

Peace(-keeping) Operations: Soldiers without Enemies?¹

Sabine Hassler

Abstract

‘Peacekeeping is a risky activity.’²

Peacekeeping as an operative tool has existed almost for as long as the United Nations (UN) and while its value is recognised, indeed it has become an all-encompassing means to building, securing and maintaining peace, it was never meant to exist. The drafters of the UN Charter and its framework had envisaged a system of collective security that was very much built on the experiences of the past. Yet, events immediately evidenced that the new world order was not going to be easily managed by the rules and regulations that proved already out of step with the times. The UN, however, proved that there is room for innovation and interpretation within its system; so much so that a tool could be created that had been neither envisaged nor does it have, to this day, a legal foundation in the UN Charter. Rather, peacekeeping was put under the auspices and authority of the UN Security Council which administers missions with reference to UN Charter terminology but without generally anchoring them to any particular Chapter or Article. Despite their flexible and versatile nature, peacekeeping has over the years faced a variety of challenges and suffered from a range of drawbacks that might under different circumstances have caused calls for abolition of the whole initiative. Peacekeeping, however, has endured and is undergoing a renewed transformation to make the future of peace operations part of the continued UN narrative.

Keywords

Peacekeeping; peacekeeping operations; source of authority; legitimacy; Security Council; mandate; contemporary challenges; future of peace operations

The author is a Senior Lecturer, University of the West of England, Bristol Law School.

Sabine Hassler (✉)

University of the West of England, Bristol Law School, Bristol BS16 1QY
email: Sabine2.Hassler@uwe.ac.uk

¹ This is with reference to Fabian’s work of 1971.

² Lieutenant General (Retired) Carlos Alberto dos Santos Cruz 2017, Executive Summary.

Contents

18.1 Introduction.....	2
18.2 The UN Charter Framework and the Necessity of Security Council Authorisation.....	4
18.2.1 The Pacific Settlement of Disputes Chapter VI.....	5
18.2.2 Authorising Enforcement Action Chapter VII.....	6
18.2.3 Innovation through Straddling the Divide Chapter VI½.....	7
18.3 Peacekeeping Operations – An Overview.....	9
18.3.1 Terminology.....	10
18.3.2 Underlying Principles.....	10
18.3.3 Legal Basis.....	11
18.3.4 How is a Peacekeeping Operation Created?.....	11
18.3.5 The Evolution post-Cold War.....	12
18.4 What are the Next Challenges?.....	14
18.4.1 Proposals for Change.....	15
18.4.2 What is the Future of Peace Operations?.....	15
18.5 Conclusion.....	17
References.....	19

18.1 Introduction

Peace is at the heart of the United Nations (UN)³ whose genesis as an international organisation traces the horrors of early 20th century conflicts that not only bore evidence of technological advancements⁴ but also of the increasingly global nature of conflict. Its predecessor, the League of Nations which itself was borne of the Great War and so the first conflict of truly international character, laid the foundations for the UN in a vow ‘not to resort to war’ and ‘to achieve international peace and security’.⁵

The pursuit of peace is the UN’s mandate and it is doubtlessly the most successful international organisation to date with (at the time of writing in 2019) 193 member-states.⁶ Nonetheless, ‘peace’ on a global scale remains an ideal and yet elusive. Indeed, it must be acknowledged that ‘peace’ as an objective is aspirational⁷ and the UN as an organisation can only work towards creating the conditions, in cooperation with and support of the international community, in which the use of force as part of conflict must become the choice of last resort.

In an effort to focus UN member states on this aspiration, the obligation to settle disputes of an international nature peacefully is a fundamental commitment.⁸ To create the

³ Preamble, Charter of the United Nations 1945 (henceforth UN Charter).

⁴ The Hague Conferences of 1899 and 1907 recognised the increasing threat posed by new, more sophisticated weaponry. See UNIDIR Resources 2017.

⁵ See Preamble, The Covenant of the League of Nations 1919.

⁶ United Nations, About the UN.

⁷ ‘Peace’ is a term subject to differentiation as it can at best connote the absence of strife or armed conflict. See UN News 9 September 2014.

⁸ Article 2(3), UN Charter. For more discussion on the scope of settling international disputes, see Mani and Ponzio 2018.

supporting conditions to ‘maintain international peace and security’,⁹ the founders of the UN and authors of the UN Charter allocated to the organisation’s principal organs¹⁰ a variety of tasks and equipped them with tools in an effort to collectively pursue, if not attain, its primary purpose. Today, the UN is much more than about the maintenance of peace but, for the purposes of this chapter, we shall concentrate on ‘peace’, its nature in the context of the achievable, its attainment and its maintenance through so-called peace operations under the aegis of the Security Council.

With six principal organs set to work towards peace, each organ with its own purpose, remit and tools at its disposal, the Security Council is the organ tasked with the ‘primary responsibility for the maintenance of international peace and security’.¹¹ To that end and to be able to discharge this duty, the Security Council was granted specific powers as elaborated in Chapters VI, VII, VIII and XII of the UN Charter,¹² subject to overview by the General Assembly.¹³ As such, the Security Council should have, and in theory does have, at its disposal a number of avenues and measures ranging from the ‘Pacific Settlement of Disputes’ under Chapter VI, ‘Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression’ under Chapter VII, to the use of ‘Regional Arrangements’ under Chapter VIII. Yet, as the first part of this chapter will show, the original aspirations could not be realised with the tools provided, leading to compromises on the one hand and the creation of measures not envisaged by the UN Charter on the other. Combined, these now fall within the definition of ‘peace operations’. Peace operations are about ‘working towards peace’ and a look at United Nations Peace Operations (UNPOs) reveals that the term combines both ‘peacekeeping operations’ and ‘political missions and good offices engagements’,¹⁴ with the former led by the United Nations Department of Peacekeeping Operations,¹⁵ and the latter led by the United Nations Department of Political Affairs.¹⁶

The terminology elicits reactions ranging from hopeful to despondent to unequivocally critical and even dismissive. Hopeful because peace is the aspirational ideal but also despondent because attaining and maintaining peace is elusive and fraught with difficulties. Critical voices have long accused peacekeeping of severe failings¹⁷ and thereby, directly and indirectly, cast doubt on peacekeeping operations’ rationale, purpose and, ultimately, their usefulness. With peace as elusive as ever, ‘peace operations’ that are subject to a Security Council mandate have faced an uphill struggle, not least plagued by the organ’s contentious composition and ongoing reform discussions.¹⁸

In order to understand the nature of such operations under the auspices of the Security Council, this chapter will briefly introduce the Security Council as the pertinent UN organ in charge of administering peace and relevant processes, and the tools at its disposal in that regard (18.2). We will examine how peacekeeping came to be within the purview of the Security Council and where, if at all, peacekeeping operations fit within the UN Charter framework. Further, in 18.3, we will take a more detailed look at peacekeeping operations, their purpose and objectives, the basis for such operations and how they have evolved. Finally (18.4), the

⁹ Preamble, UN Charter.

¹⁰ Article 7, UN Charter.

¹¹ Article 24(1), UN Charter.

¹² Article 24(2), UN Charter.

¹³ Article 24(3), UN Charter.

¹⁴ United Nations Peace Operations.

¹⁵ United Nations Department of Peacekeeping Operations.

¹⁶ United Nations Department of Political Affairs. Note that while the text identifies ‘peace operations’, the focus of this chapter will be on peacekeeping operations.

¹⁷ Notably Boot 2000.

¹⁸ Reform discussions are beyond the remit of this chapter. For discussions see e.g. Fassbender 1998; Hurd 2002; and Hassler 2013.

chapter will identify current challenges and proposals for change to then provide an outlook on the future of peacekeeping operations.

18.2 The UN Charter Framework and the Necessity of Security Council Authorisation

The Security Council is one of six principal UN organs.¹⁹ With each organ tasked with a specific objective and remit, the Security Council's functions and powers are outlined in Article 24. Accordingly, the Security Council is tasked by the UN member states with the 'primary responsibility for the maintenance of international peace and security' on their behalf,²⁰ and, in discharging its duties, it is subject to the 'Purposes and Principles of the United Nations' as outlined in Chapter I.²¹ Crucially, to provide the Security Council's primary responsibility with the necessary weight, its decisions are binding on the UN member states, underlining and ensuring their commitment to the purposes and principles.²² This central position in the UN framework coupled with the fact that its membership is limited to a total of 15, with 5 positions already, and seemingly irreversibly, occupied²³ makes the Security Council, for better or worse, 'first among equals' and consequently the centre of much attention.

The Security Council was created as a 'powerful executive committee'²⁴ that, it was expected, had the military backbone to deliver a realistic response to a potential threat to the UN's peace and security framework.²⁵ This security framework is built on two Chapters both of which are under Security Council remit and offer incremental alternatives to action. First, Chapter VI which offers means and measures for the peaceful settlement of disputes or situations whose continuance is 'likely to endanger the maintenance of international peace and security' and should, by all accounts, be the first port of call in any dispute or situation.²⁶ Secondly, Chapter VII, which acknowledges that a dispute or situation has become a threat to the peace, breach of the peace or an outright act of aggression and therefore requires more forceful, active intervention.

The UN Charter's in-built protection mechanism to prevent arbitrary external intervention in a State is provided in Article 2(7): anything 'essentially within the domestic jurisdiction of any State' remains off-limits. This is an acknowledgement to the fact that while the member states submit to the UN as an international organisation they do remain sovereign States. Thus, means and measures under Chapter VI are part of voluntary dispute resolution and the Security Council is, at most, in a position to offer non-binding recommendations only.²⁷ Crucially, however, this does not apply to 'enforcement measures under Chapter VII', specifically decisions under Articles 41 and 42, which are taken by binding Security Council decisions.²⁸

¹⁹ The other organs are the General Assembly, the Economic and Social Council, the (defunct) Trusteeship Council, the International Court of Justice, and the Secretariat (notably represented by the UN Secretary-General). See Article 7, UN Charter.

²⁰ Article 24(1), UN Charter. Arguably, primary does not mean exclusive responsibility as the General Assembly's 'secondary' role was highlighted in the case of the 'Uniting for Peace' resolution, see n. 56 below.

²¹ Article 24(2), UN Charter.

²² See Article 25, UN Charter.

²³ Article 23(1), UN Charter. The remaining 10 members are non-permanent, Article 23(2), and are elected for two-year terms.

²⁴ Finkelstein and Finkelstein 1966.

²⁵ The permanent members' continued tenure at the centre is subject to much debate. It is not within the scope of this chapter to discuss this, however.

²⁶ Article 33, UN Charter.

²⁷ Article 38, UN Charter.

²⁸ Article 25, UN Charter. On the force of binding Security Council resolutions, see Dellbrück 2002, p. 457, para. 11.

Another in-built protection mechanism to prevent arbitrary external intervention through the use of force is the ban on the same by virtue of Article 2(4). This ban on the use of force by a State²⁹ has, under the UN Charter framework, been limited to two exceptions: self-defence within the meaning of Article 51 and action mandated under Chapter VII, notably with reference to Article 39 as the ‘trigger’ provision and Article 42 as the enforcement provision. Accordingly, force can only be used either by a State (or States, in a collective response) in response to an ‘armed attack’³⁰ against a member state and only until the Security Council has taken relevant measures to maintain peace and security, or by member states acting on the authorisation of the Security Council, following a determination under Article 39 and taking (or authorising the taking) of relevant action under Article 42.

18.2.1 *The Pacific Settlement of Disputes / Chapter VI*

Turning to the pacific settlement of disputes under Chapter VI first, the focus is on any disputes that are likely to endanger *international* peace and security.³¹ The Security Council’s role is one of providing support and acting as independent facilitator.³² While it does have the power to investigate under Article 34, at no point in Chapter VI does the Charter confer on the Security Council greater powers other than referral, e.g. to the ICJ³³, or the making of non-binding recommendations.

Referrals to the Security Council can come from other UN organs such as the General Assembly under Articles 11 and 12, the Secretary-General under Article 99, and both member-states and non-member-states.³⁴ Nonetheless, the expectation is primarily upon the parties to the dispute to find a pacific solution. They are called upon to choose from a range of measures from the dispute resolution toolkit in Article 33(1), including ‘means of their own choice’.³⁵ If they are unable to settle by the means listed in Article 33, the parties do have a duty as per Article 37 to submit their dispute to the Security Council. Submission of the dispute to the Council, however, does not add it automatically to its perennially crowded agenda but is rather subject to a procedural decision requiring a majority of nine votes whether to place it on the agenda *in the first place*.³⁶ If adopted onto the agenda, Article 32 requires that the parties to the dispute are invited to participate in, but not vote on, discussions.

While the parties are called upon to resolve their disputes without recourse to the use of force, even have a duty to refer their dispute to the Security Council, any of its recommendations in the pursuit of pacific settlement entail no legal obligation to comply on

²⁹ This has been confirmed as being of *ius cogens* status and therefore not simply only applicable to UN member states: see Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America), Merits, Judgment of 27 June 1986, ICJ Reports (1986) 99.

³⁰ The debate on whether an armed attack is a necessary prerequisite or whether a pre-emptive or even preventive use of force in self-defence is permissible with reference to customary international law is not within the scope of this chapter.

³¹ Emphasis added. The point at which the relevant threshold has been reached when disputes are or should be referred has been the subject of debate from the start. See Eagleton 1946.

³² For an overview of the Security Council’s practice in the pacific settlement of disputes see Repertoire of the Practice of the Security Council, Pacific Settlements of Disputes (Chapter VI).

³³ Article 36(3), UN Charter. See e.g. Corfu Channel Case (United Kingdom v Albania) Judgment of 9 April 1949 ICJ Rep. (1949) 4.

³⁴ Article 35, UN Charter.

³⁵ These methods are ‘supplementary to those methods traditionally established in international law’. Sands and Klein 2001, p 43.

³⁶ Article 27(2), UN Charter. For information on the Security Council’s procedures, see Repertoire of the Practice of the Security Council, Provisional Rules of Procedure, Rules 6-12.

part of the parties.³⁷ Therefore, action under Chapter VI very much leaves the parties to the dispute in charge as to their preferred course of action in resolving their dispute making use of the resources available but with the Security Council taking a supporting rather than leading role. Crucially, at this point, their dispute is not deemed to be of a nature to make it subject to mandatory external intervention. This approach supports not only the notion of States as sovereign entities that act as equals on the international stage,³⁸ it also underlines the fundamental ideal that peace can only be achieved and maintained through peaceful means.³⁹ Disputes and situations are resolved regularly without much publicity.⁴⁰ Once peacefully resolved they rarely, if ever, make it into the public's conscience. After all, if something works well, little notice is taken of its successes.

18.2.2 Authorising Enforcement Action / Chapter VII

With the pacific settlement of disputes to be pursued in preference, enforcement action under Chapter VII was meant to constitute the exception rather than the rule. Despite this aspiration, it rarely takes long before (public) attention shifts to Chapter VII and intervention is either being deliberated or actively taken.⁴¹

Under this Chapter, the focus shifts either directly onto a brewing conflict or away from any, failed, attempts at dispute resolution, with the Security Council as the central organ with the power to make a determination under Article 39 as to the 'existence of any threat to the peace, breach of the peace or act of aggression'. Hence, at this point a conflict or a dispute between parties is deemed to have, or has in fact, become a matter of international concern, and any attempts, if any, at resolving the conflict or dispute have failed (or are seen to have failed). States' right to have their sovereignty respected in terms of external non-intervention, while explicitly recognised in Article 2(7), is no longer effective. The matter has now moved within Chapter VII remit; accordingly, member states accept derogations to their sovereignty in an effort to subscribe to international conflict management.

For a matter to come within the remit of Chapter VII, it has to satisfy the "trigger criteria" as per Article 39 mentioned above. With this, the Security Council effectively 'provides an authoritative statement regarding the seriousness of an event'⁴² although it should also be noted that 'not every violation of the peace produces an automatic response from the Council'.⁴³ Once a situation has satisfied the Article 39 criteria, having caught the Security Council's attention and having been included in its agenda,⁴⁴ there is a range of tools available within Chapter VII.

³⁷ The binding nature of Article 25 does not apply to recommendations under Chapter VI. See above n. 22 and 28.

³⁸ See Article 2(1), UN Charter.

³⁹ This endeavour is reflected in a multitude of instruments such as the 'Friendly Relations Declaration' (A/RES/2625 (XXV), October 1970); the Manila Declaration on the Peaceful Settlement of International Disputes (A/RES/37/10, November 1982); the 'Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field, A/RES/43/51 (December 1988); or the 2005 World Summit Outcome document, A/RES/60/1 (24 October 2005).

⁴⁰ For a record of Chapter VI dispute resolution, see *Repertoire of the Practice of the Security Council, Pacific Settlements of Disputes* (Chapter VI).

⁴¹ For an overview of the Security Council's practice under Chapter VII see *Repertoire of the Practice of the Security Council, Actions with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression* (Chapter VII).

⁴² Hassler 2013, p 14.

⁴³ Hassler 2013, p 14.

⁴⁴ For a record of Chapter VII actions, see *Repertoire of the Practice of the Security Council Actions with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression* (Chapter VII).

The Chapter is said to depict a non-sequential ‘sanctions ladder’,⁴⁵ from resorting to measures not involving the use of force in an effort ‘to prevent an aggravation of the situation’,⁴⁶ to economic and other non-forcible measures,⁴⁷ to finally the authorisation of enforcement action.⁴⁸ It is, of course, the latter that attracts most attention as it may involve, and has become synonymous with, the use of armed force.⁴⁹ It is this ‘use of armed force’, however, that caused some consternation early on.

In order to provide the UN collective security system with the necessary teeth to repel potential aggressors and prevent potential conflicts from escalating, the Security Council was to be supported by all UN members in its efforts by ‘armed forces, assistance, and facilities’ to be made available to it ‘on its call’.⁵⁰ The application of such armed force was to be made ‘with the assistance of the Military Staff Committee’⁵¹ which was to consist of the Chiefs of Staff of the five permanent members ‘to advise and assist the Security Council on all questions relating to the Security Council’s military requirements [...]’ and ‘the employment and command of forces placed at its disposal’.⁵² Agreements subject to Article 43 have never been signed⁵³ and the Military Staff Committee in Article 47 remained ineffectual owing to disputes among the permanent members. This rendered this potentially most potent tool in the Security Council’s armour a paper tiger.

As the Security Council was not provided with standing forces at its disposal within the meaning of the UN Charter, alternative arrangements had to be agreed on. How pressing this need for improvisation and flexibility was is well illustrated by the action in Korea in 1950 when the Security Council, in order to have its decisions enforced, approved military action under US command.⁵⁴ While to some extent reactionary in that the Security Council merely approved and legitimised the action the US would have taken in any case, it provided the footing to allow for the Security Council to function in accordance with its primary responsibility; command may no longer be in the Security Council’s hands as originally envisaged, but as member states are provided with authorisation by the Security Council to enforce its decisions, the requisite legitimacy is conferred on the action nonetheless.⁵⁵

Arguably, Security Council authorisation for enforcement action not under its command but with its blessing is a “success story” as without this cloak of legitimacy a multitude of enforcement actions would simply have fallen outside the UN’s collective security framework and thus undermined its founding purposes and principles. As would become evident, early instances of adaptive flexibility and interpretive ingenuity were only the beginning.

18.2.3 Innovation through Straddling the Divide | Chapter VI½

⁴⁵ Miller 1999.

⁴⁶ Article 40, UN Charter.

⁴⁷ Article 41, UN Charter.

⁴⁸ Article 42, UN Charter.

⁴⁹ For an analysis of the use of Article 42 as a means of ensuring the collective security framework, see e.g. Rumage 1993, also Vidmar 2017.

⁵⁰ See Article 42, UN Charter.

⁵¹ Article 46, UN Charter.

⁵² Article 47, UN Charter.

⁵³ Relevant arrangements as per Article 43, UN Charter, have never been implemented and the article remains, to all intents and purposes, ineffective. See Rossman 1994.

⁵⁴ S/RES/83 (27 June 1950) and S/RES/84 (7 July 1950).

⁵⁵ The extent to which this has now been developed, especially the controversies surrounding the authorisation practice, is beyond the scope of this chapter.

The UN may have been conceived in the spirit of war time efforts to assure future generations that recourse to armed conflict would become a thing of the past through the use of a sophisticated reciprocal security system. Yet, the conciliatory tone and cooperative atmosphere, especially among the permanent five members, soon evaporated. With the Cold War came power struggles that more often than not thwarted effective Security Council action. No other event evidenced this ultimate deadlock and thus failure on part of the Security Council in its primary responsibility to take effective action than the events that led to the adoption of the Uniting for Peace resolution.⁵⁶

While initially an instance of illustrating the flexibility within the framework, the Korean experience (above) also brought into sharp relief the disabling disagreements between the permanent five that would affect the Security Council's functioning for decades to come. One of the most disabling illustrations of such disagreements, without any doubt, is the use, or threat, of the permanent member "veto".⁵⁷ While the word "veto" does not appear in the text of the UN Charter, the permanent members are effectively afforded one.⁵⁸

With the Security Council deadlocked, the passing of the Uniting for Peace resolution evidenced that the international community was not prepared to let the UN as an organisation fail in its objectives because they had conceded the most central position of power to five member states. Flexibility and improvisation consequently proved an essential feature of the UN system. As would become clear: the UN was nothing if not adaptable. Its Charter, while framed in the language and experience of World War II, proved to be amenable to interpretation to the point of implying terms arguably neither intended nor foreseen by its drafters. This is further evidenced by the fact that even interpretive lines between clearly separate Chapters would have to be blurred in order to achieve the UN's objectives.

While priority was to be given to solving disputes through Chapter VI, the focus started to shift to Chapter VII. However, as seen above, while the focus did shift, it also became clear that the Security Council would not be able to function as envisaged if the Charter and its language were to be read in their literal sense only. Measures were developed and devised to deal with situations that had not been contemplated, and thus did (and do) not neatly fit within either Chapter. Prime examples of such measures are peacekeeping operations.

As will be elaborated in more detail in the next section below, peacekeeping as we now know it was not originally contemplated. While the terminology appears intuitive in light of the primary objective to maintain and keep the peace, it is not found in the UN Charter and had to be developed in response to the needs at the time. An early example in 1947,⁵⁹ while now listed as a peacekeeping operation,⁶⁰ did not even come within the terminology, which was yet to be coined. It was Dag Hammarskjöld, the second UN Secretary-General and a firm believer in the power of diplomacy,⁶¹ who defined it within the framework of the UN Charter as a response to the Suez crisis in 1956.⁶² The United Nations Emergency Force (UNEF) was the first of its kind and was conceived as an impartial and armed UN force to stabilise fragile

⁵⁶ A/RES/377 (V), 3 November 1950. This is the one, and only, instance in which the General Assembly stepped up to taking the place as the alternative organ.

⁵⁷ To ensure the backing of the permanent members a non-procedural vote is required. This requires a majority of nine, including the concurring votes of the permanent members as per Article 27(3), UN Charter.

⁵⁸ For a discussion on the veto and its place within Security Council decision-making, see e.g. Fassbender 1998.

⁵⁹ Following the endorsement by the General Assembly in November 1947 of a plan for the partition of Palestine, providing for the creation of an Arab State and a Jewish State, in 1948, unarmed UN military observers were deployed to the Middle East to monitor the Armistice Agreement. UNTSO (UN Truce Supervision Organisation) was established by S/RES/50 (1948).

⁶⁰ See, e.g. United Nations, Honouring 60 Years of United Nations Peacekeeping.

⁶¹ Bildt 2011.

⁶² See Hammarskjöld 1958.

situations.⁶³ Because of its nature and the fact that peacekeeping operations consist of a combination of elements, Hammarskjöld described them as falling under “Chapter VI and a half” of the Charter, that is ‘somewhere between traditional methods of resolving disputes peacefully (outlined in Chapter VI), on the one hand, and more forceful, less “consent-based” action (Chapter VII), on the other.’⁶⁴

Peacekeeping operations are no doubt a prime example of the desire to see the UN and its objectives succeed against permanent member divisions and in light of constraints, both internal and external.⁶⁵ As a tool, peacekeeping has evolved, and keeps evolving, to keep meeting the demands of a changing landscape.⁶⁶ While originally limited to maintaining ceasefires and acting as a stabilising force, more complex tasks have been added since UNEF. UN peacekeeping operations have become the only globally-recognised means to credibly and impartially keep and build the peace.

18.3 Peacekeeping Operations – An Overview

There is no easy ‘one size fits all’ definition.⁶⁷ Even attempts at doing so are contentious, as Kofi Annan admitted:

‘[P]eacekeeping appears as “the use of multinational military personnel, armed or unarmed, under international command and with the consent of the parties, to help control and resolve conflict between hostile states and between hostile communities within a state.” Clear as that definition seems, events are now rendering parts of it contentious.’⁶⁸

Owing to its very nature, peacekeeping must be flexible and adaptable. Operations have consequently been deployed in a variety of combinations and configurations. They are increasingly multi-dimensional and are called upon ‘not only to maintain peace and security, but also to facilitate the political process, protect civilians,⁶⁹ assist in the disarmament, demobilization and reintegration of former combatants; support the organization of elections, protect and promote human rights and assist in restoring the rule of law.’⁷⁰ In order to achieve lasting peace, therefore, peace operations encompass a range of multi-dimensional, multi-functional and complex operations.⁷¹ Notably, they involve ‘not only military but also various civilian and police components’.⁷² The underlying mandate is situation-specific, depending on the nature of the conflict and the specific challenges it presents.⁷³

While certainly flawed, as discussed below, peacekeeping operations have proven to be one of the most effective and enduring tools available in assisting in the difficult path from

⁶³ Bildt 2011.

⁶⁴ United Nations, Honouring 60 Years of United Nations Peacekeeping, Background.

⁶⁵ There is a range of constraints, including lacking financial and logistical support. See e.g. Press Release 2000; NYU Center on International Cooperation; and Langholtz 2010.

⁶⁶ For an overview of the developments, see Fetherstone 1994.

⁶⁷ Indeed, peacekeeping operations are but one means in the wider spectrum of the UN’s peace and security activities. See *Capstone Doctrine 2008*, Chapter 2.

⁶⁸ Annan 2017.

⁶⁹ For an assessment of the uncertainty with respect to the use of force to protect civilians with a particular view of missions’ rules of engagement, see Blocq 2006.

⁷⁰ United Nations Peacekeeping, What is Peacekeeping?. See also Handbook on United Nations. Multidimensional Peacekeeping Operations 2003.

⁷¹ Hatto 2013 charts the developments and considers the challenges.

⁷² Aoi et al 2007, p 4.

⁷³ *Capstone Doctrine 2008*, p 16.

conflict to peace. Its various means of engagement are undoubtedly a strong point and represent much of UN practice.⁷⁴ In the following, this section will address the difficulties surrounding the use of terminology, outline the underlying principles and legal basis of operations, describe the steps to the creation of an operation and cover the evolution of operations post-Cold War.

18.3.1 Terminology

Peacekeeping as a term includes under its heading a variety of operations. It is commonly used for reasons of simplicity and convenience, yet this belies the complexity of operations subsumed under the umbrella term. While peacekeeping operations traditionally were to monitor ceasefire agreements and to provide a secure environment for the delivery of humanitarian action as an immediate response, as they developed, they also were to address the root causes of conflicts⁷⁵ to eventually ‘lay the foundations for social justice and sustainable peace’.⁷⁶ Clearly, a tall order for any operation. Additionally, peacekeeping operations, irrespective of size, mandate and objectives, are to conform to and apply underlying principles that were designed to ensure their acceptability.

18.3.2 Underlying Principles

To achieve each operation’s purpose and objectives, three ‘inter-related and mutually reinforcing’⁷⁷ principles underlie UN peacekeeping:

1. Consent of the parties
2. Impartiality
3. Non-use of force except in self-defence and defence of the mandate.⁷⁸

Consent of the parties: Ideally, consent is gained from the main parties to the conflict, necessitating commitment to the wider political process and ‘acceptance of a peacekeeping operation mandated to support that process’.⁷⁹ While this is a reasonable expectation, it is also riddled with controversies and contradictions, not least in situations where the ‘main parties to the conflict’ consist of a multitude of factions.⁸⁰

Impartiality: Mandates are to be implemented ‘without favour or prejudice to any party’.⁸¹ This is both crucial and complementary to obtaining both consent and cooperation from the main

⁷⁴ Useful and instructive guidance is provided in the *Capstone Doctrine 2008*.

⁷⁵ Although, arguably, many if not all peace operations mandates have failed in effectively tackling, managing and eradicating the root causes owing to complex scenarios on the ground. For more detailed analyses see e.g. Woodward 2007, Annan 2014, and United Nations Meetings Coverage, General Assembly (2017).

⁷⁶ Aoi et al 2007, p 5.

⁷⁷ *Capstone Doctrine 2008*, p 31.

⁷⁸ United Nations Peacekeeping, Principles of Peacekeeping. For a more detailed outline of each principle, see *Capstone Doctrine 2008*, Chapter 3. See also Clemons 1993-1994. Clemons charts the historical developments of peacekeeping principles.

⁷⁹ *Capstone Doctrine 2008*, Chapter 3, p 31.

⁸⁰ For further details, see *Capstone Doctrine 2008*, Chapter 3, pp 31-33. For a more detailed consideration and discussion of the issues surrounding host-State consent see Sebastián and Gorur (2018).

⁸¹ *Capstone Doctrine 2008*, Chapter 3, p 33.

parties yet is ‘not be confused with neutrality or inactivity’.⁸² However, this principle is equally subject to controversy as it has, on occasion, become ‘an excuse for inaction’.⁸³

Non-use of force: This principle dates back to UNEF.⁸⁴ While principally ‘not an enforcement tool’, it is acknowledged that owing to the circumstances into which operations are deployed, force may have to be used at ‘the tactical level’, including ‘resistance to attempts by forceful means to prevent the peacekeeping operation from discharging its duties’.⁸⁵

Needless to say, the three underlying principles appear somewhat simplistic out of context and have, each in their own way but also when looked at holistically, drawn widespread criticism which led to calls for clarification and adaptation in light of the changing nature of conflicts. Not only that, it is also accepted that, by themselves, they are not enough to contribute to operation success.⁸⁶ In fact, peacekeeping needs to be embedded in a much more detailed and integrated peacebuilding system.⁸⁷

18.3.3 *Legal Basis*

Strictly speaking, there is no legal basis for peace operations in the UN Charter as they were not provided for in the language of the Charter. Rather, they are the result of ongoing improvisation and interpretation. Traditionally, peacekeeping operations have been rooted in Chapter VI, yet practice has shown that the Security Council does not need to refer to a specific Chapter or indeed Article when passing a resolution that authorises a peacekeeping mission. As a tool, peacekeeping ‘has largely been used in situations where application of Chapter Six of the Charter was not adequate and utilization of Chapter Seven was not possible.’⁸⁸ It is only more recently that the Security Council has started invoking Chapter VII when authorising a mission into settings where the State has shown itself to be unable to maintain security and public order.⁸⁹

18.3.4 *How is a Peacekeeping Operation Created?*

Peacekeeping is resource-intensive. The path to creating, setting up, financing and maintaining such an operation is longwinded and depends on a variety of UN actors (such as the General Assembly and the Secretary-General). During initial consultations on a situation that is either developing or has worsened, a variety of actors, including relevant UN actors, the potential host government and the parties on the ground, member states that are likely to contribute troops and other logistical support, regional and other intergovernmental organisations as well as other relevant key external partners, is called upon to determine the most appropriate response.⁹⁰ Following a technical field assessment that analyses ‘the overall security, political,

⁸² *Capstone Doctrine 2008*, Chapter 3, p 33.

⁸³ *Capstone Doctrine 2008*, Chapter 3, p 33. For further details, see *Capstone Doctrine 2008*, Chapter 3, pp 33-34. For a more detailed consideration and discussion of the issues surrounding impartiality see Rhoads 2016.

⁸⁴ See text to n. 63 above.

⁸⁵ *Capstone Doctrine 2008*, Chapter 3, p 34. For further details, see *Capstone Doctrine 2008*, Chapter 3, pp 34-35. For a more detailed consideration and discussion of the issues surrounding the non-use of force see Berdal 2019.

⁸⁶ For further details, see *Capstone Doctrine 2008*, Chapter 3, pp 36-40. See de Coning and Peter (2019).

⁸⁷ For extensive analyses of the underlying principles and theories see Ryan 2000; Sitkowsksi 2001.

⁸⁸ Annan 2017.

⁸⁹ *Capstone Doctrine 2008*, p 14.

⁹⁰ United Nations Peacekeeping, Forming a New Operation.

military, humanitarian and human rights situation on the ground, and its implications for a possible operation', a report is sent to the Security Council outlining 'options for the establishment of a peacekeeping operation as appropriate including its size and resources'.⁹¹ This report will also outline financial implications and a statement of preliminary estimated costs.⁹²

However, it is only if and when the Security Council determines that deploying an operation is appropriate that it will formally pass a resolution authorising the mission.⁹³ While not embedded in the UN Charter, peacekeeping operations do depend on a Security Council resolution which will not only authorise the mission, but will also provide its mandate, its size and its scope.⁹⁴ Crucially, as the UN has no standing army,⁹⁵ and so the Security Council has no recourse to a deployable force, member states are called upon to contribute troops.⁹⁶

While the mandates themselves are influenced by the nature and content of the agreement reached by the parties to the conflict,⁹⁷ regular reports to the Security Council will update it on the implementation of the mission and, based on these reports, the future of the mission is decided. Ultimately, it is Security Council authority that not only provides the mandate but also imbues the operation with legitimacy. As the UN's bearer of primary responsibility to maintain peace and security, its support is essential.⁹⁸

18.3.5 *The Evolution post-Cold War*

The end of the Cold War substantially affected both practice and scale of peacekeeping operations and brought about nothing less than conceptual change.⁹⁹ While peacekeeping operations had proven to be a workable solution in inter-State conflicts, with the advent of intra-State conflicts where 'the lines of hostility are not so neatly drawn', vulnerabilities of the set-up were drawn sharply into focus.¹⁰⁰ Operations had evolved from the original military model of observing ceasefires and separating forces after inter-state wars to incorporating a complex mix of military, police and civilian elements working together to help lay the foundations for sustainable peace.¹⁰¹ As part of the UN's 'peacebuilding architecture',¹⁰² peacekeeping missions increasingly have a role to play in conflict prevention, peace-making,

⁹¹ United Nations Peacekeeping, Forming a New Operation.

⁹² It is here that the General Assembly plays a key role in assessing the feasibility of a peacekeeping operation. See United Nations Peacekeeping, Role of the General Assembly.

⁹³ Notably, in 'its first 40 years, the Security Council authorized only 13 peacekeeping operations'. For an overview of how this tool became revitalised and acquired a new drive under then Secretary-General Boutros Boutros-Ghali see Meisler 1995, p 187.

⁹⁴ Staffing, especially with regard to senior officials, is within the remit of the Secretary-General's office. This is alongside the Department of Peacekeeping Operations and the Department of Field Support.

⁹⁵ Peacekeepers are only identifiable as such owing to the UN blue helmet or beret and a badge; as military personnel, they continue wearing their own countries' uniform. See United Nations Peacekeeping, Forming a New Operation.

⁹⁶ This in itself has proven a major barrier to operations in the past owing to dwindling support and a failure to provide troops when needed. See Meisler 1995, p 193. Also, as Hurd pointed out, the Security Council has 'enormous formal powers' yet has no direct control with which to enact them. Hurd 2002, p 35.

⁹⁷ *Capstone Doctrine 2008*, p 14.

⁹⁸ Increasingly, Security Council mandates also reflect the broader normative debates shaping the international environment and there are a number of landmark Security Council resolutions. See S/RES/ 1325 (2000) on women, peace and security; S/RES/1612 (2005) on children and armed conflict; or S/RES/1674 (2006) on the protection of civilians in armed conflict. *Capstone Doctrine 2008*, p 14.

⁹⁹ Annan 2017.

¹⁰⁰ Clemons 1993-1994, p 120.

¹⁰¹ *Capstone Doctrine 2008*, p 18.

¹⁰² *Capstone Doctrine 2008*, p 20.

peace enforcement¹⁰³ and, ultimately, peacebuilding.¹⁰⁴ In fact, the language of conflict prevention¹⁰⁵ only entered practice with the end of the Cold War.¹⁰⁶ Consequently, in an *Agenda for Peace*, the central importance of “preventive diplomacy”, including confidence-building measures, fact-finding, early warning, preventive deployment, and demilitarized zones was underlined.¹⁰⁷ This was defined as ‘action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur.’¹⁰⁸ This presented opportunities but also challenges as while the ‘world has united behind peacekeeping in principle, it has failed in many respects to take commensurate steps in practice.’¹⁰⁹

Increasingly, mandates included the authority to use force (with the consent of the host authorities) to both defend themselves and their mandate.¹¹⁰ True, originally peacekeepers were deployed to keep peace, not to make war; their major weapon was moral authority, not military strength.¹¹¹ However, the change in mandate to include a more robust use of force stems from hard-learned lessons in Somalia, Rwanda and the former Yugoslavia to name but a few.¹¹² These operations ‘were deemed to have been flawed in their adherence to outdated neutrality and their lack of correct operational design and competence for dealing with identifiable “enemies”’¹¹³ while at the same time highlighting that warring factions increasingly perceived peacekeepers as “intrusive meddlers” and can both, in their own right, be seen as gamechangers.¹¹⁴

Somalia was the first instance in which ‘both greater involvement in conflicts occurring within borders, as well as a wider use of force was required’.¹¹⁵ Consequently, the Security Council, for the first time, found that a humanitarian disaster constituted a threat to peace and security.¹¹⁶ Action was initiated by a traditional peacekeeping force, the United Nations Operation in Somalia (UNOSOM I), which was subsequently replaced by UNISOM II and backed up with a more substantial military operation, the Unified Task Force (UNITAF) which had been comprised of contributions from many member states. The violence persisted despite UNITAF’s mandated effort to create a secure environment and limited the success of efforts to deliver humanitarian aid and alleviate suffering in the region.¹¹⁷ The Protection Force (UNPROFOR) that was sent to the former Yugoslavia was also largely unsuccessful in its

¹⁰³ Although peace enforcement ‘may involve the use of 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.’ See *Capstone Doctrine 2008*, p 19.

¹⁰⁴ For a brief and useful overview of how peacekeeping developed and which phases can be discerned, see Goulding 1993.

¹⁰⁵ Successive Secretaries-General advocated a more activist approach to conflict prevention, notable among these were *An Agenda for Peace* and *In Larger Freedom*. Kofi Annan, e.g., called for a ‘culture of prevention’ within the UN. Press Release 1999.

¹⁰⁶ The peaceful settlement of disputes and conflict prevention are closely related concepts. However, while the former concentrates on “damage limitation”, the latter seeks to go deeper by addressing both more immediate and the root causes of conflict. For an excellent overview, see Mani and Ponzio 2018.

¹⁰⁷ *An Agenda for Peace* 1992.

¹⁰⁸ *An Agenda for Peace* 1992, para. 20.

¹⁰⁹ Annan 2017.

¹¹⁰ Blocq 2006 further picks up the issue that there is ambiguity in the law guiding peacekeepers in their missions.

¹¹¹ Annan 2017.

¹¹² For a useful overview of the development of peacekeeping with regard to the use of force, see Sloan 2014

¹¹³ Pugh 2004, p 39.

¹¹⁴ Clemons 1993-1994.

¹¹⁵ Annan 2017.

¹¹⁶ See S/RES/733 (23 January 1992).

¹¹⁷ Annan 2017.

efforts to bring about an end to the conflict.¹¹⁸ As an immediate reaction, the UN ‘decided to remain distant from dangerous regions and narrow down the objectives for peacekeeping in general’¹¹⁹ while seemingly re-evaluating its position.

The problems faced by UN peacekeepers highlighted that such missions cannot be tasked in isolation.¹²⁰ It became clear that peacekeeping operations are unlikely to succeed in multi-party intra-State conflicts when the parties on the ground are not genuinely committed to resolving the conflict through a political process; a lack of supportive attitude of neighbouring states; a divided Security Council as disagreements within are likely to send mixed messages to the parties; and a mandate that is both unclear and unrealistic.¹²¹ Moreover, the changing landscape and conditions brought to the fore that the practice developed during the Cold War ‘suddenly seemed needlessly self-limiting’ and that there was ‘increasing support for “peacekeeping with teeth”’.¹²²

Official recognition of the need for change came with the *Brahimi Report*.¹²³ The report found that ‘peacekeeping operations were increasingly deployed not in post-conflict situations, but in stalemate situations where at least one of the parties was not seriously committed to ending the confrontation.’¹²⁴ Consequently, peacekeeping operations, while remaining impartial and adhering to the principles of the UN Charter, would need to be prepared to ‘confront the lingering forces of war and violence’ and have ‘the ability and determination to defeat them’¹²⁵ lest they become ‘complicit with evil’.¹²⁶ Consequently, a UN peacekeeping operation’s authority to use force should be ‘specified and its rules of engagement should be sufficiently robust to prevent UN contingents from ceding the initiative to peace spoilers.’¹²⁷

This point was also picked up by the *New Horizon* initiative.¹²⁸ This UN Secretariat ‘non-paper’ took stock of the increasing scale and complexity of UN peacekeeping operations and emphasised the need for a stronger political consensus, shifting the focus from quantity to quality and capabilities of troops, enhancing the accountability among the stakeholders of UN peacekeeping, and developing a coherent strategy for the United Nations field support system.¹²⁹ Undoubtedly, owing to the range of and changes in expectations and demands, the evolutionary changes brought forth a variety of different types of peace operations. While responsive to immediate needs, it created new challenges.

18.4 What are the Next Challenges?

The range of tasks assigned to peacekeeping operations has expanded significantly in response to shifting patterns of conflict. Although each operation is different, there is a considerable degree of consistency in the types of mandated tasks assigned by the Security Council. At the same time, success is never guaranteed, because each mission is unique and goes into the most physically and politically difficult environments.¹³⁰ This final section will outline the initial

¹¹⁸ For an overview that outlines the issues at the time see Clemons 1993-1994, pp 123-135.

¹¹⁹ Blocq 2006, p 202.

¹²⁰ Note from the Editor to Annan 2017.

¹²¹ *Capstone Doctrine 2008*, pp 49-51.

¹²² Annan 2017.

¹²³ Report of the Panel on United Nations Peace Operations 2000.

¹²⁴ Bildt 2011.

¹²⁵ Report of the Panel on United Nations Peace Operations 2000, p 1.

¹²⁶ Bildt 2011.

¹²⁷ Bildt 2011.

¹²⁸ Department of Peacekeeping Operations and Department of Field Support, *A New Partnership Agenda* 2009.

¹²⁹ Bildt 2011.

¹³⁰ United Nations Peacekeeping, *What is Peacekeeping?*

proposals for change to then consider the future of peace operations by delving deeper into the steps identified as necessary to ensure demands are met.

18.4.1 Proposals for Change

Proposals for change and improvement initially focused on three main areas. First, to address issues of feasibility and viability of operations, the carrying out of independent and ongoing reviews of peacekeeping missions was proposed, aimed at refining priorities and configuration, while assessing the viability of mandates and political processes.¹³¹ This included appeals to more effective political engagement and enhanced accountability and transparency.¹³²

Secondly, proposals identified peacekeepers' safety and security through measures that improve the preparedness and response of missions by strengthening training, reviewing medical support, and addressing performance issues.¹³³ Indeed, while peacekeeping operations have improved the lives of millions of people in 'countries that have found stability and durable peace through the support of multidimensional peacekeeping',¹³⁴ since 2013 casualties among peacekeepers have spiked,¹³⁵ making the practice of peacekeeping increasingly dangerous with peacekeepers being 'targeted more and more frequently'.¹³⁶ This has led to calls for change in practice and expectations or risk 'damaging the instrument of peacekeeping'.¹³⁷ While efforts have been made to strengthen peacekeeping operations by acknowledging the challenges faced and offering solutions,¹³⁸ they equally have shone a harsh light on peacekeepers being 'under-equipped, under-prepared and unready for the dangerous environments in which they now operate'.¹³⁹ This may be because of troops being poorly equipped,¹⁴⁰ because of 'poor troop quality',¹⁴¹ or because of both. This, linked with 'gaps in command and control, in culture, in equipment and in training', renders peacekeepers vulnerable and targets for attacks¹⁴² while also potentially acting as aggressors and exploiters as well.¹⁴³ In reaction, a new approach to sexual exploitation and abuse was launched¹⁴⁴ to ensure that allegations can be followed up and victims have a clear way to report them.¹⁴⁵

As has become obvious, the UN flag 'no longer offers natural protection' to either side.¹⁴⁶

18.4.2 What is the Future of Peace Operations?

¹³¹ Review teams, which are being led by independent experts, have been charged with questioning fundamental assumptions. Where required, they will aim for a "strategic reset" of operations in need of new direction. Haeri 2018.

¹³² Secretary-General Statements 2018.

¹³³ In terms of training needs, it is worthwhile looking at Blocq 2006.

¹³⁴ Haeri 2018.

¹³⁵ Lieutenant General (Retired) Carlos Alberto dos Santos Cruz 2017, Executive Summary.

¹³⁶ Press Release 2018.

¹³⁷ Secretary-General Statements 2018. For a discussion on whether the High-Level Panel can deliver reform, see Whalan 2016.

¹³⁸ See Report of the High-Level Independent Panel on United Nations Peacekeeping Operations 2015.

¹³⁹ Secretary-General Statements 2018.

¹⁴⁰ See Autesserre 2019.

¹⁴¹ See Haass and Ansorg 2018.

¹⁴² Secretary-General Statements 2018.

¹⁴³ See, e.g. Oswald 2016; Kihara-Hunt 2017.

¹⁴⁴ United Nations, The Compact on Preventing Sexual Exploitation and Abuse.

¹⁴⁵ Secretary-General Statements 2018.

¹⁴⁶ Williams 2018.

It is the prerogative of the Security Council, acting in its capacity as the organ with primary responsibility for the maintenance of international peace and security, to determine when and where a peacekeeping operation should be deployed.¹⁴⁷ The Security Council responds to crises on a case-by-case basis and it has a wide range of options at its disposal. Nevertheless, without prejudice to its ability to do so and to respond flexibly as circumstances require, the Security Council has indicated that it may take a number of factors into account when the establishment of a new peacekeeping operation is under consideration.¹⁴⁸ This has taken on a new meaning as peacekeeping operations are more frequently deployed in volatile, highly stressed environments that are characterised by the collapse or degradation of State structures with lawlessness and insecurity prevalent and opportunists present who are willing to exploit any political and security vacuum.¹⁴⁹ It is here that peacekeeping operations are ‘operating at the outer limits of peacekeeping. They are deployed in the face of weak or stalled political processes, diminished consent, and direct attacks on personnel, sometimes by transnational actors’¹⁵⁰ where they are tested for ‘weakness and division by those whose interests are threatened by its presence, particularly in the early stages of deployment’.¹⁵¹ In the light of high-risk environments, casualties and the costs of failed and failing missions, questions arose as to whether the UN can continue to afford being caught in a ‘trilemma’,¹⁵² pursuing ‘three principal goals’: the maximisation of success, the minimisation of risk, and the maximisation of efficiency. However, ‘for logical and practical reasons only two of them can be achieved simultaneously’.¹⁵³ Inevitably, this has revived discussions about the viability of mandates in contemporary settings.¹⁵⁴

However, as conflicts change in nature, scope and reach, the future will demand an even greater involvement in conflicts occurring within borders, as well as a wider use of force.¹⁵⁵ This necessitates questioning traditional approaches such as obtaining the consent of the parties involved.¹⁵⁶ Moreover, ‘how should we define a party?’¹⁵⁷ While Article 2(7) UN Charter warns against infringing upon sovereignty, it becomes ‘difficult to apply in situations where there is no recognized or recognizable sovereign.’¹⁵⁸

Further action is needed to future-proof peacekeeping operations and the UN is keenly aware that reform is required as part of an ongoing, evolutionary approach.¹⁵⁹ Steps to making peacekeeping ‘stronger, safer and more effective’ came with the *Santos Cruz Report*¹⁶⁰ and the *Action for Peacekeeping* (A4P) initiative¹⁶¹ which launched in 2018.¹⁶² The *Cruz Report* put it

¹⁴⁷ This also highlights a fundamental issue at the heart of such operations: they depend on the Security Council with that organ itself being dominated by five permanent members and attendant power struggles at a political level. For a fundamental assessment and critique of peace operations as part of a ‘global governance’ that ‘is not neutral but serves the purpose of an existing order’ and therefore can be seen as a form of ‘riot control directed against the unruly parts of the world to uphold the liberal peace’, see Pugh 2004, p 41.

¹⁴⁸ *Capstone Doctrine 2008*, p 47.

¹⁴⁹ *Capstone Doctrine 2008*, p 37.

¹⁵⁰ Haeri 2018.

¹⁵¹ *Capstone Doctrine 2008*, p 37.

¹⁵² Williams 2018.

¹⁵³ Williams 2018.

¹⁵⁴ Haeri 2018.

¹⁵⁵ Annan 2017.

¹⁵⁶ See above, 18.3.2 Underlying Principles.

¹⁵⁷ Annan 2017.

¹⁵⁸ Annan 2017.

¹⁵⁹ United Nations Peacekeeping, *Reforming Peacekeeping*.

¹⁶⁰ Secretary-General Statements 2018, and Lieutenant General (Retired) Carlos Alberto dos Santos Cruz 2017

¹⁶¹ United Nations Peacekeeping, *Action for Peacekeeping* (A4P).

¹⁶² Press Release 2018. For the launching speech, see Secretary-General Statements 2018.

quite starkly: unless mindsets are changed troops will be consciously sent into harm's way.¹⁶³ Above all, the report is quite clear that a real and a realistic commitment is required to adapt to the changed, and continuously changing, requirements of modern peacekeeping and calls for more proactive, even pre-emptive, action and the preparedness to use force when necessary. While the report picks up some uncomfortable truths, there have been criticisms of its militaristic approach and goals in focussing too narrowly on security responses to the threats that kill peacekeepers instead of concentrating on the political processes that should be at the heart of UN peacekeeping.¹⁶⁴ The fundamental question of whether peacekeeping should deploy to such dangerous and problematic environments in the first place is being sidestepped.¹⁶⁵ This remains a fundamental question and a first and most formidable obstacle facing peacekeeping generally: translating commitment into action.¹⁶⁶ This is true all the more so if such actions are to have the necessary 'teeth' in terms of mandate and means,¹⁶⁷ not only to deal with contemporary threats but also to react flexibly to future challenges with factors, factions, and characteristics as yet unclear or not envisaged.

Additionally, many peacekeeping operations face crises that are political at their core. Even perfect performance by UN military and police would leave many missions reckoning with a fundamental obstacle: the lack of durable political solutions.¹⁶⁸ 'Peace operations cannot succeed if they are deployed instead of a political solution, rather than in support of one.'¹⁶⁹ Politics and security are mutually reinforcing, creating the very comparative advantage that is the hallmark of multidimensional UN peacekeeping.¹⁷⁰

A4P¹⁷¹ attempts to make strides in that direction by outlining six main requirements on the future of peacekeeping operations: i) for the Security Council to sharpen and streamline mandates,¹⁷² ii) for Member States to sustain their political engagement and push for political solutions and inclusive peace processes, including through bilateral diplomacy and sanctions if necessary, iii) to foster and reinforce the relationships with regional organisations; iv) for those responsible to maintain the peace for their personnel (civil, military and police) to keep themselves at the ready to deliver their mission,¹⁷³ v) for those responsible to assume their responsibility and to allocate the missions the necessary human and financial resources to attain the mandates,¹⁷⁴ and vi) for the host countries to provide their consent to the operations to maintain peace and to cooperate actively in their attainment.¹⁷⁵

18.5 Conclusion

The drafters of the UN Charter's collective security framework had divided it into two Chapters to deal with disputes, situations or conflicts that either are likely to impact or have already

¹⁶³ Lieutenant General (Retired) Carlos Alberto dos Santos Cruz 2017, p 10.

¹⁶⁴ Williams 2018.

¹⁶⁵ Haeri 2018.

¹⁶⁶ Annan 2017.

¹⁶⁷ Annan 2017.

¹⁶⁸ Haeri 2018.

¹⁶⁹ Secretary-General Statements 2018.

¹⁷⁰ Haeri 2018.

¹⁷¹ United Nations Peacekeeping Action for Peacekeeping (A4P).

¹⁷² The Secretary-General called for an end to 'mandates that look like Christmas trees' in Secretary-General Statements 2018.

¹⁷³ Particularly pertinent as peacekeeping as we know it has no capital fund, no reserve of equipment, and no reserve force. Annan 2017.

¹⁷⁴ Member states call for lower budgets while the world expects greater results to prevent violence and atrocities. See Haeri 2018.

¹⁷⁵ Secretary-General Statements 2018.

negatively impacted on international peace and security. This was conceived at a time when conflicts were rather more neatly categorised and by powers whose reach was still able to manage, even suppress, conflicts within their ‘sphere of influence’. However, as had become rather quickly clear in the immediate aftermath of the UN’s creation, implementation of its goals was inevitably hampered by great power politics. What had not been envisaged was the decolonisation process and the civil strife that came with it. With the pursuit for independence, including from each other as well as from their colonial powers, came armed conflicts of a nature not previously experienced or, indeed, envisaged. The classic assumption of State versus State dispute that could escalate into an inter-State conflict, while still valid, has increasingly been supplanted by intra-State disputes and conflicts that involve so-called non-State actors,¹⁷⁶ alongside the State, that have traditionally not been part of the dispute resolution discourse. Therefore, in addition to the traditional definition of international (armed) conflicts,¹⁷⁷ we have to acknowledge conflicts that fall outside the inter-State conflict paradigm as intra-State, non-international armed conflicts,¹⁷⁸ with potentially a variety of non-State actors whose aims and objectives are not necessarily aligned with those classically pursued by the State and its representatives.

‘Classic’ or ‘traditional’ means of conflict resolution as inscribed in the UN Charter proved increasingly ‘unfit for purpose’ or simply not appropriate necessitating flexible and innovative thinking and approaches. Consequently, the lines between Chapters VI and VII became increasingly blurred with measures being developed out of a need to respond to situations on the ground in a credible, effective and efficient manner. To some extent, the UN system and its constitutive document, the UN Charter, have been able to adapt and respond. While the UN Charter as originally designed did not cater for such developments,¹⁷⁹ there is, arguably, a fair amount of flexibility within the UN as an organisation and the Charter’s language to allow for interpretation, growth and adaptation.¹⁸⁰ No other practice bears witness to this better than peacekeeping operations, which, without being mentioned or provided for in the UN Charter, filled a void. From inception onwards, they have remained a ‘remarkable and constantly evolving tool for international cooperation, burden sharing and the promotion of global security.’¹⁸¹ That is not to say that the UN has not struggled in its efforts to neutralise ‘vengeance wherever and whenever it could.’¹⁸² But the UN’s strength lies in its flexibility and adaptability. It is a key actor in the development of the international legal framework for codes of conduct and rules of engagement, and in dealing with the consequences of armed conflicts.¹⁸³

For peacekeeping operations to effectively promote peace and security, all those who have a stake in them – the UN Secretariat, Security Council, General Assembly, troop and police contributors, host-states, financial contributors, and regional organizations – need to fulfil their roles respectively, take a hard look collectively at peacekeeping and ask whether it has the mandate, resources, political support, mindset, and human capital needed to meet the

¹⁷⁶ For a detailed analysis of the issue non-State actors represent in classic international law, see Noortmann et al 2015.

¹⁷⁷ See, e.g., Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

¹⁷⁸ See, e.g., Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

¹⁷⁹ But then, neither had it catered for the process of decolonisation that started only a few years after the organisation’s creation. Originally, most members of today fell within the remit of the Trusteeship Council.

¹⁸⁰ As was acknowledged in *Certain Expenses of the United Nations* (Article 17, paragraph 2, of the Charter), Advisory Opinion, 20 July 1962, I.C.J. Reports (1962) 151.

¹⁸¹ Haeri 2018.

¹⁸² Annan 2017.

¹⁸³ Bildt 2011.

very high expectations.¹⁸⁴ Above all, and to paraphrase former Secretary-General Kofi Annan, ‘[T]he will to attain peace can be neither compelled nor coerced; it must be expressed by the [affected parties] themselves.’¹⁸⁵ Ultimately, parties to the conflict must want peace.¹⁸⁶

References¹⁸⁷

- Annan, K (2017) The Path of Peace-Keeping, Harvard International Review (online edition), <http://hir.harvard.edu/article/?a=14530>
- Annan, N (2014) Violent Conflicts and Civil Strife in West Africa: Causes, Challenges and Prospects, Stability: International Journal of Security and Development 3:1, DOI: <http://doi.org/10.5334/sta.da>
- Autesserre, S (2019) The Crisis of Peacekeeping: Why the UN Can’t End Wars, Foreign Affairs 98:1:101-116
- Berdal, M (2019) What Are the Limits to the Use of Force in UN Peacekeeping?. In: de Coning, C and Peter, M (eds) United Nations Peace Operations in a Changing Global Order. Palgrave Macmillan: Cham
- Bildt, C (2011) Dag Hammarskjöld and United Nations Peacekeeping UN Chronicle XLVIII: 2 (online edition). <https://unchronicle.un.org/article/dag-hammarskj-ld-and-united-nations-peacekeeping>
- Blocq, DS (2006) The Fog of UN Peacekeeping: Ethical Issues regarding the Use of Force to Protect Civilians in UN Operations, Journal of Military Ethics 5:3:201-213
- Boot, M (March/April 2000) Paving the Road to Hell: The Failure of U.N. Peacekeeping, Foreign Affairs (online edition). <https://www.foreignaffairs.com/reviews/review-essay/2000-03-01/paving-road-hell-failure-un-peacekeeping>
- Chiyuki, A, de Coning, D and Thakur, R (2007) Unintended Consequences of Peacekeeping Operations, United Nations University Press: New York
- Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America), Merits, Judgment of 27 June 1986, ICJ Reports (1986) 99
- Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion, 20 July 1962, ICJ Reports (1962) 151
- Charter of the United Nations 1945
- Clemons, E (1993-1994) No Peace to Keep: Six and Three-Quarters Peacekeepers, N.Y.U. J. Int’l L. & Pol. 26:107-141
- Corfu Channel Case (United Kingdom v Albania), Judgment of 9 April 1949, ICJ Reports (1949) 4
- Covenant of the League of Nations 1919
- de Coning C, and Peter, M (eds) (2019) United Nations Peace Operations in a Changing Global Order. Palgrave Macmillan: Cham
- Delbrück, J (2002) Article 25. In Simma, B (ed.), The Charter of the United Nations – A Commentary, Oxford University Press: Oxford
- Department of Field Support. <https://peacekeeping.un.org/en/department-of-field-support>.
- Department of Peacekeeping Operations. <https://peacekeeping.un.org/en/department-of-peacekeeping-operations>
- Department of Peacekeeping Operations and Department of Field Support (2009) A New Partnership Agenda: Charting a New Horizon for UN Peacekeeping. https://peacekeeping.un.org/sites/default/files/newhorizon_0.pdf

¹⁸⁴ Haeri 2018.

¹⁸⁵ Annan 2017.

¹⁸⁶ Haeri 2018.

¹⁸⁷ All online sources were accessed 24 June 2019 unless otherwise indicated.

- Eagleton, C (1946) The Jurisdiction of the Security Council over Disputes, *A.J.I.L.* 40:3:513-533
- Fabian, LL (1971) *Soldiers without Enemies: Preparing the United Nations for Peacekeeping*, The Brookings Institution: Washington, DC
- Fassbender, B (1998) *UN Security Council Reform and the Right of Veto: A Constitutional Perspective*, Kluwer Law International: The Hague
- Fetherstone, AB (1994) *Towards a Theory of United Nations Peacekeeping*, Macmillan: London
- Finkelstein, MS and Finkelstein, LS (eds) (1966) *Collective Security*, Chandler Publishing: San Francisco
- Goulding, M (1993) The Evolution of United Nations Peacekeeping, *International Affairs* 69:3:451-464
- Haas, F and Ansorg, N (2018) Better Peacekeepers, Better Protection? Troop Quality of United Nations Peace Operations and Violence against Civilians, *Journal of Peace Research* 55:6:742–758
- Haeri, D (2018) Strengthening UN Peacekeeping: Placing the Santos Cruz Report in Context, IPI Global Observatory. <https://theglobalobservatory.org/2018/02/strengthening-peacekeeping-cruz-report-context/>
- Hammarskjöld, D (1958) *United Nations Emergency Force, Summary Study of the Experience Derived from the Establishment and Operation of the Force*, United Nations General Assembly, New York
- Hassler, S (2013) *Reforming the UN Security Council Membership: The Illusion of Representativeness*, Routledge: Oxon
- Hatto, R (2013) From Peacekeeping to Peacebuilding: The Evolution of the Role of the United Nations in Peace Operations, *I.R.R.C.* 95:495-515
- Kihara-Hunt, A (2017) Addressing Sexual Exploitation and Abuse: The Case of UN Police – Recommendations, *Journal of International Peacekeeping* 21:62-82
- Hurd, I (2002) Legitimacy, Power, and the Symbolic Life of the UN Security Council, *Global Governance* 8:35-51
- Langholtz, HJ (2010) *Logistical Support to United Nations Peacekeeping Operations: An Introduction*, Peace Operations Training Institute. http://www.ccopab.eb.mil.br/images/stories/cursos_estagios/logistica/1.%20LOG1_EN.100524.pdf
- Lieutenant General (Retired) Carlos Alberto dos Santos Cruz (2017) *Improving Security of United Nations Peacekeepers: We Need to Change the Way we Are Doing Business*. https://peacekeeping.un.org/sites/default/files/improving_security_of_united_nations_peacekeepers_report.pdf
- Mani, R and Ponzio, R (2018) Chapter 18: Peaceful Settlement of Disputes and Conflict Prevention. In Weiss, TG and Daws, S (eds), *The Oxford Handbook on the United Nations*, Oxford University Press: Oxford
- Meisler, S (1995) Dateline U.N.: A New Hammarskjöld?, *Foreign Policy* 98:180-197
- Miller, LH (1999) The Idea and the Reality of Collective Security, *Global Governance* 5:303-332
- Noortmann, M, Reinisch, A and Ryngaert, C (eds) (2015) *Non-State Actors in International Law*, Hart Publishing: Oxford
- NYU Center on International Cooperation, *Peacekeeping Overstretch: Symptoms, Causes, and Consequences - Background Paper for the Thematic Series “Building More Effective UN Peace Operations”*. <https://cic.es.its.nyu.edu/sites/default/files/overstretchen.pdf>

- Oswald, BO (2016) Sexual Exploitation and Abuse in UN Peace Operations: Challenges and Developments, *Journal of International Peacekeeping* 20:143-170
- Press Release (1999) Secretary-General Stresses Shift from Culture of Reaction to One of Prevention in 1999 Report on Work of Organization, SG/2059 – GA/9587.
<https://www.un.org/press/en/1999/19990909.sg2059.doc.html>
- Press Release (2000) Challenges of United Nations Peacekeeping Operations Reviewed By Countries with First-Hand Experience, GA/SPD/201.
<https://www.un.org/press/en/2000/20001109.gaspd201.doc.html>
- Press Release (2018) Peacekeeping Remains Defining Activity of United Nations, Secretary-General Says during Dag Hammarskjöld Medal Ceremony, SG/SM/19062-HQ/723-PKO/735. <https://www.un.org/press/en/2018/sgsm19062.doc.htm>
- Provisional Rules of Procedure, Repertoire of the Practice of the Security Council.
<http://www.un.org/en/sc/repertoire/rules/overview.shtml>
- Pugh, M (2004) Peacekeeping and Critical Theory, *International Peacekeeping* 11:1:39-58
- Report of the High-Level Independent Panel on United Nations Peacekeeping Operations (2015) *Uniting Our Strengths For Peace – Politics, Partnership and People*.
https://peaceoperationsreview.org/wp-content/uploads/2015/08/HIPPO_Report_1_June_2015.pdf
- Report of the Panel on United Nations Peace Operations (2000) A/55/305 – S/2000/809
- Report of the Secretary-General pursuant to the statement adopted by the Summit Meeting of the Security Council on 31 January 1992, *An Agenda for Peace*, A/47/277
- Repertoire of the Practice of the Security Council, *Actions with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression (Chapter VII)*.
<http://www.un.org/en/sc/repertoire/actions.shtml>
- Repertoire of the Practice of the Security Council, *Pacific Settlements of Disputes (Chapter VI)*. <http://www.un.org/en/sc/repertoire/settlements.shtml>
- Repertoire of the Practice of the Security Council, *Provisional Rules of Procedure*.
<http://www.un.org/en/sc/repertoire/rules/overview.shtml>
- Rhoads, EP (2016) *Taking Sides in Peacekeeping: Impartiality and the Future of the United Nations*, Oxford University Press: Oxford
- Rossmann, JE (1994) Article 43: Arming the United Nations Security Council, *NYU J. Int'l L. & Pol.* 27:227-263
- Rumage, S (1993) The Return of Article 42: Enemy of the Good for Collective Security, *Pace Int'l L. Rev.* 5:1:211-286
- Ryan, S (2000) United Nations peacekeeping: A Matter of Principles?, *International Peacekeeping* 7:1:27-47
- Sands, P and Klein, P (2001) *Bowett's Law of International Institutions*, Thomson, Sweet & Maxwell: London
- Sebastián, S and Gorur, A (2018) *UN Peacekeeping and Host-State Consent: How Missions Navigate Relationships with Governments*, Stimson Center.
<https://www.stimson.org/sites/default/files/file-attachments/UN-PeacekeepingAndHostStateConsent.pdf>
- Secretary-General Statements (2018) Secretary-General's Remarks to Security Council High-Level Debate on Collective Action to Improve UN Peacekeeping Operations.
<https://www.un.org/sg/en/content/sg/statement/2018-03-28/secretary-generals-remarks-security-council-high-level-debate>
- Sitkowsksi, A (2001) Reflections on The Peacekeeping Doctrine, *Journal of International Peacekeeping* 7:181-196
- Sloan, J (2014) The Evolution of the Use of Force in UN Peacekeeping, *The Journal of Strategic Studies* 37:5:674-702

United Nations, About the UN. <http://www.un.org/en/sections/about-un/overview/index.html>

United Nations, Honouring 60 Years of United Nations Peacekeeping. <http://www.un.org/en/events/peacekeepersday/2008/1948.shtml>

United Nations, The Compact on Preventing Sexual Exploitation and Abuse. <https://www.un.org/preventing-sexual-exploitation-and-abuse/content/voluntary-compact>

United Nations Department of Peacekeeping Operations. <https://peacekeeping.un.org/en>

United Nations Department of Peacekeeping Operations (2003) Handbook on United Nations Multidimensional Peacekeeping Operations. https://peacekeeping.un.org/sites/default/files/peacekeeping-handbook_un_dec2003_0.pdf

United Nations Department of Peacekeeping Operations (2008) Department of Field Support, United Nations Peacekeeping Operations (Capstone Doctrine): Principles and Guidelines. https://peacekeeping.un.org/sites/default/files/capstone_eng_0.pdf

United Nations Department of Political Affairs. <https://www.un.org/undpa/en/overview>

UN News (2014) Peace Means Dignity, Well-being for All, not Just Absence of War – UN officials. <https://news.un.org/en/story/2014/09/476992-peace-means-dignity-well-being-all-not-just-absence-war-un-officials>

UNIDIR Resources (2017) The Role and Importance of the Hague Conferences: A Historical Perspective. <http://www.unidir.org/files/publications/pdfs/the-role-and-importance-of-the-hague-conferences-a-historical-perspective-en-672.pdf>

United Nations Meetings Coverage, General Assembly, Plenary, GA/11884 Speakers Urge Focus on Root Causes of Conflict as General Assembly Debates Strategies for Linking Sustainable Development, Lasting Peace (24 January 2017) <https://www.un.org/press/en/2017/ga11884.doc.htm>

United Nations Peacekeeping, Action for Peacekeeping (A4P). <https://peacekeeping.un.org/en/action-for-peacekeeping-a4p>

United Nations Peacekeeping, Forming a New Operation. <https://peacekeeping.un.org/en/forming-new-operation>

United Nations Peacekeeping, Principles of Peacekeeping. <https://peacekeeping.un.org/en/principles-of-peacekeeping>

United Nations Peacekeeping, Reforming Peacekeeping. <https://peacekeeping.un.org/en/reforming-peacekeeping>

United Nations Peacekeeping, Role of the General Assembly. <https://peacekeeping.un.org/en/role-of-general-assembly>

United Nations Peacekeeping, What is Peacekeeping? <https://peacekeeping.un.org/en/what-is-peacekeeping>

United Nations Peace Operations. <https://www.unmissions.org/>

United Nations Truce Supervision Organisation. <https://untso.unmissions.org/background>

Vidmar, J (2017) The Use of Force as a Plea of Necessity, A.J.I.L. 111:302-306

Whalan, J (2016) Reforming UN Peace Operations: Will the High-Level Panel's Report Make a Difference for Human Rights?, Journal of International Peacekeeping 20:5-20

Williams, PD (2018) Cruz Report: The Politics of Force and the United Nations' Peacekeeping Trilemma. <https://theglobalobservatory.org/2018/02/cruz-report-peacekeeping-trilemma/>

Woodward, SL (2007) Do the Root Causes of Civil War Matter? On Using Knowledge to Improve Peacebuilding Interventions, Journal of Intervention and Statebuilding 1:2, 143-170