherent of mandate or guidance.

Consider for example the 2004 UNSCR establishing a U.N. force in Haiti. Among other mandates, the UNSC charged the force “to protect civilians under imminent threat of physical violence, within its capabilities and areas of deployment, without prejudice to the responsibilities of the Transitional Government and of police authorities.”⁸¹ What exactly does that mean to the force commander in Haiti? And how will a commander translate that into orders for subordinate peacekeepers? How imminent is imminent? What is the United Nation’s understanding of the force’s capabilities? And the last section is particularly opaque. While on patrol in Haiti, a group of U.N. peacekeepers encountered a group of Haitian police severely beating a person in the street. The peacekeepers’ understanding of their mandate was that it was to be without prejudice to the responsibilities of the police. So the peacekeepers did not intercede, and instead watched (and were videotaped watching) the beating.⁸²

⁷⁹ Borchgrave, *supra* note 74.

⁸⁰ *Id.*

⁸¹ S.C. Res. 1542, ¶ 71(f), U.N. Doc. S/RES/1542 (Apr. 30, 2004).

⁸² See VICTORIA K. HOLT & TOBIAS C. BERKMAN, *THE IMPOSSIBLE MANDATE? MILITARY PREPAREDNESS, THE RESPONSIBILITY TO PROTECT AND MODERN PEACE OPERATIONS* (2006). Holt and Berkman describe how during the U.N. mission in Haiti (MINUSTAH) that “[t]he Brazilian contingent . . . appeared to view its role in MINUSTAH as a traditional peacekeeping mission where force is used only in self-defense, while the Chilean and Sri Lankan contingents have engaged in robust combined military/military police operations targeting criminal gangs in Cap Haitien and elsewhere.” *Id.* at 96. And it was the Brazilian peacekeepers who observed but did not stop the beatings. The combination of the different approaches to the use of the force by

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In terms of language, each U.N. peace operation designates one of the six U.N. official languages as the mission language, often English. But whatever the designated language is, there are a number of troop-contributing countries that do not primarily speak that language, and thus a wide range of language comprehension abilities exists within the same mission. Cultural differences also play a role, particularly in differing conceptions of what is considered criminal behavior and the corresponding punishment.

C. ACCOUNTABILITY

Given the difficulty in answering the question of what law applies, and adding language and cultural barriers, it likely comes as no surprise that the response to the question of what law applies to an individual peacekeeper is equally elusive.⁸³ What happens when a peacekeeper on a peace operation commits a crime in the host country? Accountability for peacekeeper misconduct while on a peace operation remains a challenge for the United Nations.

This question is an offshoot or legal progression of the earlier question asked in this chapter: What law applies collectively to a U.N. peace operation mission and the component troop-contributing country? But as discussed above, absent sustained U.N. combat operations, the broader questions of what applies to missions or countries is largely an abstraction. The question of individual peacekeeper liability, however, is both real and frequently asked. The issue is real in that there are actual victims of harm, whether victims peacekeepers have stolen from, assaulted, raped, or killed. And the issue is, unfortunately, the opposite of abstraction as peacekeeper misconduct occurs. These issues, combined with the inherent difficulty in effectively responding to peacekeeper misconduct committed outside the state in which the peacekeeper resides, yields one of the more contentious aspects of peace operations.

Modern concern for peacekeeper misconduct traces back to 2003, when the UNSG issued a bulletin on “[s]pecial measures for protection from sexual exploitation and sexual abuse.”⁸⁴ This bulletin prohibited sexual abuse and exploitation,

different troop-contributing countries on the same U.N. mission led to the worst of both worlds, “MINUSTAH has been criticized both for being too passive—and failing to fulfill its mandate to protect civilians—and for being too aggressive in its actions and harming too many civilians.” *Id.*

⁸³ This section focuses on individual peacekeeper misconduct and troop-contributing response (or lack thereof). Although outside the scope of this section and chapter, corruption at all levels of peace operations remains a problem for which accountability is often claimed to be lacking. A nongovernmental organization’s 2013 report on transparency claimed the United Nations and its member states were not appropriately addressing corruption in the context of peace operations. Transparency International, *Corruption & Peacekeeping: Strengthening Peacekeeping and the UN* (Oct. 2013), available at <http://www.ti-defence.org/publications/128-dsp-pubs-corruption-pk>. The United Nations contends the report is systemically flawed. Rick Gladstone, *U.N. Questions Criticism of Its Peacekeepers*, N.Y. TIMES, Oct. 10, 2013, available at http://www.nytimes.com/2013/10/11/world/un-questions-criticism-of-its-peacekeepers.html?_r=0.

⁸⁴ U.N. Sec. Gen., *Secretary-General’s Bulletin Special Measures for Protection from Sexual Exploitation and Sexual Abuse*, U.N. Doc. ST/SGB/2003/13 (Oct. 9, 2003). Some three years later, the United Nations grappled with the issue of making the SG’s sexual exploitation and abuse

which the bulletin defined as including sexual activity with persons under the age of eighteen regardless of the local age of consent or majority, as well as any exchange of money, employment, goods, or services for sex.

In 2004, accusations arose of “sexual exploitation and abuse by a significant number of United Nations peacekeeping personnel in the Democratic Republic of the Congo”⁸⁵ This led the UNSG to review the nature and extent of peacekeeper sexual exploitation and abuse as well as measures taken in response. The SG asked Prince Zeid Ra’ad Zeid Al-Hussein of Jordan to prepare a comprehensive report on the problem and potential solutions.⁸⁶ The SG transmitted the result, commonly referred to as the Zeid report, to the United Nations in March 2005.⁸⁷ The Zeid report identified accountability gaps caused by the different categories of personnel who participate in a U.N. peace operation being governed by different rules.

The report focused on four areas of concern: the current rules on standards of conduct; the investigative process; organizational, managerial, and command responsibility; and individual disciplinary, financial, and criminal accountability. The report acknowledged that “troop-contributing countries are responsible for the conduct and discipline of their troops . . .” and that “guidelines” and “codes of conduct” were not enforceable because “[r]ules can be made binding on military members of contingents only with the agreement of and action by the troop-contributing country concerned.”⁸⁸ Ultimately, “[a] decision whether or not to prosecute is an act of sovereignty . . .” that must come from the troop-contributing country.⁸⁹

The report noted that the model U.N. SOFA “assumes that the Secretary-General will obtain formal assurances from a troop-contributing country that it will

bulletin binding. This yielded a sixteen-page report with four annexes, but the broader point is that UNSG bulletins, by themselves, are not binding on states. See U.N. Gen. Assembly, *Comprehensive Report Prepared Pursuant to General Assembly Resolution 58/526 on Sexual Exploitation and Sexual Abuse, including Policy Development, Implementation and Full Justification of Proposed Capacity on Personnel Conduct Issues*, U.N. Doc. A/60/862 (May 24, 2006). This is because while under the U.N. Charter, “[m]embers of the United Nations agree to accept and carry out the decisions of the Security Council,” there is no such requirement in relation to the Secretary-General. U.N. charter, *supra* note 10, at art 25.

⁸⁵ U.N. Sec. Gen., *Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects*, U.N. Doc A/59/710 (Mar. 24, 2005) [hereinafter ‘Zeid Report’]. The peacekeeper misconduct occurred in Bunia, a conflict-ravaged portion of eastern DRC. Among the accusations were that U.N. peacekeepers had sex with minors, bartered food and protection for sex, and had sex with prostitutes. Although the issue of peacekeeper offenses received increasing attention beginning in 2003, earlier reports of sexual abuse and exploitation date to the early 1990s and involve troops from over forty countries serving in peace operations in Bosnia, Cambodia, Haiti, and Southern Sudan. Olivera Simic, *Who Should Be a Peacekeeper?*, 21 PEACE REV. 396 (2009).

⁸⁶ Prince Zeid was a permanent Representative of Jordan to the United Nations. Jordan is a significant contributor of both troops and police to U.N. peace operations. Zeid himself served as a civilian peacekeeper on several occasions, including in the former Yugoslavia.

⁸⁷ Zeid Report, *supra* note 85.

⁸⁸ *Id.* at 12.

⁸⁹ *Id.* at 4 and 27.

exercise criminal jurisdiction over its troops in return for the immunity conferred upon them by the host State under the terms of the status-of-forces agreement” but that the United Nations was not obtaining such assurances.⁹⁰ The reasons the United Nations was not doing so are unclear. One likely reason is that with the increase of peace operations, the United Nations constantly struggles to secure enough troops from enough countries.⁹¹ Furthermore, adding prerequisites, such as the assurances recommended by the report, only exacerbates the United Nations’ force-generation problem.

In terms of the troop-contributing country, one reason for the lack of prosecution for peacekeeper misconduct is that the domestic law of that country has no extraterritorial application. So for example, in Bangladesh (the largest troop contributor to the United Nations), it is against Bangladeshi law for anyone to steal, to rape, or to murder within the territory of Bangladesh. But it is not against Bangladeshi law for a Bangladeshi peacekeeper to steal, to rape, or to murder while deployed on a U.N. peacekeeping mission in, say, Sierra Leone.⁹² And Bangladesh is certainly not alone in not having extraterritorial application of its domestic law.⁹³

The 6th Committee to the United Nations is the forum for legal considerations. A 2009 meeting of the 6th Committee on the topic of criminal accountability of U.N. personnel addressed whether various member states’ domestic law did or did not have any extraterritorial application.⁹⁴ This question in essence asked “if a peacekeeper from your country commits a crime while on a peace operation in another country, would you possess jurisdiction to criminally prosecute him/her?” Several countries, after expressing “zero tolerance” for peacekeeper misconduct and stressing the need for accountability not impunity, acknowledged that their domestic law does not apply extraterritorially. This means they are unable to take criminal action against a peacekeeper from their country who commits a crime during a peace operation in another country.⁹⁵

⁹⁰ *Id.* at 6.

⁹¹ See PROVIDING PEACEKEEPERS: THE POLITICS, CHALLENGES AND FUTURE OF UNITED NATIONS PEACEKEEPING CONTRIBUTIONS (Alex J. Bellamy & Paul D. Williams eds., 2013).

⁹² American Civil Liberties Union, *Universal Jurisdiction: A Preliminary Study of Legislation around the World—2012*, available at <http://www.amnesty.org/en/library/asset/IOF53/019/2012/en/2769ce03-16b7-4dd7-8ea3-95f4c64a522a/ior530192012en.pdf> (last visited June 15, 2015)

(reporting that the Bangladeshi criminal code does not contain provisions criminalizing ordinary crimes committed outside Bangladesh).

⁹³ Indeed seven of the top ten troop-contributing countries have no extraterritorial application of their domestic criminal code for ordinary crimes (India, Nepal, Nigeria, Ghana, Senegal, and Egypt). *Id.*

⁹⁴ General Assembly of the United Nations Legal-Sixth Committee, Sixty-Fifth Session, The Scope and Application of the Principle of Universal Jurisdiction (Agenda Item 86), <http://www.un.org/en/ga/sixth/65/ScopeAppUniJuri.shtml> (last visited Sept. 11, 2014). Notably less than 25 percent of member states submitted replies.

⁹⁵ Which is not to say the troop-contributing country could not do anything, just that their actions would be limited to administrative ones, such as sending the offender home, fines, demonstrations, and/or administrative separation from the military.

And even where a troop-contributing state has extraterritorial application of its law, some of the “crimes” committed during a peace operation may not be a crime per the troop-contributing country’s laws. For example, although the SG’s directive banned sex with anyone under eighteen, in many countries the age of majority is under eighteen, meaning a seventeen-year-old could consent to sex. Although the directive notes that even where the age of majority is under eighteen sex is still forbidden, it is the sending state, and only the sending state, which may take criminal action. So if sex with a seventeen-year-old is not against say the law of the Dominican Republic, even if the U.N. directive applies to a Dominican Republic peacekeeper serving in Africa, there is little to nothing authorities from the Dominican Republic could do if one of its peacekeepers abides by its laws and not by the U.N. directive, at least in the criminal justice arena. A similar problem exists in those countries that do not criminalize prostitution.

Both the UNSC and General Assembly endorsed the Zeid report.⁹⁶ Endorsed, however, does not mean that U.N. member states agreed to implement the Zeid report’s recommendations. But the report led to reforms and improvements, including mandatory pre-deployment training on the U.N.’s Code of Personal Conduct for Blue Helmets.⁹⁷ Additionally the United Nations established the Conduct and Discipline Unit (CDU) in 2007 to strengthen accountability.⁹⁸

The CDU “maintains global oversight of the state of discipline in all peacekeeping operations and special political missions. It provides overall direction for conduct and discipline issues in field missions, including formulating policies, training and outreach activities and handling allegations of misconduct.”⁹⁹ The CDU represents a substantial step forward for the United Nations in terms of accountability and transparency. Key to this is the statistics page, which provides quantitative data on investigations, allegations, and U.N. follow-up with troop-contributing countries.

For example, below are U.N. figures for allegations of sexual exploitation or abuse made against all categories of U.N. personnel on peace operations from 2007 through July 31, 2014:

The United Nations also tracks and reports the status of investigations into those allegations as substantiated, unsubstantiated, or pending.

But the last statistical category, U.N. follow-up, graphically demonstrates the U.N.’s limitations. The website displays the number of times the United Nations sent a “note verbale”¹⁰⁰ to a troop-contributing country requesting information

⁹⁶ Press Release, Security Council, Security Council Condemns “in the Strongest Terms” All Acts of Sexual Abuse, Exploitation by U.N. Peacekeeping Personnel, U.N. Doc. SC/8400 (May 31, 2005).

⁹⁷ United Nations Conduct and Discipline Unit, U.N. Standards of Conduct Code of Conduct, <https://cdu.unlb.org/UNStrategy/Prevention.aspx> (last visited Sept. 11, 2014). A copy of the code of personal conduct is included in Appendix 3.

⁹⁸ See United Nations Conduct and Discipline Unit, <http://cdu.unlb.org/> (last visited Sept. 11, 2014).

⁹⁹ *Id.*

¹⁰⁰ A note verbale is a form of diplomatic communication. Generally a note verbale is written in the third person and is not signed. See Department of General Assembly Affairs and Conference Section, UNITED NATIONS CORRESPONDENCE MANUAL, A GUIDE TO THE DRAFTING, PROCESSING AND DISPATCH OF OFFICIAL UNITED NATIONS COMMUNICATIONS (2000).

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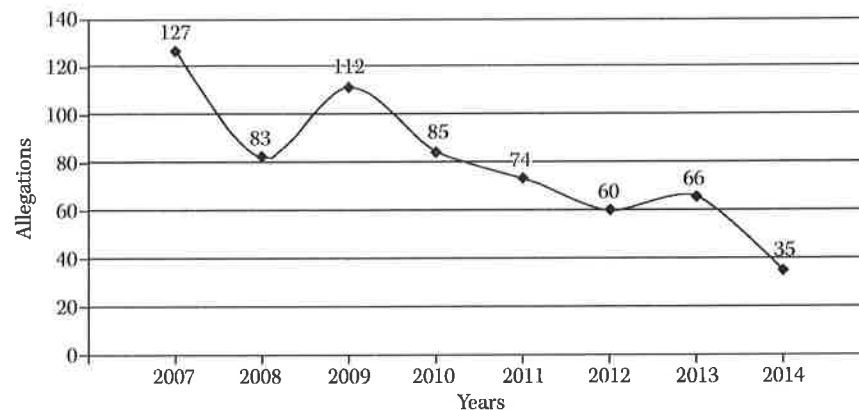


FIGURE 20.2 Allegations for All Categories of Personnel Per Year (Sexual Exploitation and Abuse) 2007–July 31, 2014.¹⁰¹

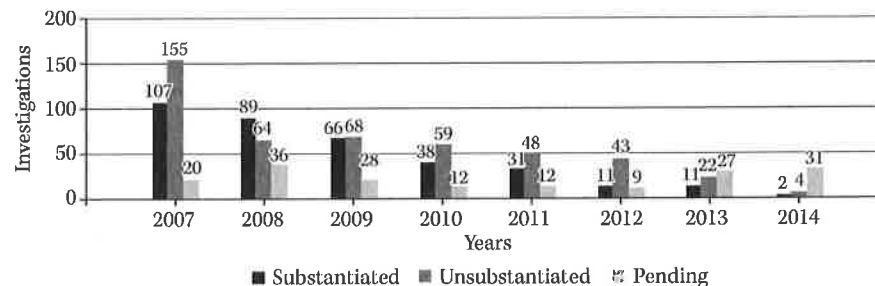


FIGURE 20.3 Status of Investigations (Sexual Exploitation and Abuse) 2007–Sept. 1, 2014.¹⁰²

about disciplinary action the national authorities took following a substantiated allegation of misconduct by a peacekeeper from that country. Since 2007, the United Nations has sent some 520 notes verbales following substantiated allegations of sexual exploitation and abuse offenses. Troop-contributing countries responded to the United Nations only 223 times, approximately 43 percent.

Amazingly, the 43 percent response rate exceeds that for crimes not involving sexual exploitation and abuse. Since 2007, the United Nations sent 575 notes verbales to troop-contributing countries seeking information about disciplinary action taken in response to substantiated allegations of nonsexual offenses. States responded to the United Nations 241 times, approximately 40 percent.

¹⁰¹ United Nations Conduct and Discipline Unit Statistics, <https://cdu.unlb.org/Statistics/OverviewofStatistics.aspx> (follow “statistics” tab, then follow “allegations by category of personnel (sexual exploitation and abuse),” then follow “allegations for all categories of personnel per year (sexual exploitation and abuse)” (last visited Sept 11, 2014).

¹⁰² United Nations Conduct and Discipline Unit Statistics, <https://cdu.unlb.org/Statistics/OverviewofStatistics.aspx> (follow “statistics” tab, then follow “status of investigations (sexual exploitation and abuse)” (last visited Sept 11, 2014).

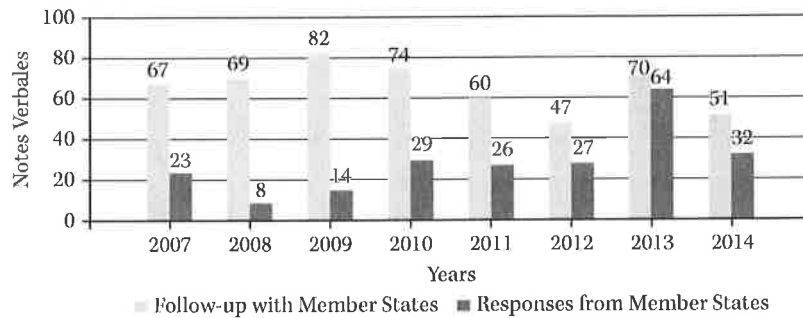


FIGURE 20.4 U.N. Follow-Up with Member States (Sexual Exploitation and Abuse) 2007–July 31, 2014.¹⁰³

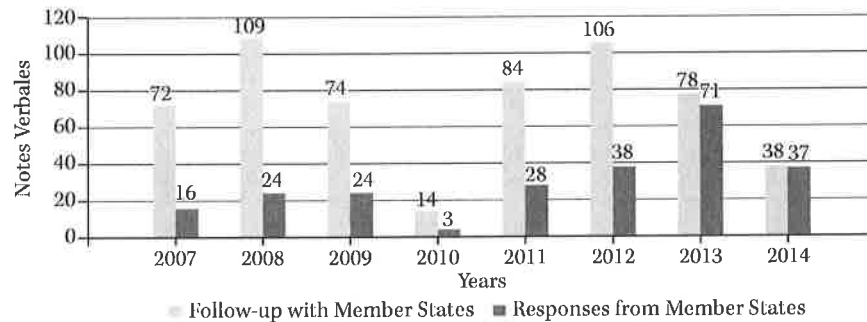


FIGURE 20.5 U.N. Follow-Up with Member States (Excluding Sexual Exploitation and Abuse) 2007–July 31, 2014.¹⁰⁴

The Zeid report identified a number of deficiencies but also a corrective strategy. Although the United Nations has embraced the report and made progress toward improving peacekeeper accountability, ultimately there will only be as much accountability as member and troop-contributing states afford. Moreover, the United Nations' challenges regarding accountability and peacekeeping are not limited to lower-ranking soldiers but extend to those in leadership positions, and even questions at a normative level. For example, despite “credible evidence” that Rwandan military units under General Emmanuel Karenzi Karake committed “gross human rights violations” the United Nations selected Karake to serve as the deputy commander of the U.N. mission in Darfur.¹⁰⁵ A Fijian Army

¹⁰³ United Nations Conduct and Discipline Unit Statistics, <https://cdu.unlb.org/Statistics/OverviewofStatistics.aspx> (follow “statistics” tab, then follow “UN follow-up with member states (sexual exploitation and abuse)” (last visited Sept 11, 2014).

¹⁰⁴ United Nations Conduct and Discipline Unit Statistics, <https://cdu.unlb.org/Statistics/OverviewofStatistics.aspx> (follow “statistics” tab, then follow “UN follow-up with member states (excluding sexual exploitation and abuse)” (last visited Sept 11, 2014).

¹⁰⁵ Colum Lynch, *U.S. Backed U.N. General Despite Evidence of Abuse*, WASH. POST, Sept. 21, 2008, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/09/20/AR2008092001801.html>.

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officer, Filipo Tarakinikini, commanded a peacekeeping force in Lebanon before returning to Fiji where he played a central role in a military coup of the Fijian government.¹⁰⁶ The United Nations condemned the coup, but later employed Tarakinikini in, of all jobs, a chief security advisor for the U.N.'s Department of Safety and Security.¹⁰⁷

And although the United Nations has made individual accountability a focus area, questions are now arising concerning an entire mission, UNAMID, operating in Darfur. In the spring of 2014, *Foreign Policy* magazine published the results of an investigation into systemic failures, of UNAMID not even trying to protect civilians and systematically covering up incidents against both civilians and U.N. peacekeepers.¹⁰⁸ This in turn led the Prosecutor of the International Criminal Court to call on the UNSG to investigate UNAMID, which the United Nations agreed to do.¹⁰⁹ The UNAMID report which that investigation generates may herald the next set of strategic reforms at and within the United Nations. In terms of how current U.N. peace operations reflect changes in peacekeeping at the operational and tactical level, the mission in the DRC is instructive.

VI. DRC Case Study

Extending back to the mid 1990s, armed conflict and its destructive and destabilizing effects have ravaged the DRC.¹¹⁰ The conflict, really a series of conflicts, are sometimes referred to as the First and Second Congo Wars or as Africa's first world war. The fighting, however styled, has claimed the lives of several million people¹¹¹ and displaced several million more, making it the deadliest conflict

¹⁰⁶ Jone Baledrokadroka, *The Unintended Consequences of Fiji's UN Peacekeeping Operations*, December 18, 2010, available at <http://www.aspistrategist.org.au/the-unintended-consequences-of-fijis-un-peacekeeping-operations/>

¹⁰⁷ *Former Fiji Army Spokesman Tarakinikini to Face Unspecified Charges*, RADIO NEW ZEALAND INTERNATIONAL, July 2, 2004, available at <http://www.radionz.co.nz/international/pacific-news/149448/former-fiji-army-spokesman-tarakinikini-to-face-unspecified-charges>.

¹⁰⁸ Colum Lynch, *They Just Stood Watching*, FOREIGN POLICY, Apr. 7, 2014, available at http://www.foreignpolicy.com/articles/2014/04/07/special_report_darfur_united_nations_peacekeeping_investigation.

¹⁰⁹ Colum Lynch, *Exclusive: ICC to UN: Investigate Your Alleged Coverups in Darfur*, FOREIGN POLICY, June 17, 2014, available at http://thecable.foreignpolicy.com/posts/2014/06/16/icc_to_un_investigate_the_mess_you_made_in_darfur <http://www.un.org/News/Press/docs/2014/sc11441.doc.htm>.

¹¹⁰ The origins of the conflicts are rooted in the genocide that occurred in neighboring Rwanda in 1994. After the genocide, over a million Rwandan Hutus fled to the DRC, then called Zaire. Tutsi forces, from Zaire as well as Rwanda and Uganda fought the Hutus and the military of Zaire across the country; captured the capital, Kinshasa; and renamed the country the Democratic Republic of the Congo. MONUSCO Background, <http://www.un.org/en/peacekeeping/missions/monusco/background.shtml> (last visited Sept. 11, 2014).

¹¹¹ According to the International Rescue Committee, "[l]ess than 10% of all deaths were due to violence, with most attributable to easily preventable and treatable conditions such as malaria, diarrhea, pneumonia, and malnutrition." International Rescue Committee, *Mortality in the Democratic Republic of the Congo: an Ongoing Crisis*, available at <http://www.rescue.org/sites/default/files/>

since World War II. The conflicts in the DRC have involved at least eight African countries and more than twenty armed groups with varying, and alternating, allegiances and backing.

In 1999 the UNSC established the United Nations Organization Mission in the Democratic Republic of the Congo or MONUC¹¹² to monitor the Lusaka ceasefire agreement¹¹³ between the DRC and Angola, Namibia, Rwanda, Uganda, and Zimbabwe. The UNSCR establishing MONUC did not make specific reference to the legal basis for establishing the force. Rather the UNSCR noted the role the ceasefire agreement requested the United Nations play in implementing the agreement.

The role the agreement requested was that

[t]he United Nations Security Council, acting under Chapter VII of the UN Charter . . . constitute, facilitate and deploy an appropriate peacekeeping force in the DRC to ensure implementation of this Agreement; and taking into account the peculiar situation of the DRC, mandate the peacekeeping force to track down all armed groups in the DRC. In this respect, the UN Security Council shall provide the requisite mandate for the peace-keeping force.

The UNSC declined the request to provide a mandate for a force to track down armed groups, at least initially. As the Lusaka Agreement's attempt at ending the Second Congo War unraveled, the United Nation's role evolved and expanded from observer to enforcer of the peace.¹¹⁴ By 2003 the UNSC issued resolution 1493, which specifically referenced Chapter VII of the U.N. Charter and authorized MONUC to use "all necessary means to fulfill its mandate in the Ituri district, and as it deems within its capabilities, in North and South Kivu."¹¹⁵ Illustrating the significance of word choice, the proceeding paragraph authorized necessary measures (as opposed to all necessary measures) to accomplish other tasks.¹¹⁶ The 1999 UNSCR establishing MONUC provided for "up to 500" U.N. military observers,¹¹⁷ the 2003 Resolution authorized a U.N. military force of up to 10,800 personnel.¹¹⁸

migrated/resources/2007/2006-7_congomortalitysurvey.pdf (last visited June 21, 2015). *But see* Human Security Report Project, HUMAN SECURITY REPORT 2009/2010: THE CAUSES OF PEACE AND THE SHRINKING COSTS OF WAR (2011) (challenging the International Rescue Committee's mortality survey process and results for the DRC conflicts.) That debate though is on statistics and methodology.

¹¹² S.C. Res. 1279, U.N. Doc. S/RES/1279 (Nov. 30, 1999) [hereinafter UNSCR 1279].

¹¹³ Letter dated 23 July 1999 from the Permanent Representative of Zambia to the United Nations Addressed to the President of the Security Council, U.N. Doc. S/1999/815 (July 23, 1999).

¹¹⁴ Technically the UNSCR establishing MONUC did not assign the force the task of observing the ceasefire agreement. Rather, the Resolution assigned the task to "plan for the observation of the ceasefire and disengagement of force." UNSCR 1279, *supra* note 108, ¶ 5(d) (emphasis added).

¹¹⁵ S.C. Res. 1493, ¶ 26, U.N. Doc. S/RES/1493 (July 28, 2003) [hereinafter UNSCR 1493]. The Ituri and North and South Kivu Regions, all in eastern DRC, were, and to a lesser extent remain, the epicenter of the conflicts.

¹¹⁶ *Id.* ¶ 25.

¹¹⁷ *Id.* ¶ 9.

¹¹⁸ UNSCR 1493, *supra* note 111, ¶ 3.

In the fourteen years since the United Nations established MONUC (now called MONUSCO),¹¹⁹ the U.N. force has grown to over twenty thousand uniformed members at a cost close to \$US 1.5 billion a year.¹²⁰ In 2013 the UNSC issued another resolution concerning the DRC and the role of MONUSCO.¹²¹ The resolution begins in typical U.N. fashion, recalling previous related resolutions. Interestingly, and maybe even contradictorily given the language that followed, the UNSCR “[r]eaffirms the basic principles of peacekeeping, including consent of the parties, impartiality, and non-use of force, except in self defence and defence of the mandate.”¹²²

This may be contradictory because what follows in the resolution is anything but impartiality. Rather than protecting civilians under a self-defense concept, the resolution establishes an “Intervention Brigade” that is charged with the responsibility of “neutralizing armed groups” by carrying out “targeted offensive operations” in a “robust, highly mobile and versatile manner,” either jointly with the Congolese Army or acting unilaterally.¹²³

There is an argument to be made that the Intervention Brigade is much ado about, if not nothing, than little. This argument contends that prior to the UNSCR forming the Intervention Brigade, MONUSCO’s mandate already included authority to take all necessary measures, the broadest grant of authority the United Nations may confer. Under this argument, authority to conduct offensive operations and neutralize armed groups was already extant, subsumed within the authority to take all necessary measures. Yet the Intervention Brigade resolution must add something, or why draft it at all? And functionally, there have been a number of U.N. peace operations under Chapter VII and “all necessary measures” authority, and they have looked and operated quite differently than the Intervention Brigade.

The brigade is comprised of three thousand soldiers from South Africa, Tanzania, and Malawi who form three infantry battalions, one field artillery

¹¹⁹ United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, *see* S.C. Res. 1925, ¶ 1, U.N. Doc. S/RES/1925 (May 28, 2010). UNSCR 1925 stated that “in view of the new phase that has been reached in the Democratic Republic of the Congo” the name of the U.N. Mission would be changed to reflect a mission to stabilize the relative peace. *Id.* Given what has unfortunately transpired in the DRC since the 2010 name change, including the U.N. peacekeepers assuming an offensive role in military operations, sadly “stabilization” remains tragically aspirational.

¹²⁰ MONUSCO Facts and Figures, <http://www.un.org/en/peacekeeping/missions/monusco/facts.shtml> (last visited Sept. 11, 2014). The U.N. force in the DRC has also suffered seventy-five fatalities: forty-five peacekeeping troops, four U.N. police officers, three military observers, twelve international civilian U.N. employees, and eleven local civilian employees. *Id.* Nine of the peacekeepers, all from Bangladesh, were killed in one incident in 2005 by members of an armed group commanded by Thomas Lubanga. That attack provided the catalyst for Lubanga’s arrest and the first trial and conviction at the International Criminal Court, though for recruiting and employing child soldiers, not for attacking U.N. peacekeepers. *Prosecutor v. Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, ICC-01/04-01/06-2842, T.Ch. I, 14 March 2012.

¹²¹ S.C. Res. 209, U.N. Doc. S/RES/2098 (Mar. 28, 2013).

¹²² *Id.* at preamble.

¹²³ *Id.* at 12(b).

battalion, and one special forces and reconnaissance company. Under the auspice of neutralize, “it is reasonable to assume that the Brigade is mandated to target armed groups with lethal force. In line with the usual concept of offensive operations, the Brigade would be able to conduct ambushes, deliberate attacks and hold ground against any armed group.”¹²⁴

All of which represents a “major departure from the often passive approach that has given peacekeepers a bad reputation.”¹²⁵ Rather than using force only in self-defense, Lieutenant General Carlos Alberto dos Santos Cruz, the Brazilian Army General in command of MONUSCO’s military force, claims that “[t]he posture now is to go and neutralize the threat . . . We go to where the threat is and we neutralize the threat . . . We need to take action. It’s a different dynamic, a completely different idea.”¹²⁶ The Intervention Brigade provided insight into what neutralize per the UNSCR means or looks like in August 2013, when the U.N. force fired artillery at rebels near the Congolese city of Goma.¹²⁷ The brigade has also employed attack helicopters, and, for the first time in U.N. peace operations, unarmed surveillance drones.¹²⁸

One commentator claims that “[t]he deployment of drones in the DRC represents a defining moment in UN peacekeeping and aerial surveillance during ongoing conflict.”¹²⁹ Hervé Ladsous, the head of DPKO, stated that the drones MONUSCO is using are “a very useful tool” that is changing peacekeeping.¹³⁰ Indeed Ladsous is advocating their use in other U.N. missions, including Mali, the Central African Republic, and South Sudan.¹³¹

¹²⁴ Oswald, *supra* note 63.

¹²⁵ Nicholas Kulish & Somini Sengupta, *New U.N. Brigade’s Aggressive Stance Brings Success, and Risks*, N.Y. TIMES, Nov. 12, 2013, available at <http://www.nytimes.com/2013/11/13/world/africa/new-un-brigades-aggressive-stance-in-africa-brings-success-and-risks.html?pagewanted=1>.

¹²⁶ Jon Sawyer, *Congolese Army and Hardened UN Forces Make Gains against Rebels*, PBS NEWSHOUR, Oct. 30, 2013, available at http://www.pbs.org/newshour/updates/world/july-dec13/congo_10-30.html.

¹²⁷ Jonny Hogg, *U.N. Combat Brigade Fires on Congo Rebel Positions*, REUTERS, Aug. 23, 2013, available at <http://www.reuters.com/article/2013/08/23/us-congo-democratic-fighting-idUSBRE97MoJC20130823> It is unclear what “neutralize” means within the United Nations. In the U.S. military, the term is defined as “to render ineffective or unsable.” Department of Defense Dictionary of Military Terms, http://www.dtic.mil/doctrine/dod_dictionary/data/n/5752.html (enter “neutralize” as search term) (last visited Sept. 11, 2014).

¹²⁸ Specifically, five unarmed Italian “Falco” unmanned aerial vehicles or drones. *Drones for Peace: Ladsous, Very Useful Tool for DPKO*, ONU ITALIA, May 15, 2014, available at <http://www.onuitalia.org/drones-peace-ladsous-useful-tool-dpko/> [hereinafter Ladsous].

¹²⁹ Kasaija Phillip Apuuli, *The Use of Unmanned Aerial Vehicles (Drones) in United Nations Peacekeeping: The Case of the Democratic Republic of the Congo*, 18 ASIL INSIGHT 13 (June 13, 2014).

¹³⁰ Ladsous, *supra* note 124.

¹³¹ *Id.* See also Ladsous and Haq: *With UAV We Change Peacekeeping*, ONU ITALIA, May 28, 2014, available at <http://www.onuitalia.org/ladsous-haq-uav-change-peacekeeping/>. Ladsous notes the enormity of the challenge MONUSCO faces in the DRC, where there is “just one peacekeeper per 117 square kilometers.” The drones are helping in a variety of ways, including spotting a capsized boat in Lake Kivu in the DRC, allowing MONUSCO to save fourteen passengers.

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FIGURE 20.6 U.N. Armed Attack Helicopter in MONUSCO.¹³²

FIGURE 20.7 U.N. Unarmed Unmanned Aerial Vehicle in MONUSCO.

¹³² In another sign of the evolving nature of U.N. peace operations, the United Nations tweeted both photos and video links to the drone's first flight. UN Web TV, *UN Mission in DR Congo Launches the Inaugural Flight of Unarmed Unmanned Aerial Vehicles in Goma*, Dec. 3, 2013, available at <http://webtv.un.org/watch/un-mission-in-dr-congo-launches-the-inaugural-flight-of-unarmed-unmanned-aerial-vehicles-in-goma/2889857885001/>.

Although the United Nations is open about MONUSCO's drone use, other byproducts of the Intervention Brigade and its offensive mandate are not receiving attention.

One result of U.N. forces taking offensive action that has not been much discussed, at least publicly, is the issue of detention. If MONUSCO has the authority to kill members of armed groups, does it possess the authority to detain them?¹³³ With detention comes a legion of difficult issues and questions. Where will they will be detained? Who will fund the detention centers? Who will guard them? What would detention standards be? How would transfer, parole, or release work? Noted Australian commentator Bruce Oswald claims that the term "neutralize" may imply that the Brigade has the power to detain, and points to the U.N.'s Interim Standard Operating Procedures for Detention in United Nations Peace Operations for what U.N. detention would look like.¹³⁴ Oswald also contends that it is "reasonable to assume that, consistent with the UN's past practice, the Brigade will transfer the armed group members that they have captured to the DRC authorities. "Given the DRC's placement near the bottom of the human development index¹³⁵ and level of systemic human rights violations,¹³⁶ U.N. transfer of detainees to the DRC could result in charges of U.N. complicity and potential liability if (and more likely when) the Congolese mistreat the detainees.¹³⁷

The longer the Intervention Brigade is taking offensive action, the more likely the issue of detention and other effects will be raised. And according to General Cruz, "[w]e are going to exercise our mandate to the maximum possible, not only against M23, against all the groups . . . When we finish one problem, we are in our heads thinking about the next step."¹³⁸ True to Cruz's word, the combined U.N. and DRC forces compelled the surrender of the M23 rebel group and are shifting their attention and offensive efforts to other armed groups.¹³⁹

¹³³ The general answer is that "[d]etention is considered within the nature of, or inherent to, armed conflict and the LOAC reflects that in and for both international and non-international armed conflict. See Jelena Pejic, *The Protective Scope of Common Article 3: More than Meets the Eye*, 93 INT'L REV. RED CROSS 189, 207 (2011) (stating that "[i]n the ICRC's view, both treaty and customary [international humanitarian law] contain an inherent power to intern. . . .")

¹³⁴ Oswald, *supra* note 63. See also United Nations Department of Peacekeeping Operations Department of Field Support, *Interim Standard Operating Procedures Detention in United Nations Peace Operations* (2011).

¹³⁵ Human Development Index, *supra* note 7.

¹³⁶ Human Rights Watch, *Human Rights in the Democratic Republic of the Congo*, <http://www.hrw.org/drc> (last visited Sept. 11, 2014).

¹³⁷ One could imagine alleged U.N. detainee abuse or mistreatment playing out similarly to how allegations that U.N. peacekeepers brought cholera to earthquake ravaged Haiti—poorly. See Randal C. Archibold & Somini Sengupta, *U.N. Struggles to Stem Haiti Cholera Epidemic*, N.Y. TIMES, Apr. 19, 2014, available at <http://www.nytimes.com/2014/04/20/world/americas/un-struggles-to-stem-haiti-cholera-epidemic.html> and Rick Gladstone, *U.N. Chief Served Papers in Suit by Haitian Victims, Lawyers Say*, N.Y. TIMES, June 20, 2014, available at <http://www.nytimes.com/2014/06/21/world/americas/un-chief-served-papers-in-suit-by-haitian-cholera-victims-lawyers-say.html> (describing the United Nation's ongoing efforts to aid Haiti battle a deadly strain of cholera while avoiding discussing whether peacekeepers introduced the disease).

¹³⁸ Kulish, *supra* note 121.

¹³⁹ Somini Sengupta, *Peacekeepers in Congo to Focus on Another Rebel Group*, N.Y. TIMES, A7 Nov. 7, 2013.

VII. Intervention Brigade Effects, and Conclusion

Although the Intervention Brigade has been successful, there are negative consequences of MONUSCO undertaking offensive missions as well. “As a matter of law, it is difficult to conclude that the [Intervention] Brigade would not be a party to the conflict in situations where it conducts offensive operations.”¹⁴⁰ As a party to the conflict, MONUSCO is seemingly not operating consistent with any of the three U.N. peacekeeping principles: consent of the parties, impartiality, and nonuse of force except in self-defense and defense of the mandate.

Beyond the doctrinal disconnect, the Intervention Brigade creates other issues, particularly for others operating in and around the peace operation as well as for peacekeepers themselves. Some are concerned that the use of the Intervention Brigade could “put [aid] workers at risk because armed groups will not distinguish between soldiers and those who feed, heal and house civilians in war.”¹⁴¹ A representative from Doctors Without Borders contended the issue is beyond a blurring of the lines, arguing that “[y]ou can have a helicopter one day used to deliver the Force Intervention Brigade troops to attack a village and next day to deliver aid to that same village.”¹⁴² He claimed that the presence of the Intervention Brigade “is a problem for all the humanitarian actors . . . [w]hen the population sees a white car, they don’t differentiate between whether it is [Doctors Without Borders], the UN or [the Intervention Brigade]. *It makes us military targets.*”¹⁴³

In terms of peacekeepers, they are now “legitimate targets for the extent of their participation in accordance with international humanitarian law.”¹⁴⁴ Prior to the employment of the Intervention Brigade, killing a member of MONUSCO was a war crime. Tragically that is what happened in May 2013 when assailants attacked a U.N. convoy in eastern DRC and killed a Pakistani peacekeeper. The UNSG “condemned the attack, saying that killing a peacekeeper was a ‘war crime’.”¹⁴⁵

This is a reference to the Rome Statute of the International Criminal Court (ICC), which defines a war crime as “[i]ntentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United

¹⁴⁰ Oswald, *supra* note 63.

¹⁴¹ Kulish, *supra* note 121.

¹⁴² *Id.*

¹⁴³ Sudarsan Raghavan, *In Volatile Congo, a New U.N. Force with Teeth*, WASH. POST., Oct. 25, 2013, available at http://www.washingtonpost.com/world/africa/in-volatile-congo-a-new-un-force-with-teeth/2013/11/01/ocda650c-423f-11e3-b028-de922d7a3f47_story.html (emphasis added). Legally the Doctors Without Borders vehicle is not a permissible target. But one can see the makings of a possibly legitimate defense of mistaking the impermissible to target white vehicle (or blue-helmeted soldier) for the permissible to target white vehicle (or blue-helmeted soldier).

¹⁴⁴ Oswald, *supra* note 63.

¹⁴⁵ *Congo: Pakistani UN Peacekeeper Killed in Ambush*, BBC, May 8, 2013, available at <http://www.bbc.co.uk/news/world-africa-22447390>.

Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict.”¹⁴⁶ And there is currently a case before the ICC involving just that—war crimes allegations based on attacking and killing U.N. peacekeepers (albeit in Sudan).¹⁴⁷

But killing a peacekeeper is only a war crime if the peacekeeper was “entitled to the protection given to civilians or civilian objects under the international law of armed conflict.”¹⁴⁸ A civilian who directly participated in hostilities by conducting offensive operations would not have protection from the law of war from being made the object of attack.¹⁴⁹ And neither will members of the Intervention Brigade.¹⁵⁰

The Intervention Brigade’s offensive actions also render the 1994 Convention on the Safety of United Nations and Associated Personnel void, at least in part. The Convention begins by stating “bearing in mind that attacks against, or other mistreatment of, personnel who act on behalf of the United Nations are unjustifiable and unacceptable by whomever committed.”¹⁵¹ The Convention claims that U.N. personnel shall not be made the object of attack and requires States to criminalize the intentional murder of U.N. peacekeepers.¹⁵² This point is made clear in the UNSG’s 1999 bulletin. While the bulletin refers to the protected status of members of peacekeeping operations under the 1994 Convention on the Safety of United Nations and Associated Personnel or their status as noncombatants, it qualifies the status as lasting “as long as [members of peacekeeping operations] are entitled to the protection given to civilians under the international law of armed conflict.”¹⁵³ But again, the Intervention Brigade, in taking offensive action, is not entitled to the protection given to civilians, thus negating the basis the Convention on the Safety of United Nations and Associated Personnel claims for why, and when, killing a U.N. peacekeeper is illegal.

¹⁴⁶ Statute of the International Criminal Court, UN Doc. A/CONF.183/9 (1998) (last amended 2010), art 8(2)(b)(iii) [hereinafter Rome Statute].

¹⁴⁷ *Prosecutor v. Bahar Idriss Abu Garda*, ICC-02/05-02/09 (2009).

¹⁴⁸ Rome Statute, *supra* note 141.

¹⁴⁹ See Protocol Additional to the Geneva Conventions of 12 August 1949, and Relation to the Protection of Victims of international Armed Conflicts, art. 51, June 8, 1977, 1125 U.N.T.S. 17512.

¹⁵⁰ This is not to say that killing a member of the Intervention Brigade is not a crime; it is. But it is no longer an international or war crime. It would be a violation of the domestic criminal law of the DRC and possibly the country from which the slain peacekeeper originated. And given that the Intervention Brigade falls under the same command structure as the rest of MONUSCO, it is possible that all military members of MONUSCO are no longer immune from being made the object of attack. Moreover, to the extent MONUSCO employs civilian employees or contractors who are directly participating in hostilities by say operating drones or serving as targeting intelligence analysts for the Intervention Brigade, they too are no longer protected from being made the object of attack. See Ferraro, *supra* note 62 (stating that an intentional attack against U.N. forces and other associated personnel who are participating in the conflict “is not considered a crime under the Rome Statute. . .”). See also Apuuli, *supra* note 125 (stating that drone operators are directly participating in hostilities and thus “open to attack by enemy forces.”).

¹⁵¹ Office of Legal Affairs Codification Division, Convention on the Safety of United Nations and Associated Personnel, available at <http://www.un.org/law/cod/safety.htm>

¹⁵² *Id.* at art 7.

¹⁵³ UNSG IHL Bulletin, *supra* note 68.

The United Nations has not publicly acknowledged that the Intervention Brigade's offensive nature renders its members the permissible object of attack under international law. Does or will DPKO inform members of the Intervention Brigade that targeting them may no longer be a war crime?¹⁵⁴ How will that impact a member state's willingness to contribute personnel, equipment, and funds in support of PSO? What of the irony that the United Nations through its actions has rendered partially null and void a Convention on the safety of U.N. personnel?

Regardless of these issues, the initial reaction to the Intervention Brigade's employment has been largely positive. The U.S. special envoy to the Great Lakes region of Africa claimed the brigade represented "a stronger approach that can give peacekeeping operations more strength in the future and help resolve knotty problems."¹⁵⁵

But the envoy also acknowledged that the story of the Intervention Brigade, and its legacy, "has yet to be written . . ."¹⁵⁶ Therein lies the question, when the Intervention Brigade's legacy is determined, will it be one of effective incorporation of lessons learned and augur the future of U.N. peace operations? Or it will be viewed as a *sui generis* mission not able, or needed, to be repeated? More likely history will view the Intervention Brigade as successfully accomplishing some peacekeeping goals, but sacrificing or compromising others in the process. In the end, MONUSCO and the Intervention Brigade may well prove a bellwether.

¹⁵⁴ See Alex J. Bellamy, *Are New Robust Mandates Putting UN Peacekeepers More at Risk?*, IPI GLOBAL OBSERVATORY, May 29, 2014, available at <http://theglobalobservatory.org/analysis/750-new-robust-mandates-putting-un-peacekeepers-at-risk.html>.

¹⁵⁵ Kulish, *supra* note 121.

¹⁵⁶ *Id.* He added that "the first couple chapters are very good."

APPENDIXES
Appendix 1 Frequency of U.N. Peace Operations, 1991–2013

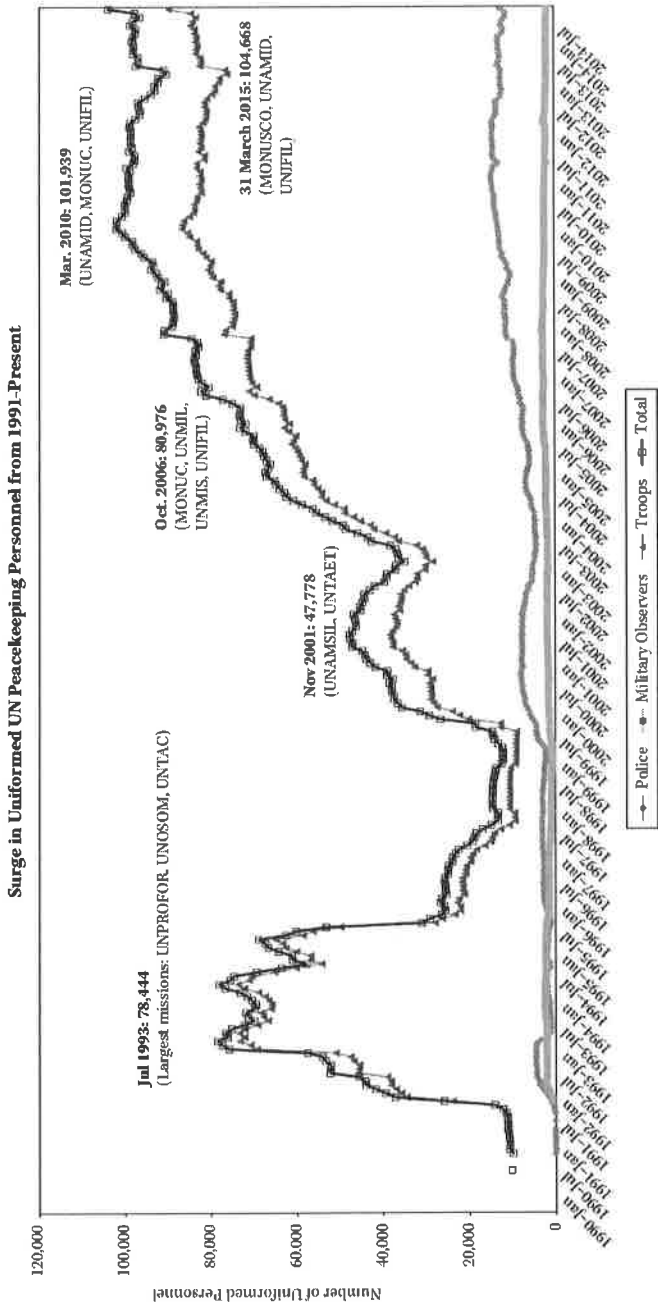


FIGURE 20.8

Appendix 2 Past U.N. Peacekeeping Missions¹⁵⁷**Africa**

- United Nations Angola Verification Mission I (UNAVEM I)
- United Nations Angola Verification Mission II (UNAVEM II)
- United Nations Angola Verification Mission III (UNAVEM III)
- United Nations Aouzou Strip Observer Group (UNASOG)
- United Nations Assistance Mission for Rwanda (UNAMIR)
- United Nations Mission in Ethiopia and Eritrea (UNMEE)
- United Nations Mission in Sierra Leone (UNAMSIL)
- United Nations Mission in the Central African Republic (MINURCA)
- United Nations Mission in the Central African Republic and Chad (MINURCAT)
- United Nations Observer Mission in Angola (MONUA)
- United Nations Observer Mission in Liberia (UNOMIL)
- United Nations Observer Mission in Sierra Leone (UNOMSIL)
- United Nations Observer Mission Uganda-Rwanda (UNOMUR)
- United Nations Operation in Burundi (ONUB)
- United Nations Operation in Côte d'Ivoire (MINUCI)
- United Nations Operation in Mozambique (ONUMOZ)
- United Nations Operation in Somalia I (UNOSOM I)
- United Nations Operation in Somalia II (UNOSOM II)
- UN Mission in the Sudan (UNMIS)
- United Nations Operation in the Congo (ONUC)
- United Nations Organization Mission in the Democratic Republic of the Congo (MONUC)
- United Nations Transition Assistance Group (UNTAG)

Americas

- Mission of the Representative of the Secretary-General in the Dominican Republic (DOMREP)
- United Nations Civilian Police Mission in Haiti (MIPONUH)
- United Nations Mission in Haiti (UNMIH)
- United Nations Observer Group in Central America (ONUCA)
- United Nations Observer Mission in El Salvador (ONUSAL)
- United Nations Support Mission in Haiti (UNSMIH)
- United Nations Transition Mission in Haiti (UNTMIH)
- United Nations Verification Mission in Guatemala (MINUGUA)

Asia and the Pacific

- United Nations Advance Mission in Cambodia (UNAMIC)
- United Nations Good Offices Mission in Afghanistan and Pakistan (UNGOMAP)

¹⁵⁷ <http://www.un.org/en/peacekeeping/operations/past.shtml>

- United Nations India-Pakistan Observation Mission (UNIPOM)
- United Nations Mission of Observers in Tajikistan (UNMOT)
- United Nations Mission of Support in East Timor (UNMISSET)
- United Nations Security Force in West New Guinea (UNSF)
- United Nations Transitional Administration in East Timor (UNTAET)
- United Nations Transitional Authority in Cambodia (UNTAC)
- UN Integrated Mission in Timor-Leste (UNMIT)

Europe

- United Nations Civilian Police Support Group (UNPSG)
- United Nations Confidence Restoration Operation in Croatia (UNCRO)
- United Nations Mission in Bosnia and Herzegovina (UNMIBH)
- United Nations Mission of Observers in Prevlaka (UNMOP)
- United Nations Observer Mission in Georgia (UNOMIG)
- United Nations Preventive Deployment Force (UNPREDEP)
- United Nations Protection Force (UNPROFOR)
- United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES)

Middle East

- United Nations Emergency Force I (UNEF I)
- United Nations Emergency Force II (UNEF II)
- United Nations Iran-Iraq Military Observer Group (UNIIMOG)
- United Nations Iraq-Kuwait Observation Mission (UNIKOM)
- United Nations Observation Group in Lebanon (UNOGIL)
- United Nations Yemen Observation Mission (UNYOM)
- UN Supervision Mission in Syria (UNSMIS)

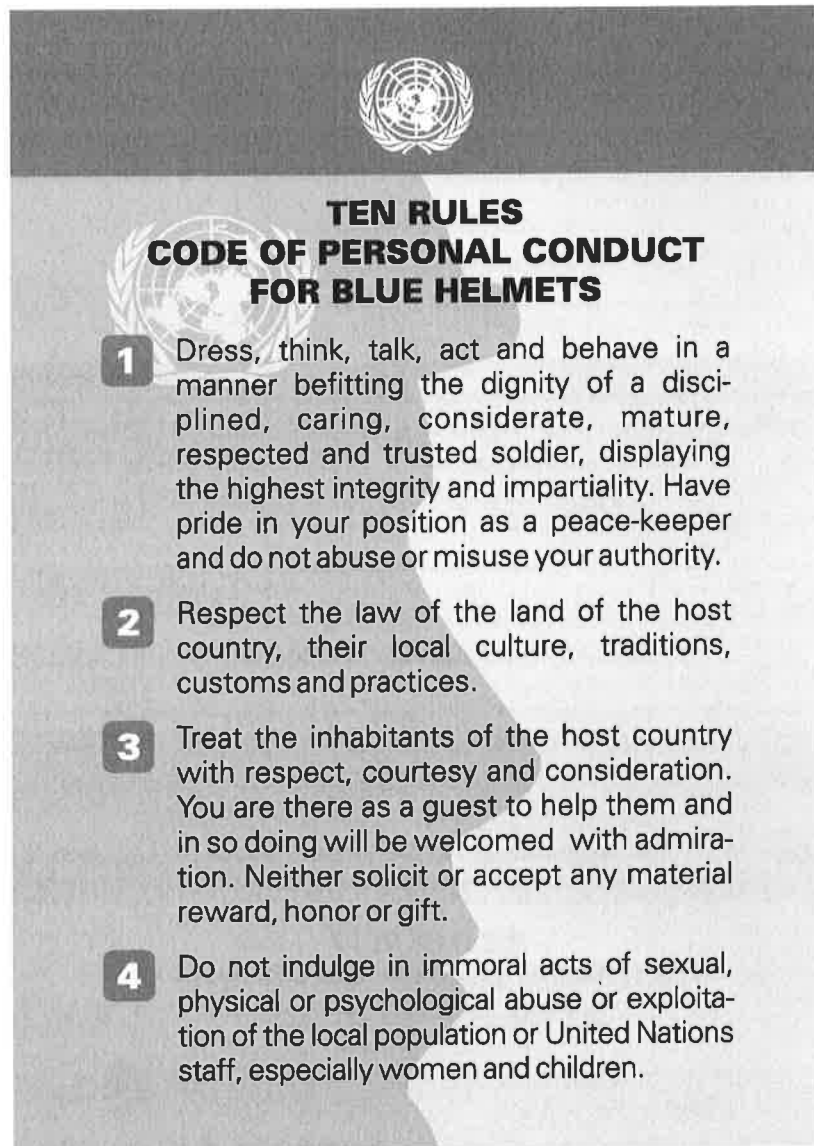
Appendix 3 United Nations Peacekeeper Code of Conduct

FIGURE 20.9 UN Peacekeeper Code of Conduct.