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# United Nations Peacekeeping Operations and Security and Reconstruction

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# UNITED NATIONS PEACEKEEPING OPERATIONS AND SECURITY AND RECONSTRUCTION[†]

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## I. INTRODUCTION

Several studies show that despite recent increases in the number of minor conflicts, long-term trends suggest that international and civil wars are declining[1]. Analyzing the causes of the improvement in global security since 1990, the 2006 Human Security Report argues that the United Nations played a critically important role in spearheading a huge upsurge of international conflict prevention, peacekeeping and peacebuilding activities.[2] The evidence that these initiatives worked is not just circumstantial. Contrary to popular perceptions, a recent RAND Corporation study, for

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[1] Human Security Brief 2006, Human Security Report Centre (2006), *available at* http://www.hsrgroup.org/human-security-reports/2006/overview.aspx. *See also* Human Security Report 2009/2010: The Causes of Peace and the Shrinking Costs of War (2010), Human Security Report Project, *available at* http://www.hsrgroup.org/human-security-reports/20092010/text.aspx.

[2] Paul Collier and Anke Hoeffler, *The Challenges of Reducing the Global Incidence of Civil War*, *in* HOW TO SPEND $50 BILLION TO MAKE THE WORLD A BETTER PLACE 39, 51 (Bjørn Lomborg ed., 2006). *See also* Human Security Brief 2006, *supra* note 1, at ch. 3. The 2009/2010 Human Security Report makes the same point and states that, while not suggesting that it is the sole explanation, peacemaking and peacebuilding makes a difference. Human Security Report 2009/2010, *supra* note 1, at pt. I.

example, found that two-thirds of the UN's peacebuilding missions had succeeded.[3]  In

addition, the sharp increase in peacemaking efforts led to a significant increase in the

number of conflicts ending in negotiated settlements.[4]  The annual cost of the charges to

the international community has been modest — well under 1% of world military

spending.[5]  The US Government Accountability Office estimated that it would cost the

United States approximately twice as much as the United Nations to conduct a

peacekeeping operation similar to the UN stabilization Mission in Haiti (MINUSTAH):

an estimated $876 million compared to the UN budgeted $428 million for the first 14

months of the mission.[6]  In fact, in 2006, the cost of running all of the UN's 19

peacekeeping operations around the world for an entire year was less than the United

States spent in Iraq at the height of the Iraq war in a single month.[7]  Despite the positive

changes, the RAND Corporation study makes it clear that there are no grounds for

complacency.[8]

Although the number of wars has decreased, far too many remain — and there are

still several places of instability around the globe that could easily turn into conflict areas.

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[3] JAMES DOBBINS, A COMPARATIVE EVALUATION OF UNITED NATIONS PEACEKEEPING 6 (2007) (including testimony presented before the House Committee on Foreign Affairs, Subcommittee. on International Organizations, Human Rights, and Oversight on June 13, 2007).

[4] *Id.* at 7.

[5] *See* Financing Peacekeeping, http://www.un.org/en/peacekeeping/operations/financing.shtml; *and* UN Peacekeeping Background Note,  http://www.un.org/en/peacekeeping/documents/backgroundnote.pdf.  The approved peacekeeping budget for the period from July 2010 to June 2011 is approximately U.S. $7.3 billion.  This represents about 0.5 percent of global military spending, estimated at U.S. $1.531 trillion. *Id.*

[6] U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-06-331, PEACEKEEPING: COST COMPARISON OF ACTUAL UN AND HYPOTHETICAL US OPERATIONS IN HAITI 7 (2006).

[7] Dobbins points out that the UN is a comparatively efficient and cost effective force provider.  In its specialized agencies, it possesses a broad panoply of civil as well as military capabilities needed for nation building.  DOBBINS, *supra* note 3, at 2.  All missions UN missions are planned, controlled, and sustained by a few hundred military and civilian staffers at UN headquarters in New York. *Id*.  Most troops come from Third World countries whose costs per deployed soldier are a small fraction of any western army. *Id. See also* Richard Wolf, *Afghan War Costs Now Outpace Iraq's*, USA TODAY, May 13, 2010, http://www.usatoday.com/news/military/2010-05-12-afghan_N.htm.

[8] DOBBINS, *supra* note 3, at 8.

Furthermore, because the underlying causes of conflicts are too rarely addressed, the risks of new conflicts breaking out in the same area and old ones starting up again remain very real. This happened in Haiti where the UN is in its second peacekeeping mission to the country.[9] In terms of the challenge to establish enduring peace in conflict zones, the Security Council has emphasized that "the biggest deterrent to violent conflict is addressing the root causes of conflict, including through the promotion of sustainable development and a democratic society based on a strong rule of law and civic institutions, including adherence to all human rights – civil, political, economic, social and cultural."[10] One of the determinants of success, therefore, of any peacekeeping mission is the extent to which it has the capacity to address the root causes of a conflict in the host state of the mission. In August 2000, a famous UN report, the Brahimi Report, acknowledged the shortcomings of the UN peacekeeping efforts and recommended wide-ranging reforms aimed at strengthening the operations and making them more effective.[11] Since then there have been numerous other reports aimed at implementing reforms to strengthen United Nations peacekeeping operations.[12]

This article builds on that report and discusses the broad challenges facing United Nations peacekeeping missions today and the role of the United Nations peacekeeping operations in the resolution of conflicts and in the reconstruction of post conflicts states. The objective of the article is to identify areas that need attention to make peacekeeping

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[9] Ian Martin, *Paper versus Steel: The First Phase of the International Civilian Mission in Haiti*, *in* HONORING HUMAN RIGHTS AND KEEPING THE PEACE: LESSONS FROM EL SALVADOR, CAMBODIA, AND HAITI 83 (Alice H. Henkin ed., 1995).
[10] S.C. Res. 1327, U.N. Doc. S/RES/1327 (Nov. 13, 2000).
[11] Panel on U.N. Peace Operations, Rep., transmitted by identical letters dated Aug. 21, 2000 from the Secretary-General addressed 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). The report is called the Brahimi Report after its chairman of the committee which produced the report.
[12] *E.g.* U.N. Secretary-General, *Implementation of the Recommendations of the Special Committee on Peacekeeping Operations: Rep. of the Secretary-General*, U.N. Doc. A/59/608 (Dec. 15, 2004).

missions more effective. The article is broken down into the following sections: (II) peacekeeping in theory and practice; (III) the peacekeeping mandate; (IV) conditions and factors that can help determine the success or failure of a peacekeeping mission; and (IV) the broad challenges that face peacekeeping missions.

## II. PEACEKEEPING:  BACKGROUND, THEORY, AND PRACTICE

The United Nations was founded, in the words of its Charter, in order to "save succeeding generations from the scourge of war."[13]  Meeting this challenge is the most important yardstick by which the organization is judged by the people it exists to serve. One of the most important ways in which the UN intervenes in conflicts and promotes peace is through peacekeeping operations.  Given the centrality of peacekeeping to United Nations peace initiatives, it is somewhat surprising that no precise definition of peacekeeping can be found in the United Nations Charter.[14]  It would appear, therefore, that the "technique of peacekeeping is a distinctive innovation by the United Nations."[15] In all likelihood, this is the result of the fact that the Charter's authors "envisaged that threats to international peace and security would primarily consist of aggression by one state against another. . . . Peacekeeping was not envisaged as part of the organization's role, which lay primarily in establishing a system of collective security."[16]  Peacekeeping missions do not seem to fit within the scope of the activities specified by chapter VI of

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[13] U.N. Charter preamble.

[14] FREDERIC L. KIRGIS, JR., INTERNATIONAL ORGANIZATIONS IN THEIR LEGAL SETTING 717 (2d ed. 1993).

[15] Brian Urquhart, *The United Nations, Collective Security and International Peacekeeping*, *in* NEGOTIATING WORLD ORDER: THE ARTISANSHIP AND ARCHITECTURE OF GLOBAL DIPLOMACY 59, 62 (Alan K. Henrikson ed., Scholarly Res. 1986).

[16] ALEX J. BELLAMY ET AL., UNDERSTANDING PEACEKEEPING 46 (2004).

the Charter, which concerns the "Pacific Settlement of Disputes," or chapter VII of the Charter, which addresses "Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression."[17]   As a practical matter, when establishing a peacekeeping mission, the Security Council has usually invoked chapter VI of the United Nations Charter.[18]   Peacekeeping missions are distinct from enforcement actions undertaken by the United Nations under chapter VII of the Charter, as "[e]nforcement action is directed against a state or other political entity, and has a coercive design.  U.N. peacekeeping, on the other hand, is not directed 'against' a particular wrongdoer and traditionally has involved coercion only in a minimal sense, if at all."[19]   The Charter contains a tension between the doctrines of national sovereignty and the protection and promotion of individual rights and the promotion of peace and security generally in the context of a civil war.[20]   Although the preamble of the Charter contains an affirmation to "reaffirm faith in fundamental human rights,"[21]   article 2(7) states that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter."[22]

Peacekeeping operations have been a major activity of the United Nations almost since its establishment in 1945.  The United Nations has been involved in over 63

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[17] *See* U.N. Charter, art. 33-51.
[18] BRUCE R. PIRNIE & WILLIAM E. SIMONS, SOLDIERS FOR PEACE: CRITICAL OPERATIONAL ISSUES xi (1996).
[19] KIRGIS, *supra* note 14, at 716.
[20] The Charter in Chapter I, Article 2(7) guarantees sovereignty by providing that "[n]othing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter."  U.N. Charter art. 2, para 7.  But in Article 13, the United Nations undertakes to promote human rights.  *Id.* at art. 13, para 1.
[21] *Id.* at preamble.
[22] *Id.* at art. 2, para. 7.

peacekeeping missions since 1948.[23] As the practice has evolved over the years, a peacekeeping operation has come to be defined as an operation involving military personnel, but without enforcement powers undertaken by the United Nations to help maintain or restore international peace and security in areas of conflict.[24] These operations are voluntary and based on consent and cooperation. While they involve the use of military personnel, the peacekeeping missions achieve their objectives not by force of arms, thus contrasting them with the enforcement action of the United Nations under article 42 of the Charter.[25] United Nations peacekeeping missions typically also involve a large number of civilians and civilian police.[26] United Nations peacekeeping is a unique and dynamic mechanism developed by the United Nations and is means to help countries torn by conflict create the conditions for lasting peace.[27]

The first United Nations peacekeeping mission was established in 1948, when the Security Council authorized the deployment of UN military observers to the Middle East to monitor the Armistice Agreement between Israel and its Arab neighbors.[28] Over the years, UN peacekeeping has evolved to meet the demands of different conflicts and a

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[23] United Nations Peacekeeping Fact Sheet,
http://www.un.org/en/peacekeeping/resources/statistics/factsheet.shtml.
[24] A former UN Legal Counsel has defined peacekeeping operations as actions involving the use of military personnel in international conflicts situations on the basis of the consent of all parties concerned and without resorting to armed force except in cases of self defense. E. Suy, *Peace-Keeping Operations*, *in* A HANDBOOK ON INTERNATIONAL ORGANIZATIONS (R.J. Dupuy ed., 1988).
[25] Article 42 of the United Nations Charter provides for the Security Council to take enforcement measures as may be necessary to maintain or restore international peace and security. Such actions may include demonstrations, blockade, and other operations by air, sea, or land forces of members of the United Nations. U.N. Charter art. 42.
[26] U.N. Secretary-General, Implementation of the Recommendations of the Special Committee on Peacekeeping Operation: Rep. of the Secretary-General, ¶ 75, U.N. Doc. A/62/627 (Dec. 28, 2007).
[27] Dag Hammarskjld referred to peacekeeping as belonging to "Chapter VI and a half," which puts it between traditional methods of peaceful dispute resolution such as negotiation and mediation under Chapter VI, and more forceful action as authorized under Chapter VII. 60 Years United Nations Peacekeeping, United Nations Information Service,
http://www.unis.unvienna.org/pdf/60years_peacekeeping.pdf.
[28] KIRGIS, *supra* note 14, at 720.

changing political landscape. During the Cold War, when cold war rivalries frequently paralyzed the Security Council, UN peacekeeping goals were primarily limited to maintaining ceasefires and stabilizing situations on the ground, so that efforts could be made at the political level to resolve the conflict by peaceful means.[29] They operated under UN command and were primarily mandated with the implementation of activities agreed upon by warring factions, such as the cantonment and separation of belligerents, the monitoring of borders, and the verification of the ceasefire.[30] With the end of the Cold War, the strategic context for UN peacekeeping dramatically changed, prompting the UN organization to shift and expand its field operations from "traditional missions" involving strictly military tasks to complex "multidimensional" enterprises designed to ensure the implementation of comprehensive peace agreements and assist in laying the foundation for sustainable peace.[31]

The transformation of peacekeeping missions reflects in the UN's own words more than hybridization: "The goals of Peacekeeping Missions have in fact changed significantly: from assisting in the maintenance of ceasefires during cold war peacekeeping operations during the 1990s increasingly becoming peacebuilding missions."[32] The broad and complex mandates of today's multidimensional peace

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[29] 60 Years of UN Peacekeeping, *supra* note 27; A History of Peacekeeping, http://un.org/en/peacekeeping/operations/surge.shtml.

[30] *See generally* Larry M. Forster, *Training Standards for United Nations Military Observers: The Foundation of Excellence*, 6 AFR. SECURITY REV. 4 (1997). Jakkie Cilliers and Greg Mills observe, "Until the end of the Cold War, peacekeeping was largely a matter of upholding a peace already agreed to. After the fall of the Berlin Wall peacekeeping became more ambitious as the international community sought to rebuild failed states and grapple with complex emergencies." *See* Jakkie Cilliers and Greg Mills, *From Peacekeeping to Managing Complex Emergencies: Peace Support Missions in Africa*, *in* FROM PEACEKEEPING TO COMPLEX EMERGENCIES: PEACE SUPPORT MISSIONS IN AFRICA 2-3 (Jakkie Cilliers & Greg Mills eds., 1999).

[31] 60 Years of UN Peacekeeping, *supra* note 27; A History of Peacekeeping, *supra* note 29.

[32] U.N. Department of Peacekeeping Operations, Multidisciplinary Peacebuilding: Lessons from Recent Experience, (Apr. 1999). In those days the UN were defenders of the status quo, and operated with light arms under the strict instruction to use force only in self-defense.

operations reflect the varied civilian, military, and police capabilities required to provide support to the challenges of modern day peacekeeping. These include tasks such as promoting political transitions, assisting in the development of political structures, demobilization of armed forces, the provision of humanitarian relief during emergencies to refugees and internally displaced people, establishing the rule of law, promoting security, supporting disarmament, holding elections, and jump-starting the economy.[33] As an example, the United Nations Operation in Mozambique involved peacekeeping, the demobilization of armed forces, provision of humanitarian aid, democratization, demining, the return of Mozambican refugees that had fled to neighboring countries, and electoral support which culminated in the 1994 general election which ushered in a post conflict government.[34] Other missions — including the UN Transition Assistance Group (UNTAG) in Namibia, the UN Observer Mission in South Africa (UNOMSA) in South Africa, the UN Transitional Authority in Cambodia (UNTAC), and the UN Observer Mission in El Salvador (ONUSAL) — had huge electoral mandates that included organizing elections and monitoring the electoral process.[35] Indicative of the change in

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[33] U.N. Secretary-General, *supra* note 26, at ¶ 19. *See also* Peter H. Gantz, *The Postconflict Security Gap and the United Nations Peace Operations System*, *in* SECURITY, RECONSTRUCTION, AND RECONCILIATION: WHEN THE WARS END 247(Muna Ndulo ed., 2007). In Mozambique "the United Nations established a trust fund to help RENAMO transform itself from a military movement into a political party." UNITED NATIONS DEPARTMENT OF PUBLIC INFORMATION, THE UNITED NATIONS AND MOZAMBIQUE 1992-1995 4 (1995). The UN argues that the "transformation of a guerrilla force, experienced only in war, into a political entity with a stake in the democratic process, is one of the most significant legacies of the United Nations operation" in Mozambique. *Id.*
[34] THE UNITED NATIONS AND MOZAMBIQUE 1992-1995, *supra* note 33.
[35] Jeff Fischer, *Elections and International Civilian Policing: History and Practice in Peace Operations*, INTERNATIONAL FOUNDATION FOR ELECTION SERVICES WHITE PAPERS (June 18, 2002). ONUMOZ was established by Security Council resolution 799 in December 1992 to help implement the general peace agreement signed on October 4, 1992 by the president of Mozambique and the president of the Resistancia Nacional Mocambicana (RENAMO). UNTAG was established in accordance with resolution 632 of February 1989 to assist the Special Representative of the Secretary-General to ensure the early independence of Namibia through free and fair elections under the supervision and control of the UN. ONUSAL was established on May 20, 1991 by Security Council resolution 1991. Its mandate was to verify the implementation of all agreements between the government of El Salvador and Frente Farbundo Marti para la Liberacion Nacional aimed at ending a decade long civil war. UNTAC was established by

strategy was a 1999 UN report which recommended that "mandates should be conceptualized flexibly and could include elements of peacebuilding and emergency reconstruction of war torn economies."[36]

In the early 1990s, the UN Security Council launched an unprecedented number of peacekeeping operations.[37] By the mid-nineties, political and financial support for peacekeeping operations had waned, especially from the United States after the failure of the United States-led (and UN-sanctioned) mission in Somalia in 1992 and 1993.[38] Support from troop-contributing countries shriveled as the UN fell behind in its payments and military challenges in civil war situations mounted.[39]

Despite the supposed broad array of conflict management techniques, international attention remains fixed on "peacekeeping" or the utility of multinational interventions as an essential element in the amelioration or resolution of armed conflict. The frustrating aspect of the approach is that even as the perceived demand for peacekeeping has increased, the capacity of the UN to deliver peacekeepers seems to have diminished.[40] This is largely because of the huge cost implications of peacekeeping operations. The two UN missions in Southern Sudan and Darfur faced many difficulties

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Security Council resolution 745 of February 28, 1992 to ensure the implementation of the Agreement of a Comprehensive Political Settlement of the Cambodia Conflict signed in Paris on October 23, 1991. UNOMSA was established by Security Council resolution 772 in 1992 and 1994 to assist the people of South Africa in their transition from apartheid South Africa to a non-racial democratic society. *Id.*
[36]Rep. of the Dept. of Peacekeeping Operations, Multidisciplinary Peacekeeping: Lessons from Recent Experience, (1999).
[37] THE UN SECURITY COUNCIL: FROM THE COLD WAR TO THE 21ST CENTURY 620 (David M. Malone ed., 2004). Jakkie Cilliers and Greg Mills observed that "the early 1990s were the high water mark in the euphoria of the post-cold war era of peacekeeping. While 13 operations were established in the first 40 years of UN peacekeeping, 36 new operations have been launched since 1988." Cilliers and Mills, *supra* note 30, at 1.
[38] ADEKEYE ADEBAJO, BUILDING PEACE IN WEST AFRICA: LIBERIA, SIERRA LEONE AND GUINEA-BISSAU 16 (2002).
[39] DOBBINS *, supra* note 3, at 3.
[40] Rep. of the Special Comm. On Peacekeeping Operations, General Assembly, Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects, ¶¶ 7-8 U.N. Doc. A/54/839 (Mar. 20, 2000).

in deployment, coordination, and making the missions operational.[41] The United Nations Mission in Sudan (UNMIS) was set up by the United Nations Security Council in March 2005.[42] Its mandate was to support the implementation of the Southern Sudan Comprehensive Peace Agreement.[43] The African Union-United Nations Mission in Darfur (UNAMID), an AU/UN hybrid operation and one of the largest UN missions ever, was established by the Security Council in July 2007 to bolster the African Union (AU) mission in Darfur which had been operating there since 2004.[44] Its mission is to oversee the implementation of Darfur peace agreements and to protect civilians.[45] The first mission deployed in Sudan under the leadership of the AU faced enormous challenges with equipment, which negatively impacted their effectiveness. Soon after the AU deployed forces, rebels drove into an AU base in eastern Darfur, stole technical equipment and weapons, and killed ten Nigerian peacekeepers.[46] Poorly equipped and outfitted, the AU soldiers did not have a chance. They could not defend themselves adequately nor could they hunt their attackers; the peacekeepers did not have helicopters to do that. The deployment situation has since improved, as the mission was transformed into a UN/AU hybrid mission but peacekeeping efforts have been limited as the mission

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[41] Centre for Conflict Resolution, *Stabilizing Sudan: Domestic, Sub-Regional and Extra-Regional Challenges* 3 (2010).

[42] S.C. Res. 1590, U.N. Doc. S/RES/1590 (Mar. 24, 2005).

[43] The 10,000 strong UN mission in Sudan (UNAMIS) which was launched to support the implementation of the January 2005 Comprehensive Peace Agreement (CPA) signed between the Government of Sudan and the Sudanese People's Liberation Movement and the Sudan People's Liberation Army faced many challenges. DANIEL LARGE & CHRIS SAUNDERS, STABILIZING SUDAN: DOMESTIC, SUB-REGIONAL, AND EXTRA-REGIONAL CHALLENGES 7 (2010).

[44] S.C. Res. 1769, U.N. Doc. S/RES/1769 (July 31, 2007).

[45] On July 31, 2007, the Security Council unanimously adopted Resolution 1769 authorizing the deployment of a 26,000 strong United Nations-African Union force to help implement peace agreements. S.C. Res. 1769, U.N. Doc. S/RES/1769 (July 31, 2007). In Part 15(a)(ii), the resolution invoked Chapter 7 to authorize UNAMID's use of force to protect civilians. *Id.* at ¶ 15.

[46] Alexander Schwabe, *Failure Looms for Darfur Peacekeepers*, SPIEGEL ONLINE, Nov. 23, 2007, http://www.spiegel.de/international/world/0,1518,5193330,00.html.

lacks a peace agreement to implement.[47]  The mission remains a peacekeeping mission in the midst of ongoing conflict.  The demands of United Nations peacekeeping will always test the will of the international community to promote peace and security in the world's conflict areas.  Despite widespread recognition that, in order to be effective, United Nations peacekeeping needs the concrete contributions of the member states in the form of personnel, finances, and political support, the international community invariably fails to meet the needs of peacekeeping operations.[48]

As the UN peacekeeping enterprise declined after the Somalia failure, the United States started to promote "regional" approaches to peacekeeping, particularly through NATO.[49]  The Clinton administration deployed U.S. military personnel to Kosovo, first as part of a NATO air operation to force the withdrawal of Yugoslavia troops from Kosovo, and next as part of a NATO peacekeeping force.[50]  But after the war in Kosovo in spring of 1999, broad opposition to unilateral peacekeeping led to a revival of the UN variety of peacekeeping.[51]  Major new UN peacekeeping operation (PKO) missions in East Timor,[52] Liberia, Sierra Leone, Ivory Coast, and the Congo brought another surge in

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[47] Center for Conflict Resolution, *Stabilizing Sudan: Domestic, Sub-Regional, and Extra-Regional Challenges* 8 (2010).

[48] Schwabe, *supra* note 46.

[49] Sarah B. Sewall, *U.S. Policy and Practice Regarding Multilateral Peace Operations*, Carr Center for Human Rights Policy Working Paper 01-3 (2000)..

[50] In the Balkans, the intervention in Kosovo was a NATO mission.

[51] Richard Falk, *Legality to Legitimacy: the Revival of the Just War Framework*, HARV. INT'L REV., May 6, 2006, http://hir.harvard.edu/interventionism/legality-to-legitimacy.

[52] The United Nations Mission to East Timor (UNAMET) was established on June 11, 1999 and ended on October 25, 1999.  East Timor – UNMISET – Background, http://www.un.org/en/peacekeeping/missions/past/unmiset/ background.html.  A second mission, United Nations Transitional Administration in East Timor (UNTAET), was established to administer the territory. *Id.*  At independence UNTAET was succeeded by the UN Mission of Support in East Timor (UNMISET), established by Security Council resolution 1410 of May 17, 2002 to provide assistance to core administrative structures critical to the validity and political stability in East Timor.  S.C. Res. 1410, U.N. Doc. S/RES/1410 (May 17, 2002).

international peacekeeping.[53]   Today there are almost 124,000 personnel serving

hundreds of millions of people around the world.[54]   There are a total of 16 peacekeeping

missions in place, including seven in Africa, one in the Americas, two in Asia, three in

Europe, and three in the Middle East.   This represents a nine-fold increase in UN

peacekeeping since 1999.[55]

There can be no dispute that United Nations peacekeeping missions have had

mixed results.   There have been successes and failures.   Mozambique, Cambodia, and

East Timor are examples of successful transitions from conflict to stable states.   A

troubling aspect is that there have been cases where second missions have been

necessary, such as in Liberia and Haiti.[56]   It is important, therefore, to examine the

problems faced by peacekeeping missions and consider how best to organize them to

effectively promote peace and development to troubled parts of the world.

Given the potentially unlimited scope of activities that can be encompassed by the

term "peacekeeping mission," it is useful to examine the categories of missions

periodically undertaken by the United Nations.   There are two policy documents that

define the nature of peacekeeping operations: *An Agenda for Peace*[57] and the *Brahimi*

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[53] Both Liberia and Haiti have had repeat missions. *See* Charles Arthur, *Building Peace in Haiti,* 4 U.N.
Chronicle 69 (2000-2001); ADEBAJO, *supra* note 38, at 43.

[54] UN Peacekeeping Background Note, http://www.un.org/en/events/peacekeepersday/2010/factsheet.pdf.

[55] *Id.*

[56] U.N. Secretary-General, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-
Keeping: Rep. of the Secretary-General*, U.N. Doc. A/47/277-S/24111 (June 17, 1992) (hereinafter *An
Agenda for Peace*).  After the Economic Community of Western African States (ECOWAS) brokered a
peace agreement in 1993, the Security Council established the United Nations Observer Mission in Liberia
(UNOMIL) by resolution 866 in 1993.  The mission was completed in 1997.  The war resumed.  After a
peace agreement, the United Nations Mission in Liberia (UNMIL) was established by Security Council
resolution 1509 in 2003.  The United Nations Mission in Haiti (UNMIH) was established by resolution 867
in 1993.  The crisis resumed in 2004 and the United Nations Stabilization Mission in Haiti (UNSMIH) was
established by resolution 1542 in 2004. *Id.*

[57] *Id.*

*Report*.[58]  Peacekeeping has evolved rapidly in the past decade from the traditional, primarily military model of observing ceasefires and forcing separation after interstate wars, to incorporate a complex model of many elements, military and civilian working together to build peace in the dangerous aftermath of civil wars.  Boutouros-Boutorous Ghali, in his *An Agenda for Peace*, outlines five types of missions: (a) preventive diplomacy; (b) peace making; (c) peacekeeping; (d) peace enforcement; and (e) peacebuilding.[59]

*A. Preventive Diplomacy*

Through preventive diplomacy, the UN seeks to remove the sources of danger before violence erupts.  This means taking actions that are aimed at easing tensions before they result in conflict.  It also means early warning of impending conflicts based on information gathering and fact finding.  It is clear that early warning systems are not working as effectively as they should; otherwise, such tragic situations as Darfur could have been foreseen (and prevented).  Rather, it seems that civil society (non-governmental organizations and the media) often do a better job than the UN system.  Indeed, it was the NGO Human Rights Watch that first warned the world about Darfur.[60]  To effectively provide early warning, the UN would need (improved?) capacity in both information gathering and analysis of information.

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[58] Rep. of the Panel on U.N. Peace Operations, U.N. Doc. A/55/305, S/2000/809 (2000).  This report is commonly referred to as the Brahimi Report after its chairman Lakhdar Brahimi.  The report was published in response to UN Secretary-General Kofi Annan's request that the panel review UN peacekeeping operations and make recommendations to assist the United Nations in conducting such activities better in the future.  It is regarded as one of the key documents on peacekeeping in the UN.

[59] *See An Agenda for Peace*, *supra* note 56.

[60] HUMAN RIGHTS WATCH, 16 DARFUR DESTROYED: ETHNIC CLEANSING BY GOVERNMENT AND MILITIA FORCES IN WESTERN SUDAN 6(A) (May 6, 2004).  The report is an extensive and detailed documentation of the killing of thousands of people by the Government and militias allied to it.  The report accused the Sudanese Government of being responsible for ethnic cleansing and crimes against humanity.

However, it bears noting that, even when information has been available, responses to outbreaks of conflict have been slow, often hobbled by conflicting foreign policy interests of Security Council members and the reluctance of states to incur the human, material, and financial cost of United Nations intervention.[61] Perhaps the clearest and most cited example of this is the failure to act in Rwanda. It is well known that the UN Force Commander in Rwanda, General Dallaire, on January 11, 1994, wrote to then-Secretary-General Kofi Annan informing him of information received indicating that Hutu extremists were preparing to exterminate Tutsis and that major arms caches could be identified by the informant. General Daillaire stated that his forces were prepared to act. Annan's response was that Dallaire was not to confront the extremist, as that was not within his mandate.[62] Thus, capacity to provide early warning may be rendered moot if not met with the willingness to act upon such information — and prevent or at least mitigate the warned-about crises.

*B. Peace Making*

Peace making falls between the tasks of seeking to prevent conflict and keeping the peace; it involves efforts to bring hostile parties to agreement by peaceful means. Peace making addresses conflicts in progress, attempting to bring them to a halt, using the tools of diplomacy and mediation. Peacemakers may be envoys of governments, groups of states, regional organizations, or the United Nations; peacemakers may likewise be unofficial and non-governmental groups, as was the case in Mozambique, where negotiations leading to a peace accord were led by a team of four non-UN

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[61] DOBBINS, *supra* note 3, at 9. An example is the delayed response to the Rwanda genocide in 1994. *See generally* ROMEO DALLAIRE, SHAKE HANDS WITH THE DEVIL: THE FAILURE OF HUMANITY IN RWANDA (2004).
[62] DALLAIRE, *supra* note 61, at 142-46.

personnel.[63]  Peace making may even be the work of a prominent personality, working

independent of or with the UN, such as George Mitchell, Jr.'s work in Northern Ireland

or Kofi Annan's work in Kenya.  More specifically, as a U.S. Special Envoy to Northern

Ireland, George Mitchell, Jr. chaired all party negotiations leading to the Good Friday

Agreement in 1998.[64]  For his part, Kofi Annan chaired the Panel of Eminent African

Personalities, which led the peace process following Kenya's post-election violence in

2007,[65] bringing about a peace agreement after the country was at the brink of collapse.[66]

*C. Peacekeeping*

At another level, peacekeeping is when conflict has broken out and the UN

intervenes in order to assist in keeping peace; such initiatives aim to create space for the

parties to negotiate a settlement.  Examples include peacekeeping missions in South

Africa, Haiti, Liberia, Balkans, and East Timor.[67]  Typically, the UN deploys a large

force to keep the parties apart and enforce whatever peace accords to which the parties

agree.  In most cases, in the interest of speed, the United Nations allows an international

force or a country to act on its behalf before it deploys.  For example, in East Timor and

Haiti, the United Nations allowed the Australian government and the United States

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[63] Mozambican National Resistance (RENAMO) and Liberation Front of Mozambique (FRELIMO) "agreed on four individual mediators, representing the Italian Government, (Mr. Mario Raffaelli), the Sant' Egidio Community, (Professor Andrea Riccardi and Don MatteoZuppi) and Mozambique's Episcopal Conference (Archbishop Jaime Goncalves)." THE UNITED NATIONS AND MOZAMBIQUE 1992-1995, *supra* note 33, at 16.
[64] ELISABETH LINDENMAYER & JOSIE LIANNA KAYE, A CHOICE FOR PEACE?: THE STORY OF FORTY-ONE DAYS OF MEDIATION IN KENYA 1 (Aug. 2009).
[65] *Id.*
[66] *Id.*
[67] *See* S.C. Res. 772, U.N. Doc. S/RES/772 (Aug. 17, 1992) (United Nations Observer Mission in South Africa); S.C. Res. 1542, U.N. Doc. S/RES/1542 (Apr. 30, 2004) (United Nations Stabilization Mission in Haiti); S.C. Res. 1509, U.N. Doc. S/RES/1509 (Sept. 19, 2003) (United Nations Mission in Liberia); S.C. Res. 1244, U.N. Doc. S/RES/1244 (June 10, 1999) (United Nations Interim Administration Mission in Kosovo); *and* S.C. Res. 1272, U.N. Doc. S/RES/1272 (Oct. 25, 1999) (United Nations Mission in East Timor).

government, respectively, to deploy troops before the UN deployed.[68] Such an approach is more time efficient, given that the United Nations does not have a standing army, and it therefore always takes a while before it can assemble and deploy a peacekeeping force. Notably, the speed at which deployment proceeds depends entirely on troop contributions from member states and the timely availability of resources to finance the mission.[69]

*D. Peace Enforcement*

This constitutes a type of military activity that, while coercive in nature, remains distinct from war. The concept of peace enforcement rests on the premise that force is being used to enforce a mandate. An example would be the use of force in Sierra Leone to make the rebels abide by the peace agreements they had signed. It is also found in country doctrines. According to the UK military doctrine, peace enforcement initiatives are neither in support of nor against a particular party, but are designed to restore peace and ensure compliance with the mandate in an evenhanded manner.[70] The problem with peace enforcement is always going to be how to ensure that the use of force will not influence the political dynamics of the conflict. The side against whom the enforcement is being carried out is likely to view the United Nations peacekeepers as enemies. Accordingly, a UN report encourages caution in the use of the peace enforcement option, warning that it "was impossible to stop a war by spreading it."[71] The solution is to expect

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[68] United Nations Foundation, *Keeping the Peace: A Brief Guide to UN Peacekeeping*, UNF Insight: New Ideas for International Cooperation.

[69] *New Challenges for International Peacekeeping Operations: Hearing Before the H. Comm. on Foreign Affairs*, 111th Cong. 70-77 (2009) (testimony of Erin A. Weir).

[70] *See* MINISTRY OF DEF, JWP 3-50, THE MILITARY CONTRIBUTION TO PEACE SUPPORT OPERATIONS (2d ed. June 2004).

[71] Rep. of the Special Comm. on Peacekeeping Operations, General Assembly, Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects, ¶ 20 U.N. Doc. A/54/839 (Mar. 20, 2000).

the Force Commander to excise good judgment as to when an enforcement measure would be appropriate.

*E. Peacebuilding*

Peacebuilding is a term of more recent origin that defines activities undertaken on the far side of conflict to reassemble the foundations of peace and provide the tools for building on those foundations something that is more than just the absence of war.[72] This occurs after both a ceasefire and a political settlement have been reached. In other words, in these cases, the parties have already agreed upon their solution to the conflict. These types of operations incorporate a substantial number of civilians alongside the military component. Thus peacebuilding is not limited to demobilizing and reintegrating former combatants into civilian society; peacebuilding also includes building institutions of governance, building a civil service and the judiciary, and strengthening the rule of law (for example, through training and restructuring of local police and judicial and penal reform). Peacebuilding further includes improving respect for human rights through the monitoring of, education on, and investigation of past and existing abuses and providing technical assistance for democratic transition (including electoral assistance and support for the development of free media and civil society, as well as promoting conflict resolution and reconciliation techniques). In Somalia, the Security Council, in March 1993, envisaged a role for UNOSOM II that involved far more than simply the continuation of the first mission which was charged with securing an environment for

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[72] Rep. of the Panel on U.N. Peace Operations, ¶ 13, www.un.org/peace/reports/peace_operations/docs/.

humanitarian assistance.[73]  Indeed, Boutros Ghali called for a mandate that "would also

empower UNOSOM II to provide assistance to the Somali people in rebuilding their

shattered economy and social and political life, re-establishing, and recreating a Somali

state based on democratic governance and rehabilitating the country's economy and

infrastructure."[74]  Another example is East Timor.  On October 25, 1999, the Security

Council adopted Resolution 1271, establishing the UN Transitional Administration in

East Timor (UNTAET), with overall legislative and executive authority, including the

administration of justice.[75]  The Resolution included provisions to provide security and

maintain law and order; establish an effective administration; assist in the development of

civil and social services; ensure the coordination and delivery of humanitarian assistance,

rehabilitation, and development assistance; support capacity building for self-

government; and assist in the establishment of conditions for sustainable development.[76]

The United Nations has created the Peacebuilding Commission (PBC),[77] the

Peacebuilding Fund (PBF),[78] and the Peacebuilding Support Office (PBSO)[79] to address

the needs of peacebuilding in countries emerging from conflict.  These institutions form a

key addition to the capacity of the international community in terms of a broader peace

agenda.  The Peacebuilding Commission brings together all the relevant actors (including

international donors, international financial institutions, national governments, and troop-

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[73] U.N. Secretary-General, *Report of the Secretary-General*, ¶¶ 58 and 101, U.N. Doc. S/25354 (March 3, 1993).
[74] *Id.*
[75] S.C. Res. 1272, U.N. Doc. S/RES/1272 (Oct. 25, 1999).
[76] *Id.* at ¶ 2.
[77] The Peacebuilding Commission was established in 2006 through General Assembly Resolution A/60/180 and Security Council Resolution S/RES/1645-2005.  S.C. Res. 1645, ¶ 1, U.N. Doc. S/RES/1645 (Dec. 20, 2005).  It has already funded over 115 projects in 15 countries.  It is managed on behalf of the Secretary-General by the Assistant Secretary-General for Peacebuilding Support Office.  The UNDP Multi-Donor Trust Fund Office (MDTF Office) is the PPF Fund Administrator.
[78] *Id.*
[79] *Id.*

contributing countries); marshals resources; advises on and proposes integrated strategies for post-conflict peacebuilding and recovery; and, where appropriate, highlights gaps that threaten to undermine peace.[80] The mandate of the Commission is comprised of three objectives: (1) to promote post-conflict peacebuilding through mobilizing relevant actors both within and outside the UN and to devise strategies and identify the resources necessary for the promotion of post-conflict reconstruction; (2) to help bridge the gap between the immediate post-conflict phase and sustainable peace through the identification of relevant public institutions to support recovery and economic development; and (3) to provide a monitoring and review function to facilitate information sharing among all parties concerned.[81] The Commission funds projects and helps in building institutions that promote economic development and good governance. The PBC has four criteria for funding projects: (a) respond to imminent threats to peace processes and initiatives that support peace agreements and political dialogue; (b) build national capacities to promote coexistence and peaceful resolution of conflict; (c) stimulate economic revitalization to generate peace dividends; and (d) establish essential administrative services.[82]

### III. THE MANDATE AND THE PEACEKEEPING MISSION

In any peacekeeping mission the mandate serves as the constitution of the operation. A peacekeeping[83] mandate informs a peacekeeping operation (PKO). Although scholars and practitioners use the term "mandate" in different ways, for the

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[80] S.C. Res. 1645, U.N. Doc. S/RES/1645 (Dec. 20, 2005).
[81] *Id.*
[82] *Id.*
[83] Boutros Boutros-Ghali defined peacekeeping in his *Agenda for Peace* as "the deployment of a UN presence in the field, hitherto with the consent of the parties, normally involving UN military and/or police and frequently civilians as well. Peacekeeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace." *An Agenda for Peace*, *supra* note 56, at ¶ 20.

purposes of this article, "mandate" refers to the *broad objectives and specific instructions that define, limit, and guide a peacekeeping operation.* Although it varies by peacekeeping operation, there is generally not one document that provides the complete mandate of a peacekeeping operation. Instead, the mandate is found in Security Council resolutions, the Secretary-General's reports to the Security Council, and relevant peace agreements relating to the mission. What peacekeepers are authorized, obligated, inclined, and equipped to do is, in large part, determined by these documents. In fact, much of what is known by the public about peacekeeping mandates is how little a given mandate has authorized the peacekeepers to use force and equipped them to protect civilians. We can all remember how peacekeepers in Rwanda cried desperately for a more robust peacekeeping mandate that would allow them to use force defensively as well as offensively to carry out their tasks as outlined in the mandate. Recall the story of General Derille, the Canadian Force commander in Rwanda, and his famous fax to UN headquarters.[84]

One of the weaknesses of the process of developing a mandate is that many of the actors involved in the creation and development of the mandate are not acquainted with how other actors involved in the same process operate. This is partly due to the fact that the process behind the creation of a mandate is often ad hoc, disjointed, and unpredictable. The key actors are the Security Council members and the donor states that are responsible for the funding of the mandate. A typical UN mandate contains the following elements: a background to the situation being addressed, the objective of the mission, the powers of the mission, the tasks to be implemented, the rules of engagement,

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[84] DALLAIRE, *supra* note 61, at xii. General Dallaire served as UN force commander in Rwanda during 1993-1994. *Id.* He sent the famous fax to UN headquarters informing the UN that he had come across military cashes and asked to take them over where upon he was informed that it was not in his mandate. *Id.*

and sometimes the mechanisms to be used to implement the mandate. For example, Resolution 772, which in 1992 set up the United Nations Observer Mission in South Africa (UNOMSA), called upon UNOMSA "to strengthen and reinforce the indigenous mechanisms set up under the National Peace Accords, so as to enhance their capacity in the building of peace, both in the present and in the future,"[85] and Resolution 1769 setting up the United Nations African Union Mission in Darfur (UNAMID) invokes Chapter 7 of the United Nations Charter to authorize UNAMID's use of force to protect civilians.[86]

Developing a mandate is an inherently political process. Often, Security Council members receive instructions from their capitals and make rigid proposals with little flexibility. The process is not inclusive of other member states of the United Nations who are given no avenues to influence the process.[87] Importantly, mandates are both legal and political in nature. As such, while the language employed by the mandate drafters can have legal consequences, the rationale behind this language is almost completely politically driven. The drafting of a mandate involves many actors, ranging from Security Council members to the warring factions of the host country[88] to officers from the United Nations political and peacekeeping departments. Mandates are a result of consensus among the parties involved in its development — which parties are not necessarily directly involved in the conflict. Mandates' objectives range from assisting in implementing a comprehensive peace agreement to preventing an outbreak of conflict

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[85] S.C. Res. 772, U.N. Doc. S/RES/772 (Aug. 17, 1992).
[86] S.C. Res. 1769, U.N. Doc. S/RES/1769 (July 31, 2007).
[87] ELLIE B. HEARNE, INT'L PEACE INST., FROM NEW YORK TO THE FIELD: A DIALOGUE ON U.N. PEACE OPERATIONS 6 (2010).
[88] *Id.*

and delivering humanitarian relief supplies, to administering a territory for a transitional period and conducting elections.[89]

The mandate of a peacekeeping operation must be distinguished from the legal basis regulating the implementation of the mandate. The legal framework is founded on the Status of Forces Agreement (SOFA) that is concluded between the United Nations and host state.[90] Among other things, the SOFA allows the establishment of the mission; importation of equipment and flying rights; and incorporates the privileges and immunities of the peacekeepers which define the legal limits that peacekeepers are bound to when implementing a mandate's *broad objectives* and *specific instructions*. For example, while a mandate will include a request for ceasefire verification, the legal framework will ensure operational needs of the mission and that, unless the United Nations waves immunity, in the event any peacekeeper commits a crime during such the duration of the mission, he or she will not be subject to the host state's legal systems.[91] The SOFA sets specific terms for the conduct, privileges, immunities, and jurisdictions of the military and civilian employees on matters such as criminal and civil jurisdiction.[92] SOFAs provide for immunity for peacekeepers from local jurisdictions and establish exclusive jurisdiction of the troop-contributing peacekeepers' nation of origin.[93] These are important norms without which peacekeeping missions could not operate effectively.

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[89] *See* RAY MURPHY, U.N. PEACEKEEPING IN LEBANON, SOMALIA AND KOSOVO: OPERATIONAL AND LEGAL ISSUES IN PRACTICE 17 (2007).
[90] U.N. DEPT. OF PEACEKEEPING OPERATIONS PEACEKEEPING BEST PRACTICES UNIT, HANDBOOK ON UNITED NATIONS: MULTDIMENSIONAL PEACEKEEPING OPERATIONS 13 (2003)
[91] *See* Muna Ndulo, *The United Nations Responses to the Sexual Abuse and Exploitation of Women and Girls by Peacekeepers During Peacekeeping Missions*, 27 BERKELEY J. INT'L L. 126 (2009).
[92] *See* Press Release, Security Council, Secretary-General Says Signing of Status of Forces Agreement "Positive Step Forward" in effort to Deploy Darfur Mission, U.N Press Release SG/SM/11414, AFR/165, PKO/176 (Feb. 14, 2008).
[93] *See* Ndulo, *supra* note 91, at 153.

Host states could easily frustrate the work of missions by subjecting them to sham prosecutions and harassment to impede their work.

Immunities for United Nations workers are grounded in articles 104 and 105 of the UN Charter. These articles provide that the UN and its staff enjoy such privileges and immunities in territories of member states as are necessary for the independent exercise of their function.[94] They give immunity to the United Nations and its employees, including peacekeepers, when operating in foreign territory.[95] While the founders of the United Nations did not intend that the privileges and immunities of officials should constitute a shield from national criminal prosecution for crimes committed in a state hosting the UN operation where crimes have clearly been committed, the International Court of Justice has held that personnel employed directly by the United Nations on mission receive functional immunity from prosecution for acts committed while executing their duties.[96]

It bears noting that, while the SOFA guarantees the legality of the peacekeepers' conduct on the territory of a sovereign country and outlines the conditions under which the force shall operate in the host state,[97] the Rules of Engagement (ROE) provide the armed forces the authority for the use of force, delineating the circumstances and

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[94] U.N. Charter art. 104-105; *see also* B. SIMMA, THE CHARTER OF THE UNITED NATIONS: A COMMENTARY 1302 (2002).
[95] *See* MURPHY, *supra* note 89, at 111.
[96] *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of United Nations (The Mazilu Case)*, 1989 I.C.J. Rep. 177, 29 ILM 98 (Dec. 15, 1989).
[97] *See* MURPHY, *supra* note 89, at 109; *see also* M. R. KOCHHAR, UNITED NATIONS PEACEKEEPING AND OPERATIONS IN SOMALIA 30 (2000).

limitations under which the peacekeepers may initiate or continue combat engagement when encountering other forces.[98]

The elaboration of a mandate relies on the Secretary-General's report of the situation in the host state. Typically, prior to the conclusion of the preparation of the report the Secretary-General sends a special envoy to the area to get first-hand information about the situation on the ground. For example, in the case of UNOMSA following South Africa's Baipatong massacres on June 17, 1992, the Security Council unanimously adopted (on July 16, 1992) Resolution 765 by which it, *inter alia*, invited the Secretary-General to appoint a Special Representative for South Africa to recommend — after discussion with the parties in the country — measures which would assist in bringing an effective end to the violence and in creating conditions for negotiations leading to a peaceful transition to a democratic, non-racial, and united South Africa.[99] The Secretary-General appointed Cyrus R. Vance as his special representative to South Africa. Following Vance's report, the Secretary-General submitted a report to the Security Council, which led to the adoption of Resolution 772 on August 17, 1992. Resolution 772 formed the mandate of UNOMSA.[100]

Perhaps not surprisingly, the degree of reliance placed on the Secretary-General's report by the Security Council will depend on the nature and clarity of the report. That is, a report that describes the situation on the ground and frames the issues but does not suggest approaches to addressing these issues will be helpful for the drafting of the

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[98] *See* James Burger, *Legal Issues in Peacekeeping and Humanitarian Assistance*, *in* 7 INT'L PEACEKEEPING YEARBOOK 425, 431-33 (Michael Bothe & Boris Kondoch eds., 2001); JOINT DOCTRINE ENCYCLOPEDIA, J-1-02.

[99] S.C. Res. 765, ¶ 4 U.N. Doc. S/RES/765 (July 16, 1992).

[100] Final Rep. of the U.N. Observer Mission in South Africa (UNOMSA) to the U.N. Secretary-General (May 26, 1994). *See also* S.C. Res. 772, U.N. Doc. S/RES/772 (Aug. 17, 1992).

mandate but will not become the actual mandate. It stands to reason that the most useful Secretary-General reports are those that clearly identify the issues and suggest solutions. However, some reports — even those that present issues and solutions — may not become part of the mandate because the Security Council members' resources and interests do not coincide with the requests or suggestions made by the Secretary-General in the report.

After the adoption of the mandate, the Secretary-General sends one or more Technical Assessment Missions (TAM) to develop a concept of operations for the mission, assess the situation on the ground, and determine the local dynamics of the situation.[101] Typically, a small TAM is sent before the mandate is finalized to assess the financial and technical implications of deploying mission and a more fully-fledged TAM is sent after the adoption of the mandate.[102] TAMs will generally include representatives from the DPKO and the Department of Field Support (DFS).[103] The representatives of the DPKO may include, depending on the purpose of the TAM: the Office of Operations, the Office of Military Affairs, and the Office of Rule of Law and Security Institutions (including the Police Division, the DDR Section, and the Mine Action Service).[104] Increasingly, TAMs include representatives of other UN agencies, such as the UNDP,

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[101]*See* United Nations Department of Peacekeeping, Forming a New Operation, http://www.un.org/en/peacekeeping/ operations/newwoeration.shtml. *See also* Technical Assessment Mission Guidelines, http://www.unddr.org/tool_ docs/DDR-technical-assessment_mission_guidelines.pdf.
[102] *See* United Nations Department of Peacekeeping, Forming a New Operation, http://www.un.org/en/peacekeeping/ operations/newwoeration.shtml. *See also* Technical Assessment Mission Guidelines, http://www.unddr.org/tool_ docs/DDR-technical-assessment_mission_guidelines.pdf.
[103] *See* United Nations Department of Peacekeeping, Forming a New Operation, http://www.un.org/en/peacekeeping/ operations/newwoeration.shtml. *See also* Technical Assessment Mission Guidelines, http://www.unddr.org/tool_ docs/DDR-technical-assessment_mission_guidelines.pdf.
[104] *See* United Nations Department of Peacekeeping, Forming a New Operation, http://www.un.org/en/peacekeeping/ operations/newwoeration.shtml. *See also* Technical Assessment Mission Guidelines, http://www.unddr.org/tool_ docs/DDR-technical-assessment_mission_guidelines.pdf.

UNICEF, OCHA, OHCHR, UNHCR and UNAIDS.[105]  While in the country, the TAM meets with all stakeholders, including NGOs.

As was noted previously, many peace agreements form the basis of the peacekeeping mandate such that either the mandate includes provisions of the peace agreement or the mandate provides for the implementation of the peace agreement.  In those situations, the United Nations (through the peacekeeping operation) has as its mandate the implementation of the peace agreement, such as was the case in Liberia, Sierra Leone, and Afghanistan.[106]

An issue that often arises in both developing the mandate and in peacekeeping operations is the extent to which the United Nations can use neighboring countries as partners in both processes.  The use of neighbors has its advantages.  As Mark Malan points out "neighbors are more familiar with each other's problems than outsiders.  Neighbors usually have a fairly common culture, a common social identity, a common history and experiences."[107]  In the Namibian peace process, neighboring states — the "frontline states" as they called themselves — played a significant role in facilitating the agreement that became the basis of the Namibian peace process.[108]  In 1977, a pressure group, the Western Contact Group, was formed and included Canada, France, Germany, the United Kingdom, and the United States.[109]  The group launched a joint diplomatic

[105] *See* United Nations Department of Peacekeeping, Forming a New Operation, http://www.un.org/en/peacekeeping/ operations/newwoeration.shtml.  *See also* Technical Assessment Mission Guidelines, http://www.unddr.org/tool_ docs/DDR-technical-assessment_mission_guidelines.pdf.
[106] S.C. Res. 1509, U.N. Doc. S/RES/1509 (Sept. 19, 2003); S.C. Res. 1270, U.N. Doc. S/RES/1270 (Oct. 22, 1999).
[107] Mark Malan, *Debunking Some Myths About Peacekeeping in Africa*, *in* FROM PEACEKEEPING TO COMPLEX EMERGENCIES: PEACE SUPPORT MISSIONS IN AFRICA 15 (Jakkie Cilliers & Greg Mills eds., 1999).
[108] *See* Namibia-UNTAG Background, www.un.org/en/peacekeeping/missions/past/untagFT.htm.
[109] *Id.*

effort to bring an internationally acceptable transition to independence for Namibia.[110] The Western Contact Group's efforts led to the presentation in 1978 of Security Council Resolution 435 for settling the Namibian problem.[111] The settlement proposal, as it became known, was worked out after lengthy consultation with South Africa and the Frontline States (Angola, Botswana, Mozambique, Tanzania, Zambia, and Zimbabwe).[112] The disadvantage to the involvement of neighboring states is that proximity sometimes can mean that the "neighbors" are not neutral and, at worst, they can be involved in the conflict. This was the case in the Congo in the 1990s following the removal of the Mobutu regime, where a number of neighbors (Uganda, Rwanda, Zimbabwe, and Angola) intervened militarily in the conflict and became part of the problem.[113]

On many occasions, one of the Security Council permanent members—or another member state—will take the lead in designing and drafting a particular PKO mandate.[114] The sponsoring member state writes the first draft of the mandate, which is subsequently circulated to the Security Council.[115] This tends to happen in cases where the member

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[110] *Id.*

[111] *Id.*

[112] United Nations Transitional Group (UNTAG) was established in 1978 with a mandate of assisting the Special Representative of the Secretary-General to ensure the independence of Namibia through free and fair elections under the UN. *See* S.C. Res. 435, U.N. Doc. S/RES/435 (Sept. 29, 1978). For a detailed discussion of the role of the Frontline States in the settlement of the Namibian problem, see GILBERT M. KHADIAGALA, ALLIES IN ADVERSITY: THE FRONTLINE STATES IN SOUTHERN AFRICAN SECURITY, 1975-1993 (1994).

[113] WORLD POLICY INSTITUTE, REPORT: U.S. ARMS TO AFRICA AND THE CONGO WAR-WORLD POLICY INSTITUTE-RESEARCH PROJECT (2000), http://www.worldpolicy.org/projects/arms/reports/Congo.htm.

[114] *See Nigeria and France Introduce UN Resolution Calling for Sanctions Against Ivory Coast's Gbagbo*, Mar. 25, 2011, http://www.elombah.com/index.php?option=com_content&view=article&id=5869:france-and-nigeria-introduce-un-resolution-calling-for-sanctions-against-ivory-coasts-gbagbo&catid=1:latest-news&Itemid=67; *and* Louis Charbonneau & Patrick Worsnip, *France Asks UN Security Council to Sanction Ivory Coast's Gbagbo*, Mar. 25, 2011, http://www.reuters.com/article/2011/03/25/us-ivorycoast-france-un-idUSTRE72O6KR20110325.

[115] *See Nigeria and France Introduce UN Resolution Calling for Sanctions Against Ivory Coast's Gbagbo*, Mar. 25, 2011, http://www.elombah.com/index.php?option=com_content&view=article&id=5869:france-and-nigeria-introduce-un-resolution-calling-for-sanctions-against-ivory-coasts-gbagbo&catid=1:latest-news&Itemid=67; *and* Louis Charbonneau & Patrick Worsnip, *France Asks UN Security Council to*

state has a strong interest in ensuring that the PKO successfully solves the conflict. For example, the United States took the lead in drafting the mandates for both UNMIH (Haiti) and UNITAF (Somalia), France took the lead in drafting UNOCI's (Cote D'Ivoire) mandate, France and the U.S. together took the lead in drafting Lebanon's UNIFIL, and the EU and other European states together took the lead in drafting UNPROFOR (Bosnia and Herzegovina).[116]

After the sponsor nation finalizes the drafting of the mandate (in the form of a Security Council resolution draft), informal consultations begin. There is no official record of this process. During this meeting, the Security Council reviews the draft as well as the full Secretary-General report and the peace agreement (if there is one) and decides what sections to include in the mandate. Once the Security Council has extensively reviewed the mandate, formal consultations begin. At this point, the Security Council member states publicly explain their decision to either support, abstain, or veto

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*Sanction Ivory Coast's Gbagbo*, Mar. 25, 2011, http://www.reuters.com/article/2011/03/25/us-ivorycoast-france-un-idUSTRE72O6KR20110325.

[116] The military operation that went to Haiti on September 1994 was led by the United States. This later led to the establishment of UNMIH by Security Council resolution 867, adopted on September 23, 1993. *See* UN Haiti Background, http://www.un.org/en/peacekeeping/missions/pastunmihbackgr2.html. The initial UN intervention in Somalia, UNITAF, was a force organized and led by the United States. The intervention was by Security Council resolution 733, adopted on January 23, 1992, authorized to use all necessary measures to establish a secure environment for humanitarian relief operations in Somalia. *See* United Nations Operation in Somalia II http://www.un.org/DEpts/DPKO/Missions/UNOSOM2b.htm. The United Nations operation in Cote D'Ivoire, UNOCI, created by Security Council resolution 1528, adopted on February 27, 2004, was to support the implementation of the 2003 ceasefire Lina-Marcoussis Peace Agreement brokered by France. *See* United Nations Peacekeeping Better World Campaign, http//www.betterworldcampaign.org./un-peacekeeping/missions/Cote-d'Ivoire.html. The United Nations Interim Force in Lebanon was originally established by resolution 425 and 426, adopted on March 19, 1978. Following the July/August conflict, resolution 1701 was adopted on August 11, 2006, calling for a halt in fighting in Lebanon and the deployment of Lebanese and United Nations Forces in Southern Lebanon. This resolution was drafted by France and the United States. *See* Warren Hoge, *Resolution to Halt Fighting in Lebanon Is Unanimously Approved*, N.Y. TIMES, Aug. 11, 2006. The European Union played a major role in the establishment of UNPROFOR. Resolution 914, adopted on April 27, 1994, was introduced in the Security Council by European states. *See* THE YUGOSLAV CRISIS IN INTERNATIONAL LAW PART I: GENERAL ISSUES 65 (Daniel Bethlehem & Marc Weller eds., 1997).

the Security Council resolution.[117]  There a is a strong view that the Security Council should involve troop-contributing countries in the consultation process regarding the establishment or renewal of the mandate of a peacekeeping operation in a more meaningful manner and from the outset of the mandate's elaboration.[118]

*A. Modification of Mandates*

Mandates frequently change or are supplemented.  A peacekeeping mission may find that its mandate is deficient at the time of initial deployment or that the mandate does not address issues that have emerged since deployment.  It is always a challenge to assess — prior to deployment — how the mandate will work and how warring factions, troops, and civil society will react to the mission.  It is thus natural that once the PKO is deployed in the field, its mandate should be revised to reflect local needs.  In fact, the most successful missions are those that are flexible and easily adaptable to the needs on the ground.[119]  This flexibility is particularly important to ensure that the mandate and mission remain relevant to the conditions prevailing in the conflict state.  In South Africa, for example, Resolution 772 — which did not include an electoral component — was supplemented by Resolution 894 to respond to the request of the Transitional Executive Council that the United Nations provide a sufficient number of international observers to monitor the electoral process and to coordinate the activities of the international

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[117] For a comprehensive coverage of the Security Council's debate regarding UNPROFOR's mandate, *see* THE YUGOSLAV CRISIS IN INTERNATIONAL LAW PART I: GENERAL ISSUES (Daniel Bethlehem & Marc Weller eds., 1997).

[118] Rep. of the Special Comm. on Peacekeeping Operations, General Assembly, Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects, ¶ 17 U.N. Doc. A/54/839 (Mar. 20, 2000).

[119] U.N. Ass'n in Can., *Peacekeeping to Peacebuilding: Lessons from the Past, Building for the Future* 60 (2007).

observers provided by the Organization of African Unity, the Commonwealth, and the European Union as well as by governments.[120]

There are several reasons why PKO mandates change. First, some missions do not get feedback from the ground until the PKO is deployed — due to, for example, lack of access to the country because of fighting or hostility from the warring factions. Thus, it is not until they are in the host country that PKO officials can fully grasp what is occurring locally. Frequently, changes are simply due to the fact that a specific task within the mandate is fulfilled and thus replaced by an updated one. As an example, once disarmament has occurred, a PKO may be required to aid in the reintegration of the ex-combatants into society. Furthermore, PKOs do not receive all the necessary resources for full implementation and therefore must constantly change their strategies depending on how many troops and the level of financial support received. In fact, many PKOs find that their donors and initial supporters lack the political will initially promised, which in turn leads to false expectations. Finally, regardless of such shortcomings, conflicts are characteristically unpredictable, requiring constant adaptation.

As rightly observed in an United Nations report, when changes are made to existing mandates, commensurate changes should be made to the resources available to the peacekeeping operation to carry out its new mandate.[121] Changes should be based on a thorough assessment of the situation after full consultation with the Security Council and troop-contributing states.[122] Revisions to a mandate may be implemented by the Security Council passing a new resolution that formally modifies or adds to the PKO

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[120] S.C. Res. 894, U.N. Doc S/RES/894 (Jan. 14, 1994).
[121] Rep. of the Special Comm. on Peacekeeping Operations, General Assembly, Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects, ¶ 55 U.N. Doc. A/54/839 (Mar. 20, 2000).
[122] *Id.*

mandate. For example, the mission initially dispatched to Bosnia-Herzegovina was not meant to end any war, but rather to deliver humanitarian aid.[123] As Kofi Annan explained, the "nature of the conflict, including 'ethnic cleansing' and concentration camps, seemed to call for something more ambitious."[124] UNPROFOR soon found itself containing the conflict with measures such as an arms embargo and a no-fly zone to promote a ceasefire. However, this change, and many other changes in mandates, did not occur with widespread agreement. In fact, on May 30, 1994, Secretary-General Boutros Boutros-Ghali argued for a revision of the UNPROFOR mandate "so that it would include only those tasks that a peacekeeping operation could be reasonably expected to perform in the circumstances prevailing in Bosnia and Herzegovina."[125]

A shift that has occurred on several occasions with peacekeeping operations is moving from a Chapter VI to a Chapter VII mandate.[126] This occurred in the UN Mission in Sierra Leone (UNAMSIL, 1999-2005) and in the UN Organization Mission in the Democratic Republic of the Congo (MONUC, 2000-present) due to a deteriorating security situation on the ground.[127] The new mandates authorize the PKO to take "the necessary action" to ensure freedom of movement and protection of civilians.[128] Other shifts require the creation of an entirely new peacekeeping operation the necessary

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[123]*See* Andrzej Sitkowski, *Reflections on the Peacekeeping Doctrine*, *in* 7 INTERNATIONAL PEACEKEEPING: THE YEARBOOK OF INTERNATIONAL PEACE OPERATIONS 185 (Michael Bothe & Boris Kondoch eds., 2002).
[124] Kofi Annan, *Peacekeeping, Military Intervention, and National Sovereignty in Internal Armed Conflict*, *in* HARD CHOICES: MORAL DILEMMAS IN HUMANITARIAN INTERVENTION 63 (Jonathan Moore ed., 1999).
[125]*See* Andrzej Sitkowski, *Reflections on the Peacekeeping Doctrine*, *in* 7 INTERNATIONAL PEACEKEEPING: THE YEARBOOK OF INTERNATIONAL PEACE OPERATIONS 181 (Michael Bothe & Boris Kondoch eds., 2002).
[126] Boutros-Ghali warned against this shift in the 1995 Supplement to the Agenda for Peace; the 2000 Brahimi Report did the same, arguing instead to go in stronger and then draw down, rather than the other way around. Missions established post-2000 have accordingly had bigger authorized strengths, more "robust mandates" (especially with respect to protection of civilians — which greater highlighting in the article), less restrictive ROEs, and greater force capabilities (e.g. attack helicopters in MONUC).
[127] *See* S.C. Res. 1291, ¶ 8, U.N. Doc. S/RES/1291 (Feb. 24, 2000); S.C. Res. 1270, U.N. Doc. S/RES/1270 (Oct. 22, 1999).
[128] *See generally* Jane Boulden, *United Nations Security Council Policy on Africa*, *in* DEALING WITH CONFLICT IN AFRICA: THE UNITED NATIONS AND REGIONAL ORGANIZATIONS 11 (Jane Boulden ed., 2003).

change is so drastic that modifying an already existing mandate may not be enough. This occurred in Somalia between 1992-95 in the transition from UNOSOM I to UNITAF to UNOSOM II. Somalia experienced a mixture of peacekeeping, peace making, peace enforcement, and nation-building.[129] UNOSOM I began as a mission to support humanitarian relief, but was soon overwhelmed by the Somali warlords.[130] Even with a Chapter VII mandate, the PKO lacked the force of arms and thus had to transition into a full-fledged military operation that did not resolve the Somali crisis.[131] The United Nations does not presently have a peacekeeping mission in Somalia. It has authorized an African Union Mission (AMISOM).[132] Unfortunately, the Somalia crisis continues as a Humans Right Watch report observes: "Somalia is nation in ruins, mired in one of the world's most brutal armed conflicts of recent years."[133] **IV. CONDITIONS AND**

**FACTORS THAT AFFECT THE SUCCESS**

**OF A PEACEKEEPING MISSION**

This section identifies critical factors that impact on the success of a mission. Most of the conflicts are characterized by the combination of internal and international factors in the conflict with serious human rights violations and large scale suffering among the threatened civilian population, which inevitably results in large numbers of refugees and displaced persons. Very often, conflict is a symptom of an intrastate crisis that is deeply rooted in the following conditions: authoritarian rule; exclusion of minorities from governance; socio-economic deprivation; and weak state structures that

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[129] *See* MURPHY, *supra* note 89, at 48.
[130] *Id.* at 33.
[131] *Id.* at 35.
[132] S.C. Res. 1964, ¶ 1, U.N. Doc. S/RES/1964 (Dec. 22, 2010).
[133] HUMAN RIGHTS WATCH, REPORT: SO MUCH TO FEAR: WAR CRIMES AND THE DEVASTATION OF SOMALIA 1 (2008).

lack the capacity to handle normal political and social conflict.[134]   Against this background — and cognizant that generalizations can be dangerous — a number of factors seem to determine the success of an intervention:   cooperation of the parties implementing the mandate; continuing support of the Security Council; readiness of the states to provide financial, technical, and materials resources to the mission; the need to deal with both past and current human rights violations; the need to deal with gender issues; and leadership of the mission.  Each of these issues warrants discussion.

A good mandate should be clear and practical and be backed by secure funding. In order to structure a clear mandate there must be a clear understanding of the nature of the problem and the underlying cause.  The strategic implication of this is that in structuring mandates and UN missions, we must focus on the structural causes of conflict in order to build a solid foundation for peace and ensure a future free of conflicts.  For example, in the case of Liberia, poverty, authoritarian rule, and the old conflict between Americo-Liberians and indigenous Liberians documented by J. Gus Liebenow in his 1969 book *Liberia: The Evolution of Privilege*, has contributed significantly to the crises Liberia has experienced.[135]   In Afghanistan, poverty, authoritarian rule by the warlords and the Taliban, and denial of basic human rights are major factors that contributed to the ignition of the crisis situation that continues today.  In present-day Darfur, religious tensions and the attempt by the Arab population to ethnically cleanse the North of the black Sudanese population are significant factors in the conflict.  Such crisis situations underscore that political stability requires structural accommodation of diversity.  In other

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[134] *See* U.N. Secretary-General, *The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa:, Rep. of the Secretary-General*, U.N. Doc. A/52/871-S/1998/318 (Apr. 13, 1998).
[135] *See generally* J. GUS LIEBENOW, LIBERIA: THE EVOLUTION OF PRIVILEGE (1969).

words, for the purpose of devising UN mandates and missions, it is necessary to distinguish between the symptoms and causes of intrastate crises. Peacekeeping efforts which treat the symptoms rather than sources of conflict lack a built-in exit strategy and often lead to failure. The Somali crisis is often given as an example of this phenomenon.

Unfortunately, the resources and energies of the international community tend to be mobilized around the symptoms — rather than the causes — of conflicts. As a result, traditional peacekeepers have remained in place for several decades, such as in Cyprus and the India/Pakistan border. It must also be taken into account that peacekeeping increasingly involves internal wars with armed elements only partially under the control of those who consent to a United Nations deployment. In these cases, it might be necessary to first stabilize the situation before a peacekeeping operation can be deployed, as was the case in Liberia and Sierra Leone. In some contemporary post-conflict situations, peacekeeping forces may need the ability to use force, if necessary, to keep the initiative of the peace process on track and to defend the peacekeeping mission and its mandate. A clear mandate must address the need to use force in such circumstances. The Eastern Congo is an example of a situation where the use of force was necessary to confront the militias terrorizing the civilian population.

The mandate must be guided by the understanding that peace making and peacebuilding are primarily the responsibility of local rather than foreign actors. Although it may seem counterintuitive, the UN peacekeeping operations may be more effective when the UN is not intricately involved in the peace negotiations at the outset of the talks. In Cambodia in the 1990s, the contours of the mission were sketched out at an array of informal meetings that allowed all the relevant regional actors to make their

preferences known.[136]  As a result, even though the interests of Vietnam and China were diametrically opposed throughout the negotiations process, the UN mandate was able to avoid association with the dispute and to assume some semblance of impartiality. Similarly, in the South African peace process, local stakeholders negotiated a settlement and the UN helped implement it through monitoring the peace accord structures and supporting the elections process in 1994.[137]  Such successful examples highlight that the peace process must seek ways of involving the local people in all aspects of its operations to the fullest extent.  It must also seek to involve regional actors.

Involvement of regional actors is important and holds relatively untapped potential for the UN.  The current missions in Sudan and Somalia are examples of a growing collaboration between the UN and the Africa Union.  Regional actors can help players reach solutions compatible with local traditions and can act as guarantors to the peace process.  Clearly, such interactions will require a greater amount of trust on the parts of both the United Nations and regional actors.  Regional actors are sometimes skeptical of the United Nations' intentions.  On the other hand, the United Nations has experienced difficulties in relation to capacities on the part of regional actors, and even regional organizations face problems of capacity.[138]  The AU Mission in Darfur which preceded the current UN/AU mission, for example, was financed almost entirely by the

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[136] The United Nations Mission implemented the Paris Agreements concluded by Cambodian parties. Under the agreements all parties agreed to end international involvement in the Cambodia conflict, transform the military conflict into a political one and entrusted the holding of elections to the United Nations.  *See* David Ashley, *Between War & Peace: Cambodia 1991-1998*, Nov. 1998, http://www.c-r.org/our-work/accord/cambodia/between-war-peace.php.
[137] *See* Muna Ndulo, *United Nations Observer Mission in South Africa: Preventive Diplomacy and Peacekeeping*, *in* 3 AFR. YEARBOOK OF INT'L LAW 222-23 (1995).

[138] Mark Malan, *Debunking Some Myths About Peacekeeping in Africa*, *in* FROM PEACEKEEPING TO COMPLEX EMERGENCIES: PEACE SUPPORT MISSIONS IN AFRICA (Jakkie Cilliers & Greg Mills eds., 1999). Malan observes that: "the political frameworks for conflict management in the various African sub regions are still in elementary stages of development." *Id.* at 21.

European Union and the United Nations.[139]   Until western states came to the AU's aid, the AU faced considerable difficulties in meeting the needs of the mission in Sudan as African armies lacked essential equipment such as helicopters and logistics equipment.

Nonetheless, a key advantage to involving regional actors is that neighbors are more familiar than outsiders are with each other's problems.  The disadvantage is that close proximity reduces impartiality and heightens the risk of involvement.[140]   There is also the problem of differences over applicable values.  A recent example is the sharp differences in the views held by the United Nations and the African Union over the indictment of Bashir by the International Criminal Court.  To maximize the benefits, cooperation between the United Nations and regional organizations must be based on strict observance of the principles and ideals of the United Nations Charter.

In developing a mandate, as a political body, the Security Council focuses on consensus building, even though it can make decisions with less than unanimity.  But very often, the compromise required to build consensus can be made at the expense of specificity, and the resulting ambiguity can have serious consequences in the field if the mandate is then subject to varying interpretations.   The worst example of the consequences of an inadequate mandate is the Rwanda Genocide.  There was a lack of clarity as to whether peacekeeping or peace enforcement was needed.  There is general agreement that had action been taken in Rwanda, the genocide could very well have been averted.  Because an inadequate mandate could lead to the UN itself exacerbating a problem, it is crucial that peacekeeping missions are given robust mandates.

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[139] *Id.  See also* Addis Ababa, *EU to Finance over Half of African Union Peace Mission Cost in Darfur*, SUDAN TRIBUNE, Oct. 23, 2004, http://www.Sudantribune.com/spip.php?ifrmed.page+imprimable&id_article=6120.
[140] For example, as previously noted, the Congo war drew in neighboring Angola, Namibia, Zimbabwe, Uganda, and Rwanda.

It is important to emphasize that, in circumstances where a party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the UN can, in the best case, result in ineffectiveness — and in the worst may amount to complicity with evil. The UN is not a neutral actor and should not be; it is an organization guided by the core values of the United Nations Charter. Impartiality does not mean neutrality. Neutrality in the face of violations of the UN Charter norms only rewards the transgressors. No failure did more to damage the standing and credibility of UN peacekeeping in the 1990s than its reluctance to distinguish victim from aggressor in such missions as the Congo in the 1960s.

At a practical level, once deployed, UN peacekeepers must be able to carry out their mandates professionally and successfully. This means that UN military units must be capable of defending themselves, other mission components, and the mission's mandate. Rules of engagement should be sufficiently robust and not force UN contingents to cede the initiative to their attackers. United Nations peacekeepers have often come under attack for failing to protect civilians.[141] In the Sudan, for example, there are complaints that UNAMID is failing to protect civilians.[142] The problem appears to be that UN forces often seek Sudanese authorization to move around the country and do not move unless they are given clearance by the host government. Further, the United Nations takes the view that the primary responsibility to protect civilians lies with the countries concerned.[143] This is an unrealistic approach that cannot advance the objectives

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[141] A United Nations official, Mr. A. Khare, Deputy Head of UN Peacekeeping Operations, admitted that UNAMID had failed to prevent armed rebels from raping hundreds of women in several Congo villages. *See UN Says Peacekeepers 'Failed' DR Congo Rape Victims*, BBC NEWS, Sept. 7, 2010, http://www.bbc.co.uk/news/world-africa-11224656.
[142] *Id.*
[143] *Id.*

of the mandate and protect civilians.  Once the United Nations has a mandate and Status

of Forces Agreement, the two documents should be the only guiding documents.

Peacekeeping missions cannot succeed unless the warring parties agree to

cooperate in the implementation of the mandate.  Force alone cannot create peace; it can

only create the space in which peace maybe established.  As a result, consent of the

parties is the bedrock principle of peacekeeping operations.  The problem is that local

parties sometimes sign peace accords for a variety of reasons — not all of them favorable

to peace — there often "spoiler-groups" who renege on their commitments or otherwise

seek to undermine a peace accord through violence.  In both Sierra Leone and Angola,

the first peacekeeping operations did not produce lasting peace; in each country,

challenged peace implementation threw the nation back into civil war.[144]

For peacekeeping to succeed in reducing tension and averting conflict, the UN

needs clear, unwavering, strong, and sustained political support from the Security

Council and member states.[145]  Lack of support can result in delays or impediments to

taking action, as well as a lack of sufficient resources to effectively implement a course

of action once it has been decided upon.

*A. Readiness of member states to contribute troops, personnel, and adequate financial*

*and logistical support*

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[144] *See generally* Emmanuel Kwesi Aning, *Peace Keeping Under ECOMOC: A Sub-regional Approach*, *in* FROM PEACEKEEPING TO COMPLEX EMERGENCIES: PEACE SUPPORT MISSIONS IN AFRICA (Jakkie Cilliers & Greg Mills eds., 1999). *See also* United Nations Mission in Sierra Leone Background, http://www.un.org/en/peacekeeping/ missions/past/unamsil/background/html.  *See also* Gwinyayi Albert Dzinesa, *A Comparative Perspective of UN Peacekeeping in Angola and Namibia*, 11 INT'L PEACEKEEPING, no. 4, 2004 at 644-62.

[145]Rep. of the Special Comm. on Peacekeeping Operations, General Assembly, Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects, ¶ 7 U.N. Doc. A/54/839 (Mar. 20, 2000).

The United Nations is totally dependent on the contributions of member states for peacekeeping missions; the UN does not have a standing army or police force.[146]  As is well known, the UN continues to experience a troop commitment gap.  Industrial states tend to prioritize deployment of their troops to operations led by the North Atlantic Treaty Organization states (NATO), the European Union and/or ad hoc coalitions authorized by the Security Council.  Developing countries continued to provide the largest numbers of military and civilian police personnel for United Nations peacekeeping operations.[147]  The commitment gap often translates into delays in deployment.  Examples of the effect of delays is in Liberia, where the UN force was authorized in August 2003, but by March 2004 it still had not achieved its full strength, delaying key programs such as the disarmament of combatants.[148]

The speedy deployment of military, civil police, and civilian experts will not help to solidify peace and establish the credibility of an operation if these personnel are not equipped to do their job.  To be effective, the mission's personnel need material, equipment, and logistical support.  The early days of the Sierra Leone mission provides a very clear example of what could happen when men and women are deployed without logistical support: lacking communications equipment and weapons to defend themselves, 500 United Nations peacekeepers were captured by rebel fighters in the early days of the Sierra Leone mission.[149]  Willingness by member states to contribute troops

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[146] *Id.* at ¶ 84.
[147] *Id.* at ¶¶ 102-07.
[148] U.N. Secretary-General, *Second Progress Report of the Secretary-General on the United Nations Mission in Liberia*, U.N. Doc. S/2004/229 (Mar. 22, 2004).
[149] U.N. Secretary-General, *Third Report of the Secretary-General on the United Nations Mission in Sierra Leone*, ¶¶ 10-15, U.N. Doc. S/2000/186 (Mar. 7, 2000).

to a credible operation also implies a willingness to accept the risk of casualties on behalf of the mandate; nevertheless, it is hard for countries to accept this reality.

The missions in Namibia, Mozambique, Cambodia, and East Timor can be considered successful missions in terms of supporting multiparty elections that resulted in the formation of broad-based representative governments. Although these missions operated in completely dissimilar environments, they are a useful indicator of the conditions for success. As previously discussed, these conditions can be roughly divided into two categories: the nature of the mandates and the resources available to each mission.

In terms of respective mandates, in Cambodia, Namibia, and Mozambique, the warring parties had concluded a peace agreement and welcomed UN involvement and deployment of a peacekeeping force. Although it may seem obvious that a mission is more likely to succeed when opponents have already agreed upon a solution, it is important to note that this was not easily achieved at the outset in any of the three cases and was the result of intensive negotiations. In Cambodia, Vietnam and the Khmer Rouge each remained determined to vanquish the other while their foreign suppliers were content to watch their proxies fight. In Namibia, despite General Assembly and Security Council Resolutions, South Africa remained convinced for many years that a military victory over the guerrilla forces was possible.[150] In Mozambique, a brutal war ranged for several years between FRELIMO and RENAMO as their backers were remained prepared to fund the conflict. In each of these cases, serious negotiations began only after it became obvious to all parties involved in the conflict that a military stalemate had

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[150] Leopold Scholtz, *The Namibian Border War: An Appraisal of the South African Strategy*, 34 S. AFR. J. OF MIL. STUD. 19 (2006).

resulted,[151] thus lending serious weight to the idea that a critical element for successful peacekeeping is the realization that outright victory for either side is unlikely, and a sound peace agreement which has the support of all the parties to the conflict is the best case scenario.

An additional "success" factor in Cambodia, Namibia, and Mozambique was that the mandates of each mission and the respective peace settlement was negotiated primarily by outsiders, lending further credence to the view that UN peacekeeping operations are more likely to be effective when the UN is not intricately involved in the minute details of negotiations at the outset. In Mozambique, the Vatican mediated the peace negotiations between FRELIMO and RANAMO, which led to a ceasefire and a peace agreement that the UN went in to implement.[152] And, as already pointed out in the Cambodia case, the contours of the mission were sketched out at an array of informal meetings that allowed all of the relevant regional actors to make their preferences known.[153] Likewise, in Namibia, the regional actors, through a group called the Front Line States, negotiated some of the terms of the peace settlement.[154] These cases would suggest that regional blocks in some situations may be better incubators of UN mandates than the Security Council.

*B. Human Rights Violence — Current and Past*

Conflict situations are characterized by lack of respect for the rule of law, gross human rights violations, and impunity. In a post-conflict society, some of the most

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[151] Ann L. Phillips, *Mozambique: A Chance for Peace*, CENTER FOR COMPLEX OPERATIONS CASE STUDIES SERIES NO. 10 8 (2010).

[152] Moise Vanacio, *Mediation by the Roman Catholic Church in Mozambique, 1988-1991*, *in* MEDIATION IN SOUTHERN AFRICA 147 (Stephen Chan & Vivien Jabri eds., 1993).

[153] *See* LIEBENOW, *supra* note 135.

[154] See KHADIAGALA, *supra* note 112.

difficult tasks include articulating a vision of a new society, dealing with past human rights violations, defining the fundamental principles by which the country will be transformed, and engaging in effective reconciliation. The manner in which these processes are handled can play an important role in the consolidation of peace. A peacekeeping mission must have a component within the peace process to develop mechanisms to address the development of a comprehensive program for national reconciliation. Examples are the Truth and Reconciliation Commissions that have been established in various countries emerging from gross human rights violations.[155]

Indeed, there can be no lasting peace where a nation does not deal with its past and its citizens continue to be traumatized. Each mission should have a humanitarian component to deal with the often tragic conditions that people in zones of conflict inhabit. Many thousands of people are often driven from their homes in conflict zones. In fact, it is estimated that there are now over 25 million internally displaced people worldwide — outnumbering refugees by more than two to one.[156] A humanitarian component will ensure a more coherent and strategically coordinated humanitarian response to the plight of internally displaced people. Particular attention should be given to addressing the needs of children.

*C. Gender Component*

Similarly, a good peacekeeping mission should have a gender unit to ensure that gender equality in the mission, as well as the peace process, is mainstreamed. Women have their own perspective and experiences to bring to conflict resolution, particularly in

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[155] LOUIS HENKIN ET AL, HUMAN RIGHTS 743 (2009).
[156] NORWEGIAN REFUGEE COUNCIL & GLOBAL IDP PROJECT, INTERNATIONALLY DISPLACED PERSONS: A GLOBAL SURVEY (2002).

light of the fact that women are disproportionately impacted by conflict.[157]   After all, what can be more democratic than to ensure that every voice is heard in the political process?  One way of ensuring that gender is a critical part of the mission is to start with the mission itself.  There should be increased participation of women at all levels of the mission.  As has been observed — including through Security Council Resolution 1325 — mainstreaming gender into peacebuilding initiatives is critical to making societies more equitable and just.[158]   The inclusion of women in peacebuilding activities could help unshackle societies from patriarchy and promote a transformative agenda.  Such action must also facilitate the addressing of unequal power relations and gender inequality.[159]   The very first all-female peacekeeping force was deployed in Liberia in 2007.[160]   Since then, scores of women have helped to disengage armed forces, protect civilians, and promote human rights.  The UN Secretary-General, Ban Ki-Moon, has spoken about the positive impact women bring to peacekeeping, stating that "whether interviewing victims of sexual violence, working in women's prisons, assisting female ex-combatants reintegrating into civilian life, or mentoring female police cadets, women personnel have a clear advantage.  They can help empower women to rebuild their war-torn countries and act as role models."[161]   Further, it has been noted that the presence of

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[157] *See* Sherrill Whittington, *Security and Reconstruction in Africa: Role of Security Council Resolution 1325, Women, Peace and Security*, *in* SECURITY, RECONSTRUCTION, AND RECONCILIATION: WHEN THE WARS END 97 (Muna Ndulo ed., 2007).

[158] *Id.*

[159] GINYAYI A. DZINESA & ELIZABETH OTITODUN, CENTRE FOR CONFLICT RESOLUTION, PEACEBUILDING IN POST-COLD WAR AFRICA: PROBLEMS, PROGRESS, AND PROSPECTS (Adekeye Adebajo & Mark Paterson eds., 2009).

[160] United Nations Peacekeeping Fact Sheet, http://www.un.org/en/peacekeeping/resources/statistics/ factsheet.shtml..

[161] Ban Ki-moon, *Remarks to Commission on the Status of Women High-Level Event marking International Women's Day – "Equal Rights, Equal Opportunities and Progress for All,"* U.N. NEWS CENTRE, Mar. 3, 2010, http://un.org/apps/news/infocus/sgspeeches/statments_full.asp?statID=736.

women peacekeepers in Liberia is reducing the incidence of sexual exploitation.[162] For all of these reasons, a serious and robust gender component should be prioritized as a central component to each peacekeeping mission — and should not be relegated to an after-thought or "soft issue."

*D. Leadership of Mission*

Effective, dynamic leadership can make the difference between a cohesive mission with high morale and effectiveness despite adverse circumstances and one that struggles to maintain those attributes. The tenor of an entire mission can be heavily influenced by the character and ability of those who lead it. The heads of United Nations peacekeeping missions are unique in their ex officio ability to make or break a peace operation and because they may significantly enhance an operation's credibility and effectiveness through measured judgment strength of character and on the ground acuity.[163] It is widely acknowledged that the success of the Mozambique mission was due to the excellent leadership provided by the Special Representative of the Secretary-General Aldo Ajello.[164] It is important, therefore, that careful attention be given to choosing heads of peacekeeping missions; proven leadership, judgment, and integrity are among the core attributes that must be sought and demonstrated.

## V. ADDITIONAL CHALLENGES IN A PEACEKEEPING MISSION

In addition to the challenges discussed above, peacekeeping missions encounter issues relating to security and disarmament of combatants and their reintegration into

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[162]*Id.*

[163] HEARNE, *supra* note 87, at 1.

[164] Adekeye Adebajo and Chris Landsberg observed that "regional and extra-regional players provided crucial diplomatic and financial support to the peace process and stopped arming Mozambique's warring factions; and the UN had an effective and energetic Special Representative in the person of Aldo Ajello." Adekeye Adebajo & Chris Landsberg, *Back to the Future: UN Peacekeeping in Africa*, *in* MANAGING ARMED CONFLICTS IN THE 21ST CENTURY 163 (Adekey Adebajo & Chandra Lekah Spiram eds., 2001).

society. Peacebuilding makes a direct contribution to public security and law and order. But the basic objective of disarmament, demobilization, and reintegration is not met unless all three elements of the process are implemented. These are always part of the major tasks that peacekeeping missions need to address. As might be reasonably expected from the broad variety and scope of peacekeeping missions, the results over these issues have been mixed. A number of conditions are necessary for a successful reconstruction, disarmament, and reintegration program. Reconstruction is a critical objective for the long-term success of a mission. David Keen makes the important point that when we talk about reconstruction it should be clear that it is not about reconstructing the exact social and economic conditions prevailing at the outset of a conflict that caused the problem in the first place.[165] Failure to tackle the underlying grievance will be damaging in the long run. Byron Tarr illustrates this point when he makes the argument that Liberia's past efforts at reform are replete with failure because they all fail to address the underlying problems of marginalization of indigenous people, decentralization, and Liberia's inability to decide whether it remains "an outpost of Western civilization" or is an African state desiring to be a responsible member of an integrating subregion.[166]

Disarmament and demobilization of former combatants are key to immediate post-conflict stability and reduce the likelihood of conflict recurrence. Indeed, disarmament is the smallest part of the peace process while reintegration is often a bigger problem. Whether economic and political reconstruction can begin depends on how

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[165] David Keen, *War and Peace: What's the Difference*, in MANAGING ARMED CONFLICT IN THE 21ST CENTURY 14 (Adekeye Adebajo & Chandra Lekha Sriram eds., 2001).
[166] Byron Tarr, *Reconstruct Governance to Rouse Liberia, Long Forlorn*, in SECURITY, RECONSTRUCTION, AND RECONCILIATION: WHEN THE WARS END 206 (Muna Ndulo ed., 2006).

quickly security spreads throughout the country. Typically, the main spoilers are the politicians; the fighters are more committed to peace than their political masters. Demobilized fighters (who almost never fully disarm) will tend to return to a life of violence if they find no legitimate livelihood — that is, if they are not "reintegrated" into the local economy. In the end, economic development is critical to sustained demobilization and the peace process. Reintegration is a long-term matter that must be linked to jump starting the country's economy and giving fighters hope of better prospects. Money will be needed to assist in providing training, skills, and vocational education. Jobs are an essential ingredient of an effective reintegration strategy that will be critical for breaking the ties of fighters to their political masters. The typical approach is to train ex-fighters in various trades such as bricklaying and carpentry. Without job opportunities to utilize the trades taught, the training does not provide real alternatives. An example of what can happen when there is no meaningful reintegration is East Timor in 2006, where ex-combatants rebelled and started fighting with the army.[167] Patterns of development that empower ordinary people through jobs and access to education and improved security will weaken the position of warlords and extremist politicians who offer to meet these needs through violence and harassment of the people.

A separate challenge that should be considered in peacekeeping missions is that there is often too much focus on early elections in peace processes. Elections are an important and necessary component of the democratic process, and most peace agreements call for elections early on in the process. However, to conduct an election is

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[167] Following the collapse of the East Timorese police force, the United Nations extended the mandate of the 1440 international police and more than 1200 civilian staff and volunteers to remain in the country for 12 months. *See* United Nations Integrated Mission in East Timor(UNMIT) Background, http://www.un.org/en/peacekeeping/ missions/unmit/background.shtml.

a logistically huge undertaking. It requires security and capacity. Warlords have demonstrated time and time again that they benefit most from a premature rush to the ballot box and from the sham legitimacy that it confers. It must be borne in mind that an election is a contest — and a contest is necessarily combative. Elections therefore require clear rules so that even the losers trust that the rules have been applied justly; otherwise, former enemies will continue their rivalry and contest by other means. In cases where elections are premature and poorly organized, the heightened expectations surrounding the elections can become a dangerous force. In such situations, elections do not guarantee democracy; they, in fact, can make matters worse. In this regard, one need only look at the Liberian elections in the 1990s that brought Charles Taylor to power and legitimized his rule.[168]

An additional problem is too much focus on leaders rather than ordinary people. UN peace processes are often built around leaders and do not pay sufficient attention to the ordinary people. Typically, there is no parallel peace process on the ground. The exception was South Africa, where Peace Accord Structures were established through legislation at national, regional, and local levels.[169] The Structures, comprised of inclusive committees representing stakeholders at local community, district, and provincial levels, established and discussed the peace process and reconstruction of infrastructure damaged in political violence in the various communities. These forums played a critical role in articulating the concerns of ordinary people and fed into the

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[168] In Liberia after the 1989 elections that brought Charles Taylor to power the security situation deteriorated. Conflicts escalated and thousands of civilians were killed. *See* United Nations Mission in Liberia (UNMIL) Background, http://www.un.org/en/peacekeeping/missions/unmil/background.shtml.
[169] Final Rep. of the U.N. Observer Mission in South Africa (UNOMSA) to the U.N. Secretary-General (May 26, 1994).

national process.[170]   The local Structures enable communities to contribute to the maintenance of a secure local environment for peacebuilding and enable the peacebuilder's task of supporting the political, social, and economic changes that create a secure, self-sustaining environment.   After all, the goal of international intervention should always be seen first and foremost as facilitating local processes, providing resources, and creating the local actors to resolve their own problems.

## VI. CONCLUSION

This article has offered some suggestions on how peacekeeping missions can be made more effective.  The success of a mission will depend largely on whether there is a clear and responsive peacekeeping mandate and whether the mandate is supported by adequate resources and effective leadership.  Mandates are texts that are open to a certain degree of interpretation.  In that respect, peacekeeping missions must be prepared to adapt mandates to local conditions and missions must show flexibility.  At the same time, mandates must be interpreted in a more expansive manner.  Since it is usually up to  the Force Commander and the Secretary-General's Special Representative to direct the implementation of  the mandate, they may do so by going beyond the initial narrowly defined objective of the mandate when the circumstances demand such departure.  They should be informed by conditions on the ground.  In that respect, the peacekeepers must view the mandate as a floor rather than a ceiling.  This can be a helpful start for the adaptation of the mandate to the needs of the conditions on the ground and more effective peacekeeping.

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[170]In a bid to stem political violence, in September 1991, political parties and other stakeholders signed the National Peace Accord, in which all signatories pledged to promote peace and stability throughout South Africa.

Among the lessons we have learned over time — including from the Liberian situation in 1990, Haiti in 1994, and East Timor in 2006 — is that the world must not pull out from post conflict states too early. Consolidating peace and putting a country on the path to development requires sustained multi-year support. It requires promoting development agendas that seek to transform the society and conditions that played midwife to the conflict. Development agendas should put education, employment, and participation in governance at the heart of conflict resolution and post-conflict reconstruction. The temptation among donors to favor immediate results and short time planning horizons in dictating their commitments, do not lend themselves to the kind of slow and sustained support required for post-conflict peacebuilding. The international community has to remain engaged long after the peace process is solved — otherwise, history repeats itself. Special attention must be paid to developing institutions of governance and public administration, a process which is, of course, complex. First governance is a concept that is wider than, but includes, public administration. Taking this into account, there is a need to guard against considering only institutions of government; the discussion must include institutions that facilitate collaboration, involvement, consultation, and participation of all stakeholders in all sectors (public sector, private sector, and civil society) in the act of governance. The United Nations has recognized this and important steps have been taken within the UN to establish structures to address some of these issues. For example, this article mentioned the Peacebuilding Commission initiative, and there are others such as the establishment of a mediation support unit followed by a team of mediators to provide technical expertise and support

for high-level UN and regional mediators.  In addition, the UN has established regional offices in West Africa and Central Asia to support UN peace initiatives.

Peacekeeping initiatives offer unique and extraordinary promise in bringing about and consolidating peace in the most dire of circumstances.  Given the enormity of the stakes, it behooves the international community to assess past peacekeeping experiences and draw from lessons learned.  Only with serious investment, planning, inclusion, and leadership can the promise of peacekeeping be realized — and it is an objective well worth striving to reach.