Keeping Track of UN Peace-keeping — Suez, Srebrenica, Rwanda and the Brahimi Report

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* The author wishes to dedicate this article to the memory of Franz Bär (1915–2001) who, despite the hardships the twentieth century had in store for him, never lost his confidence.

I. Introduction

Writing to his wife in August 1960, the UN Under-Secretary-General, Ralph Bunche chose a fitting image to define peace-keeping: "It's like trying to give first aid to a wounded rattlesnake."[1] From the early developments of the concept in the fifties and sixties, the award of the Nobel Peace Prize for the so called Blue Helmets in 1988 up until the contrast both of high hopes and tragic failure in the 1990s, the United Nations has encountered and tamed a variety of "snakes" while at the same time it was "bitten" several times and constantly tried to adapt its "aid" to the specific wounds and venoms of different conflict situations. Few treatments, however, turned out to be severely dangerous to the very concept of peace-keeping itself and the organization as a whole.

In recent years three cases in particular had a possible life-threatening impact on the world organization: Somalia, Bosnia and Rwanda.[2] These names not only provide associations with failures by the international community to cope with violent conflicts, but also epitomize new patterns of conflict in the post-Cold War era: failed states, ethnic cleansing and genocide seemed to prove themselves incompatible with United Nations peace-keeping principles and practice. Faced with the breakdown of the conceptual framework of peace-keeping and the obvious shortcomings of its procedure, a "doctrinal void"[3] emerged between rather frequent pleas to engage in heavy fighting or even war on the one side and warnings to steer clear of the pitfalls of any peace-enforcement. Kofi Annan already in his position as Under-Secretary-General of the Department of Peace-keeping Operations (DPKO) summed up: "At no time since its inception has the nature of the concept of peace-keeping been as open to redefinition as it is at the present juncture."[4]

In three remarkable reports, on its action, failures and potential, the United Nations, under the stewardship of the current Secretary-

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[1] B. Urquhart, *Ralph Bunche. An American Odyssey*, 1993, 322.

[2] For an overview of developments and events in this period see e.g. W. Shawcross, *Deliver us from evil. Peacekeepers, Warlords and a World of Endless Conflict*, 2000 as well as the account by the UN Secretary-General Boutros Boutros-Ghali, *Unvanquished. A U.S. – U.N. Saga*, 1999.

[3] J.G. Ruggie, "Wandering in the Void. Charting the U.N.'s New Strategic Role", *Foreign Aff.* 72 (1993), 26 et seq., (29).

[4] Kofi Annan, "UN peace-keeping operations and cooperation with NATO", *NATO Review* October 1993, 3.

General Kofi Annan, tries to find orientation in the ongoing quest for peace. The first report in this context was the Secretary-General's report on the Fall of Srebrenica, issued 15 November 1999,[5] followed by the Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda[6] published a month later. Both reports were "brutally honest accounts"[7] of the responsibilities that the United Nations shared in the developments of these tragedies: in Srebrenica Bosnian Serbs deported about twenty thousand women and children and killed thousands in the middle of a UN declared "safe

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[5]   Report of the Secretary-General Doc. A/54/549 of 15 November 1999 (to be cited as SR para.). For additional accounts of the Srebrenica tragedy see J.W. Honig/ N. Both, *Srebrenica. Record of a War crime*, 1996; J. Gow, *Triumph of the lack of will. International Diplomacy and the Yugoslav War*, 1997; W.J. Durch/ J. A. Schear, "Faultlines: UN operations in the former Yugoslavia", in: W.J. Durch (ed.), *UN Peace-keeping, American politics and the uncivil wars of the 1990s*, 1997, 193 et seq.; W. Biermann/ M. Vadset (eds), *UN Peace-keeping in Trouble: Lessons learned from the Former Yugoslavia. Peacekeepers' Views on the Limits and Possibilities of the United Nations in a Civil War-like Conflict*, 1998. For personal accounts see e.g. M. Rose, *Fighting for Peace. Lessons from Bosnia*, 1998 and R. Holbrooke, *To end a war*, 1998. There have been several national debates and parliamentary hearings on the subject. The Dutch Ministry of Defence asked the Netherlands Institute for War Documentation to prepare a report on the Dutch role.

[6]   Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda, Doc. S/1999/1257 of 15 December 1999 (to be cited as RR page). Members of the Inquiry were Ingvar Carlsson (Sweden), Han Sung-Joo (Korea), Rufus M. Kupolati (Nigeria). There has also been an investigation by the Organization of African Unity: *International Panel of eminent personalities to investigate the 1994 genocide in Rwanda and the surrounding events* (http://www.oau.org). For an overview of the UN operation see also Department of Public Information (ed.), *The United Nations and Rwanda 1993-1996*, 1996; L. Melvern, "The Security Council: behind the scenes", *J. Int'l Aff.* 77 (2001), 101 et seq. and J. M. Vaccaro, "The Politics of Genocide: peace-keeping and Disaster Relief in Rwanda", in: Durch, see note 5, 367 et seq. A detailed account can be found in L. Melvern, *A people betrayed: the role of the West in Rwanda's genocide*, 2000. As in the case of Srebrenica there have been national investigations, most notably in Belgium. See K. van Brabant, "Security and Protection in Peace-keeping: A Critical Reading of the Belgian Inquiry into Events in Rwanda in 1994", *International Peace-keeping* 6 (1999), 143 et seq.

[7]   B. Urquhart, "In the name of humanity", in: *The New York Review of Books* of 27 April 2000.

area". The Red Cross speaks of over 7000 men who are unaccounted for. In Rwanda the Hutu population slaughtered approximately 800.000 Tutsi within days and with virtually no hindrance from the international community. While stressing the UN failure the reports also point, with utmost clarity, to the responsibility of Member States acting (or rather not acting) through the organization.

Annan, who does not shy away from blaming himself and the DPKO in the SR expresses the intention of this effort: "The fall of Srebrenica is replete with lessons for this Organization and its Member States — lessons that must be learned if we are to expect the peoples of the world to place their faith in the United Nations."[8] Seeing the report as a starting point not only for further analysis and discussion but also concrete reform proposals he adds: "To ensure that we have fully learned the lessons of the tragic history detailed in this report, I wish to encourage Member States to engage in a process of reflection and analysis, focused on the key challenges the narrative uncovers. The aim of this process would be to clarify and to improve the capacity of the United Nations to respond to various forms of conflict. I have in mind addressing such issues as the gulf between mandate and means; the inadequacy of symbolic deterrence in the face of a systematic campaign of violence; the pervasive ambivalence within the United Nations regarding the role of force in the pursuit of peace; an institutional ideology of impartiality even when confronted with attempted genocide; and a range of doctrinal and institutional issues that go to the heart of the United Nations ability to keep the peace and help protect civilian populations from armed conflict."[9]

This process has in a way manifested itself most prominently in the Report of the Panel on United Nations Peace Operations which was published on 21 August 2000.[10] The so-called Brahimi Report partly

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8   SR para. 498.
9   SR para. 505.
10   Report of the Panel on United Nations Peace Operations, Doc. A/55/305 – S/2000/809 (to be cited as BR para.). Members of the Panel were J. Brian Atwood (United States); Lakhdar Brahimi (Algeria); Colin Granderson (Trinidad and Tobago); Dame Ann Hercus (New Zealand); Richard Monk (United Kingdom); Klaus Naumann (Germany), Hisako Shimura (Japan); Vladimir Shustoiv (Russian Federation); Philip Sibanda (Zimbabwe); Cornelio Sommaruga (Switzerland). Cf. also S.R. Ratner, *The new UN peace-keeping. Building Peace in Lands of Conflict after the Cold War*, 1995, 210 et seq. whose recommendations surprisingly often coincide with or parallel the ones that the Brahimi Report puts forward. For a useful sur-

adopts the conclusions of Srebrenica and Rwanda but clearly goes beyond them in an effort to provide a full-scale evaluation of existing UN capacities, impediments and procedures along with recommendations for substantial reform in this area.

In his accompanying letter to the report, Kofi Annan remarks: "The Panel's analysis is frank yet fair; its recommendations are far-reaching yet sensible and practical. The expeditious implementation of the Panel's recommendations, in my view, is essential to make the United Nations truly credible as a force for peace."[11] But enthusiasm for constructive measures to transform the peace-keeping capacity in order to suit the needs of new conflict patterns is not generally shared. For Michael Ignatieff the conclusions from the cases of Bosnia or Rwanda are bitter but blunt: "It's time to bury peace-keeping before it buries the U.N."[12] And many commentators link the failures and problems of UN peace-keeping to an overburdening of the organization with what has been labelled second-generation peace-keeping.[13] In fact, this much-quoted formula of second-generation peace-keeping does not always adequately describe the multitude of and variety of factors making up

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vey of principal aspects of the report see W. Kühne, "Zukunft der UN-Friedenseinsätze. Lehren aus dem Brahimi-Report", in: *Blätter für deutsche und internationale Politik* 11/2000, 1355 et seq.

11   Doc. S/2000/809 of 21 August 2000.

12   M. Ignatieff, "A bungling U.N. undermines itself", *The New York Times* of 15 May 2000.

13   Cf. J. Mackinlay/ J. Chopra, "Second Generation Multinational Operations", *The Washington Quarterly* 15 (1992), 113 et seq., the detailed legal analysis by F.E. Hufnagel, *UN-Friedensoperationen der zweiten Generation. Vom Puffer zur Neuen Treuhand*, 1996; S. Göhlert, *Der gemeinsame zu verteidigende Standard. Der Menschenrechtliche Anspruch in UN-Missionen der 90er Jahre*, unpublished manuscript – Jena; M. Hirsh, "Calling all Regio-Cops. Peace-keeping's Hybrid Future", *Foreign Aff.* 79 (2000), 2 et seq., (6) argues for the UN to focus on authorizing local/regional actors. M.N. Barnett, "The United Nations and Global Security: the Norm is Mightier than the Sword", *Ethics and International Affairs* 9 (1995), 37 et seq., (38), sees the UN role more as "builder rather than enforcer of law". Cf. also I.L. Claude Jr., "Collective Legitimization as a Political Function of the United Nations", in: L.M. Goodrich/ D.A Kay (eds), *International Organization. Politics and Process*, 1973, 209 et seq.; M.W. Doyle, "Conclusion: International organizations, peace, and security", in: M. Allagoppa/ T. Inoguchi (eds), *International Security Management and the United Nations*, 1999, 445 et seq.

an individual mission.[14] But it has also supported the thesis of a "return to basics" which during the Yugoslav War found a somewhat cynical echo in General Mladić insisting that UNROFOR should return to "United Nations principles for the creation of peace".[15] The plea for a return to principles thus makes up for a political argument and in this respect, apart from the current reports and discussions, it should be useful to have a closer look at those very "basics" and origins of peace-keeping.[16]

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[14]   A. James, "Is there a second generation peace-keeping?", *International Peace-keeping* 1 (1994), 110 et seq. criticizes the term. The debate cannot be conducted in detail here. A very useful typology is offered by J.T. Wentges, "Force, Function and Phase: Three Dimensions of UN peace-keeping", *International Peace-keeping* 5 (1998), 58 et seq., who comprises three types of peace-keeping each further subdivided into three criteria: classical (consensual, uni-functional, static), wider (consensual, multi-functional, dynamic), assertive (enforcing, uni-functional, quasi-static). By this distinction, the sometimes disturbing simultaneity of success and failure of so-called "second-generation peace-keeping" can be more easily explained: "It also should be noted that by this measure UNPROFOR, UNOSOM and UNAMIR would not be classified as second generation since they exhibited merely the more limited pre-ceasefire conflict allevation, with little attention to prevention, reduction or settlement." (67).

[15]   SR para. 194.

[16]   Among the huge wealth of literature on the subject cf. e.g. Department of Public Information (ed.), *The Blue Helmets. A Review of United Nations Peace-keeping*, 1996; R. Higgins, *United Nations Peace-keeping 1946-1967. Documents and Commentary*, 1969; W.J. Durch (ed.), *The evolution of UN peace-keeping. Case studies and comparative analysis*, 1993; J.J. Holst, "Enhancing Peace-keeping operations", *Survival* 32 (1990), 264 et seq.; W. Kühne (ed.), *Blauhelme in einer turbulenten Welt*, 1993; A. Roberts, "The Crisis in UN Peace-keeping", *Survival* 36 (1994), 93 et seq.; C. Dobbie, "A Concept for Post-Cold War Peace-keeping", *Survival* 36 (1994), 121 et seq.; C. Tomuschat, "Ein neues Modell der Friedenssicherung tut Not. Blauhelmeinsätze der zweiten Generation", *EA* 49 (1994), 677 et seq.; M. Bothe, "Peacekeeping and the Use of Force-Back to the Charter or Political Accident", International Peace-keeping 1 (1994), 2 et seq.; J. Grinberg, "Can UN Peacekeepers do the Job?", in: D. Bourantonis/ J. Winer (eds), *The United Nations in the New World Order. The World Organization at Fifty*, 1995, 187 et seq.; D. Warner (ed.), *New Dimensions of Peace-keeping*, 1995; A. Roberts, "From San Fransisco to Sarajevo: the UN and the Use of Force", *Survival* 37 (1995), 7 et seq.; B. Benton (ed.), *Soldiers for Peace. Fifty Years of United Nations Peace-keeping*, 1996, 209 et seq.; M. Pugh (ed.), *The UN, Peace and Force*, 1997, 82 et seq.; D. Bratt, "Explaining

Peace-keeping, however, is not a static concept to be neatly defined in one sentence. It rather represents a delicate connection of various principles and prerequisites whose fragile balance does not allow much generalization. Against this background, the following sections will try to keep track of peace-keeping amidst continuing transformations and recent challenges. This is done by pursuing two objectives: first, to reconstruct the "classical" concept of peace-keeping with the aim of generating analytical tools that help to structure the diverse material from the three reports. This is primarily done by a detailed reconstruction of the "first"[17] UN peace-keeping mission, the United Nations Emergency Force (UNEF I) deployed in the context of the Suez-crisis in 1956. Second, to bring the separately issued reports into perspective and reflect upon the lessons they provide for further UN efforts by measuring them against the original evolvement and intention of "classical" peace-keeping.[18] The method does not imply a logic of proposition (establishment of UNEF I), antithesis (failures of UNPROFOR and UNAMIR) and synthesis (BR). While some of the arguments made and developments observed would fit into such a pattern, it will eventually be seen that the original concept of peace-keeping in some cases simply

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Peace-keeping Performace: the UN in internal conflicts", *International Peace-keeping* 4 (1997), 45 et seq.; O. A. Otunnu/ M. W. Doyle (eds), *Peacemaking and Peace-keeping for the New Century*, 1998; W. Kühne, "Peace Support Operations: how to make them succeed", *Internationale Politik und Gesellschaft* 4 (1999), 358 et seq.; D. Bratt, "Peace over Justice: developing a Framework for UN Peace-keeping Operations in Internal Conflicts", *Global Governance* 5 (1999), 63 et seq.; R. Khan, "United Nations Peace-keeping in Internal Conflicts", *Max Planck UNYB* 4 (2000), 53 et seq.; S. Ryan, "United Nations Peace-keeping: a Matter of Principles?", T. Woodhouse/ O. Ramsbotham (eds), *Peacekeeping and Conflict Resolution*, 2000, 27 et seq. See also the inside account by M. Eisele, *Die Vereinten Nationen und das internationale Konfliktmanagement. Ein Insider-Bericht*, 2000.

17   There are a lot of "forerunners" and peace-keeping efforts, most notably UNTSO which was established in 1948. Its composition of a relatively small number of unarmed observers as well as its evolution out of the UN mediator mission and the eventual truce mark peculiarities which seem to indicate a preference in identifying UNEF as the first major "classical" mission, although – as will be shown – UNEF also has its very own characteristics.

18   Cf. also T.F. Arnold/ H.R. Ruland, "The 'Prehistory' of Peace-keeping", in: Benton, see note 16, 11 et seq. as well as M. Ghali, "United Nations Truce Supervision Organization", in: Durch, see note 16, 84 et seq.

shows itself outdated whereas in other cases it calls for transformation and sometimes even offers a remarkable potential for orientation. Need for orientation in this field is of paramount importance for the United Nations, as a quote by former UN Ambassador Richard Holbrooke demonstrates: "(T)he UN will ultimately be judged by its peace-keeping scorecard more than anything else."[19] In the following sections analysis will accordingly reconstruct the evolvement of peace-keeping principles and prerequisites. This is followed by an analysis of the changes with regard to the principles of consent, impartiality and the use of force as described in the reports. Based on these observations, the need and recommendations to respond to new challenges will be outlined, referring both to UN infrastructure and Member States. The conclusion then summarizes the results with an emphasis on combining the peace-keeping experience old and new.

II. The Evolution of Classical Peace-keeping: The Case of the Suez Crisis

The UN Charter as such does not provide for any explicit legal basis for what later came to be known as "Blue Helmets":[20] "Peace-keeping began as an unplanned response to a particular set of problems at a particular time."[21] The first mission in a classical sense falls into the tenure of the second UN Secretary-General, Dag Hammarskjöld.[22] It directly stems from Hammarskjöld's broader notion of a "UN Presence" and was modelled according to the political and military aspects of the Suez

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19   R. Holbrooke, "Statement in the Fifth Committee of the General Assembly on United Nations Peace-keeping" of 16 May 2000 (http://www. un.int/usa).

20   See also N.D. White, "The UN Charter and Peace-keeping Forces: Constitutional Issues", in: Pugh, see note 16, 43 et seq.

21   Ryan, see note 16, 27.

22   For an overview on the background and development of the concept see – among others: L. Gordenker, *The UN Secretary-General and the Maintenance of Peace*, 1967, 235 et seq.; M.C. Smouts, *Le Secrétaire Général des Nations Unies. Son rôle dans la solution des conflits internationaux*, 1971, 72 et seq.; B. Urquhart, "United Nations Peace Forces and the Changing United Nations: An Institutional Perspective", in: Goodrich/ Kay, see note 13, 223 et seq. as well as the M. Goulding, "The evolution of United Nations peace-keeping", *International Affairs* 69 (1993), 451 et seq.

crisis in 1956.[23] Its specific combination of unsolved regional conflict patterns, economic interests and questions over prestige and influence in world politics in times of bi-polarity formed the background to a kind of prototype for further endeavours by the United Nations in serving its task of maintaining international peace and security in this region.[24]

In order to reconstruct the conceptual framework from the origins of the very notion of "peace-keeping" and its practical application in the Suez crisis, it is necessary to try not to read the established practices and common assumptions of peace-keeping into the historical situation, but rather to remain sensitive to the peculiarities of events and developments. This is best achieved by simply trying to "tell the story" of UNEF I based on published sources as well as material from UN archives.

1. Background of the Crisis

On 26 July 1956 Gamal Abdel Nasser nationalized the Suez Canal area. He understood this unilateral action as an answer to several frustrations he had experienced with western powers. Just recently the United States had withdrawn large financial contributions for the Aswan High Dam project. The nationalization for its part intensified feelings in western capitals that Nasser was a reckless, ego-driven dictator who in an unpredictable way sought to realize his personal ambition. Most directly affected were France and the United Kingdom which both had strategic commitments and economic interests in the region. They soon contemplated military options to reverse Nasser's move. France, moreover, contacted Israel and initiated a massive delivery of weapons.

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[23] The considerations in this chapter draw from parts of the author's forthcoming book on *Dag Hammarskjöld und die Vereinten Nationen*, 2001.

[24] For further background cf. H. Thomas, *The Suez Affair*, 1967; K. Kyle, *Suez*, 1991 as well as A. Eden, *Memoiren 1945-1957*, 1961; B. Urquhart, *Hammarskjöld*, 1994, 159 et seq. and B. Urquhart, *A Life in Peace and War*, 1987, 131 et seq. Further information along with selected documents can be found in A. Cordier/ W. Foote (eds), *Public Papers of the Secretaries-General of the United Nations. Volume III: Dag Hammarskjöld 1956-1957*, 1973, 304 et seq. (to be cited as CF III). Cf. further Ghali, see note 18, 104 et seq. as well as A.L. Schild et al., "Conflicts, Middle East", in: R. Wolfrum (ed.), *United Nations: Law, Policies, Practice*, Volume 1, 1995, 286 et seq.

London was only later on informed of this cooperation which then amounted to something like an unofficial alliance.[25]

All this evolved against the background of simultaneous negotiations at United Nations headquarters where Hammarskjöld was conducting a series of talks with the foreign ministers of the United Kingdom, France and Egypt. It came as a surprise when out of these private talks in the Secretary-General's office a list of six principles emerged that could in the future organize and guarantee the rights of access and use of the Suez Canal. These principles were officially endorsed by the Security Council on 13 October.[26] But on the very next day France directly approached Prime Minister Eden with the idea of a joint military plan named "Operation Musketeer".[27] This plan built upon an attack by Israel on Egypt across the Sinai peninsula. With the Israeli troops pushing forward deep into Egyptian territory, France and the United Kingdom would enter the scene by occupying the Canal zone in order to separate the combatants and secure safe passage through the Canal. As a possible consequence of this move the unofficial alliance could also imagine the eventual fall of Nasser's regime. Eden accepted the plan and instantly drew back his obviously surprised foreign minister from the New York talks.

The Israeli attack came on 29 October and was soon followed by the British-French ultimatum to both parties of the conflict to end hostilities within twelve hours or to face intervention by them. News of these developments burst into a session of the Security Council on 30 October. Hammarskjöld was profoundly shocked by the turn of events and felt himself cheated by those very countries which up until then also had officially cooperated with him in the search for a solution along the six principles. On the afternoon of 31 October he rose to speak in the Security Council in an effort to outline his position in the present crisis: "The principles of the Charter are, by far, greater than the Organization in which they are embodied, and the aims which they are to safeguard are holier than the policies of any single nation or people. As a servant of the Organization, the Secretary-General has the duty to maintain his usefulness by avoiding public stands on conflicts between Member Nations unless and until such an action might help to resolve the conflict. However, the discretion and impartiality thus imposed on the Secretary-General by the character of his immediate task, may not degener-

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[25]   On the following paragraphs cf. CF III, see above, 8 et seq.
[26]   See the texts in CF III, see note 24, 292 et seq.
[27]   Cf. Urquhart, Hammarskjöld, see note 24, 159.

ate into a policy of expediency. He must also be a servant of the principles of the Charter, and its aims must ultimately determine what for him is right and wrong."[28]

Just at the moment when the framework of the United Nations was brutally cast aside, Hammarskjöld re-established a role for the world organization by a statement of principles, to which — through the Charter — Member States had committed themselves. Following the "paradox of an attacker yielding power to the victim"[29] and implicitly hinting at possible resignation (an option he had definitely excluded in talks with his aides before the statement)[30] he transformed the crisis into a vote of confidence by the Security Council. His risky course of action proved successful: the representatives in the Security Council unanimously (including the United Kingdom and France) expressed their appreciation of the work of Hammarskjöld — a position he had attained with diplomatic successes in the past years of his tenure.[31]

2. Diplomatic Moves out of the Crisis

Notwithstanding their pledge to support the Secretary-General, the two powers involved in Suez blocked any step towards a United Nations involvement by threat of their veto. In these circumstances, the procedure according to the "Uniting for Peace" Resolution[32] allowed a way out of the political deadlock in the Security Council by transferring the case to the General Assembly which convened on 1 November for an emergency special session. But in the General Assembly the situation remained as difficult and complicated as it had been in the Security Council: the United States in particular disapproved the action of its allies while at the same time it was searching for a face-saving way of

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28   CF III, see note 24, 309.
29   Cf. the text of an interview with S. Ahmann, "Impressions of Dag Hammarskjöld", Oral History Research Office, Columbia University 1963, 9, to which Hammarskjöld on the day before his speech said that this option would not come into question for him.
30   M. J. David, "The Papacy and the Secretary-Generalship: A Study of the Role of the exceptionally-situated individual actor in the international system", *Co-existence* 7 (1970), 172 et seq.
31   Most notably with his Peking mission in 1955. See Fröhlich, see note 23.
32   B. Nolte, "Uniting for Peace", in: Wolfrum, see note 24, Volume 2, 1341 et seq.; J. Delbrück, *Die Entwicklung des Verhältnisses von Sicherheitsrat und Vollversammlung der Vereinten Nationen*, 1964, 87 et seq.

ending the crisis. In this context, more and more support built up around the proposal by Canadian Foreign Minister Lester Pearson, who took up an idea that he already had proposed after the Korean War: an international force with a mandate to keep peace in a conflict situation.[33] Hammarskjöld at the beginning turned out to be highly skeptical of this proposal. Pearson not only tried to convince the Secretary-General but also had frequent contacts with the United States. This led to a concerted move in the General Assembly, when Pearson gave a speech demanding the establishment of a "truly international peace and police force"[34] and was asked to draft a concrete proposal for the idea.[35] In the meantime, even the United Kingdom sent positive signals. Prime Minister Eden, thinking aloud about the possibility of an international force taking over from the British and French, stated: "If the United Nations were then willing to take over the physical task of maintaining peace in that area, no one would be better pleased than we."[36]

But the new force was far from being realized yet. Debates continued and Hammarskjöld in particular showed reluctance to support the Pearson idea.[37] Many questions remained unanswered for him: would the legal questions that such an operation implied be answered, how could it be organized and would it manage to avoid the impression of being regarded as a mere subsequent legitimisation of the British-French action? It was in this respect that Hammarskjöld and Pearson at first did not agree, since the Canadian Foreign Minister envisaged the force as being formed in large part by British and French elements.[38] And it was not until the 3 November,[39] that the idea of an international

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[33]   For Pearson's plans see his memoirs: M. Lester Pearson, *The Memoirs of the Right Honourable Lester B. Pearson*, Volume 2 (1948-1957); A. Munro/ A.I. Inglis (eds), 1973, 244 et seq. as well as M. Lester Pearson, "Force for UN", *Foreign Aff.* 35 (1957), 395 et seq.

[34]   Cf. Urquhart, see note 1, 265 et seq.

[35]   Cf. Pearson, see note 33, 247.

[36]   Cited according to CF III, see note 24, 316.

[37]   For the following paragraphs see CF III, see note 24, 319 et seq.

[38]   A.W. Rovine, *The First Fifty Years. The Secretary-General in World Politics 1920-1970*, 1970, 288. In this context also see Eden, see note 24, 611, 645.

[39]   A. Cordier, *Recollections of an International Civil Servant, Series of Interviews at Yale University*, unpublished manuscript, 424.

force was agreed on as the option which the United Nations should pursue in the present crisis.[40]

The decision being taken, Hammarskjöld engaged himself in a series of coordinating talks with many representatives of Member States.[41] For the idea to gain a majority in the Assembly according to the "Uniting for Peace" Resolution, Hammarskjöld had to convince various delegations before it was put to vote. In this effort he worked with a group of key representatives from the various regional groups who also supported the idea of an international force, among them Hans Engen of Norway, Arthur Lall of India and Francisco Urrutia of Columbia.[42] Lall was of special importance because he provided the contact with the group of non-aligned countries. He also was the person to inform Pearson that, through Egypt's UN ambassador, he had received word from Nasser that the president would, in principle agree on such a possible UN force.[43] All these preliminary diplomatic moves resulted in a Canadian draft resolution that was adopted with 57 votes in favour and 19 states abstaining.[44] The resolution contained the following paragraph: "*The General Assembly, (...) Requests* as a matter of priority, the Secretary-General to submit to it within forty-eight hours a plan for the setting up, with the consent of the nations concerned, of an emergency international United Nations force to secure and supervise the cessation of hostilities in accordance with all the terms of the aforementioned resolution."[45]

3. Peace-keeping Principles and Pragmatism

Beginning with this resolution principles and guidelines evolved amidst the highly pragmatic urge to find a fast option out of the present crisis. The scope of the UN effort was already defined by the sole purpose to "secure and supervise the cessation of hostilities" – a relatively re-

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[40] E. Kelen, *Dag Hammarskjöld: A Biography*, 1969, 75.
[41] Cf. J.P. Lash, *Dag Hammarskjöld. Ein Leben für den Frieden*, 1962, 97 et seq.
[42] Cf. CF III, see note 24, 319.
[43] Pearson, see note 33, 251.
[44] Among the abstentions were the Soviet Block, Egypt, the United Kingdom, France, Israel, Austria, Laos, Portugal, South Africa, Australia and New Zealand. Cf. CF III, see note 24, 322.
[45] A/RES/998 (ES-I) of 3 November 1956.

stricted task formulation stemming from the desire to secure support for the resolution. Hammarskjöld was confronted with a 48 hour deadline and he immediately set up a United Nations command. He still showed ambivalence towards the adventurous journey the United Nations was embarking on, which can be seen from a remark in a cable at that time: "My personal lack of optimism is of course no excuse for not exploring the field."[46]

The next constitutive element of the "emergency force" was then articulated in Hammarskjöld's interim report, which he presented on 4 November: "(A)s a matter of principle, troops should not be drawn from countries which are permanent members of the Security Council."[47] Interestingly enough, this provision to exclude the five permanent members of the Security Council was not primarily formulated in order to keep the peace-keeping function away from both the United States and the Soviet Union. It emerged as a direct consequence of the British-French involvement in the Suez crisis. Hammarskjöld used the recesses of the Assembly to work on his final report consulting also with Pearson, the Chief of the Secretary-General's Executive Office, Andrew Cordier, the legal adviser, Constantin Stravopolous and the Under-Secretary-General for Special Political Affairs, Ralph Bunche.[48] Meanwhile, events in Egypt had further increased the pressure for fast action by the U.N. On the day before, British and French paratroopers had landed at Port Said thus officially commencing the invasion of Egypt. This move caused further disturbance and condemnations from various sides. The Soviet Union even invited the United States to threaten military steps of Soviet and American troops against the two NATO allies.[49] The United States for its part increased the diplomatic pressure on the United Kingdom which was under additional demands from Commonwealth countries to stop the intervention. Cordier sum-

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[46] Cited according to Urquhart, Hammarskjöld, seee note 24, 178.

[47] Cited according to CF III, see note 24, 335.

[48] Cf. Urquhart, Bunche, see note 1, 267 and Pearson, see note 33, 257-259 who additionally reports the following incident: "As a footnote to the history of these times, the original draft of the report by Hammarskjöld and Bunche used the phrase 'to enforce and supervise the cessations of hostilities' and it managed to slip through our revision during the early hours of 6 November. However, I spotted it an hour or so later, just as the draft was going off to be reproduced. We changed it to 'to secure and supervise'. Thank goodness I noticed it, because we would have soon been in the soup if this force had been charged with the job of 'enforcing' anything".

[49] Cf. CF III, see note 24, 337.

marized: "(The report) provided a line of retreat at a moment when the various pressures to halt the ill-started military adventure had built to overwhelming proportions."[50]

This report, a just-in-time product of hectic diplomatic initiatives, laid down principles for the "emergency force" that proved to be constitutive for further U.N. peace-keeping missions.[51] Right at the centre of it was the necessity to have UNEF I led by an exclusively international command. Hammarskjöld's model went as follows: "(I)ts chief responsible officer should be appointed by the United Nations, and (...) he, in his functions, should be responsible ultimately to the General Assembly and/or the Security Council. His authority should be so defined as to make him fully independent of the policies of any one nation. His relations to the Secretary-General should correspond to those of the Chief of Staff of the United Nations Truce Supervision Organization (...)."[52] By appointing the UNTSO commander General Burns, the General Assembly facilitated taking over various guidelines that so far applied to UNTSO — once again a pragmatic move had left its print on the principles of peace-keeping. The taking-over of mission principles, among other things, for Hammarskjöld meant: "On the one hand, the independence of the Chief of Command in recruiting officers is recognized. On the other hand, the principle is established that the force should be recruited from Member States other than the permanent members of the Security Council."[53] It was this principle that allowed Hammarskjöld to decline British and French efforts to have a say in the composition of the U.N. force. Hammarskjöld then underlined the character of the force as one of emergency and once again stressed its mandate, which was limited "to secure and supervise the cessation of hostilities". But from the somewhat meagre formulation of the General Assembly resolution which was meant as the least common denominator in an effort to gain a majority, Hammarskjöld drew a conclusion: "It follows from its terms of reference that there is no intent in the establishment of the Force to influence the military balance in the present conflict and, thereby, the political balance affecting efforts to settle the conflict."[54] And still another seemingly self-evident fact had implications for Hammarskjöld. Since the force resulted from General Assem-

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[50] CF III, see note 24, 340.
[51] Doc. A/3302 of 6 November 1956.
[52] CF III, see note 24, 345.
[53] CF III, see note 24, 346.
[54] CF III, see note 24, 347.

bly action according to the "Uniting for Peace" Resolution, Hammarskjöld made explicit that this precluded the force to draw from Chapter VII powers which could only be invoked by the Security Council. This in turn meant that the force rested on the consent of the parties concerned. Of special importance was the approval to enter Egyptian territory and in this respect also its functions were modestly shaped: "The force obviously should have no rights other than those necessary for the execution of its functions, in cooperation with local authorities. It would be more than an observers' corps, but in no way a military force temporarily controlling the territory in which it is stationed; nor, moreover, should the force have military functions exceeding those necessary to secure peaceful conditions on the assumption that the parties to the conflict take all necessary steps for compliance with the recommendations of the General Assembly."[55] Hammarskjöld's report then dealt with a couple of organizational, logistical and financial questions which in this context cannot be analyzed further, although they provided the pretext for various political struggles over the force's nature and legitimacy.[56]

In summary, the Secretary-General had formulated *five essential principles*, which from now on, constituted something of a basic pattern for future peace-keeping-missions of the United Nations:

1. As an Emergency measure, the Force's functions are limited in time.

2. The Mission is to be conducted in a strictly impartial manner. Its deployment must not lead to any change or prejudice concerning the political or military relations of power at work. The use of force, therefore, is limited to self-defence.

3. Permanent Members of the Security Council are barred from taking part in the composition of the troops.

4. The Mission is to be conducted under an unified international command structure by the United Nations.

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55 CF III, see note 24, 348.
56 For the developments and crises in this context up to the Advisory Opinion on Certain Expenses of the UN by the ICJ, see B. Nolte,"Conflicts, Congo", in: Wolfrum, see note 24, Volume 1, 225 et seq., (231).

5. Deployment of the troops is linked to consent by the parties involved, especially with respect to the country allowing the U.N. to enter its territory according to a "good faith"[57]-agreement.[58]

4. Keeping the Force on the Rails with Member States

Hammarskjöld underlined the "exploratory character"[59] of his report and reminded Member States that a lot of questions still remained open and would only be solved in concrete steps while implementing the mandate. In this context he proposed the establishment of an "advisory committee to the Secretary-General for questions relating to the operations" stating: "If the force is to come into being with all the speed indispensable to its success, a margin of confidence must be left to those

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[57] A. D'Amato, "Good Faith", *EPIL* 7 (1984), 107 et seq.

[58] The continuing relevance of these principles can be seen when compared with a 1995 definition of peace-keeping by the Under-Secretary-General for peace-keeping operations M. Goulding: "Field operations established by the United Nations, with the consent of the parties concerned, to help control and resolve conflicts between them, under United Nations command and control, at the expense collectively of the member states, and with military and other personnel and equipment provided voluntarily by them, acting impartially between the parties and using force to the minimum extent necessary." Cf. Goulding, see note 22, 455. More specifically Goulding writes: "First, peace-keeping operations were United Nations operations." (453); "Second, it had become established over time that peace-keeping operations could be set up only with the consent of the parties to the conflict in question." (454); "Third, it had been established that the peacekeepers must be impartial between the parties." (454); "The fourth principle related to the troops required for United Nations peace-keeping operations. It was recognized that it would not be practicable for the United Nations to maintain a standing army." (455); "The fifth principle concerned the use of force. (...) (I)t had become an established principle that they should use force only to the minimum extent necessary and that normally fire should be opened only in self-defence." (455). Goulding then furthers distinguishes six types of peace-keeping mission: preventive deployment, traditional peace-keeping, implementation of a comprehensive settlement; protecting the delivery of humanitarian relief supplies; deployment of a United Nations force in a country where the institutions of state have largely collapsed; cease-fire enforcement.

[59] CF III, see note 24, 350.

who will carry the responsibility for putting the decisions into effect."[60] The final authorization of the Secretary-General to assemble and deploy such a force was then based on a draft resolution presented by the Tunisian representative Mongi Slim. Slim was a trusted diplomat of Hammarskjöld and both had worked on the wording of the resolution in advance,[61] thus allowing the Hammarskjöld-principles to shape the contents of the General Assembly resolution. Following several rounds of discussion, the resolution, establishing UNEF I was approved by 64 votes to none, with 12 abstentions. The Soviet Union raised doubts about the conformity of the Force with the United Nations Charter but choose to abstain because Egypt had approved the measure. At the same time the General Assembly established an Advisory Committee composed of Brazil, Canada, Ceylon, Columbia, India, Norway and Pakistan.[62] This institution was, from now on, the place where questions of legal, operational and also of political nature were to be discussed and decided. The Committee should assist the Secretary-General in his responsibilities and it could request the convening of the General Assembly if necessary.

The meetings of the committee were strictly confidential but can be reconstructed on the basis of verbatim records in the United Nations archives.[63] The debates offer a useful supplement on some of the roughly formulated principles that UNEF I was supposed to operate on. The Secretary-General and some of his aides were of major importance in this context since they provided the pace and sense of direction for this new experiment in international conflict resolution.

Hammarskjöld saw the Advisory Committee as an opportunity to get fast advice and feedback from a selection of Member States which would, so to say, speak for the whole membership, sparing the Secretariat the need to convene the General Assembly at large. So the Committee was "an ad hoc executive organ (...) which is entitled to function for the General Assembly and where, of course, matters can be clarified, understood and analyzed in an entirely different way and where it is

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[60] CF III, see note 24, 350-351.

[61] A/RES/1001 (ES-I) of 7 November 1956; see also T.M. Franck, "Finding a Voice: How the Secretary-General makes himself heard in the Councils of the Nations", in: *Essays in international law in honour of Judge Manfred Lachs*, 1984, 482 et seq., (484).

[62] Cf. CF III, see note 24, 355-357. Later on Yugoslavia joined the group.

[63] The verbatim records can be found at UNA DAG-1 5.0.1.0. Box 1 (cited as AC UNEF Date, page).

not a matter for this or that kind of public scrutiny."[64] In this context it could possibly release or share some of the burden the Secretary-General had taken over according to the General Assembly and Security Council resolutions. Hammarskjöld made this explicit by stating that "every responsibility in this whole Middle Eastern context that falls on me automatically falls on this Committee."[65] The confidentiality of sessions was time and again underlined by the Secretary-General remarking "that certainly at present no closed meetings are held at the United Nations which have more interesting political overtones than our discussions here".[66] At the same time members of the Committee were expected to inform — within their judgment — their respective governments and other delegations on the proceedings of the Committee. This style of "open" confidentiality with unwritten rules was explained by Hammarskjöld's aide, Andrew Cordier, saying that the ultimate aim of the Committee was to keep the actions of the Secretary-General "on the rails" within the expectations of Member States.[67]

It was Hammarskjöld who dominated the sessions with rather long elaborations on his procedures and actions.[68] He started by giving an introductory report and asked his respective aides to inform the committee on current developments. On the rare occasions that Hammarskjöld did not attend the meetings, Andrew Cordier acted in his place. Apart from the informative aspect of these meetings, Hammarskjöld deliberately used the members as a kind of sounding board for concrete proposals, initiatives and even the wording of letters or further texts. While generally pursuing a policy of asking the members in advance, he occasionally justified personal arrangements — for example with General Burns, that he took without prior consultation with the Committee — a procedure that was not challenged by Committee Members. His result-oriented approach represents a rather suc-

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[64] Hammarskjöld in a session on 20 November 1956. AC UNEF of 20 November 1956, 1.

[65] AC UNEF of 20 November 1956, 20.

[66] AC UNEF of 12 March 1957, 5.

[67] A.W. Cordier, "The Role of the Secretary-General", in: R.N. Swift (ed.), *Annual Review of United Nations Affairs 1960-1961*, 1960, 1 et seq., (10).

[68] Cf. CF III, see note 24, 355-357. The committee met for the first time on the evening of 14 November and its members were the UN-ambassadors of Brazil (Cyro de Freitas Valle), Canada (Lester Pearson), Ceylon (R.S.S. Gunewardene), Columbia (Francisco Urruttia), India (Arthur Lall), Norway (Hans Engen) and Pakistan (Muhammad Mir Khan).

cessful tool of international diplomacy used on a variety of topics.[69] The Committee even prepared several draft resolutions. Drafts eventually were submitted by one of the members but the wording, to a great extent, came from the Secretariat which then was fine-tuned in frequent debates on different interpretations of specific formulations.

Soon the members of the Committee took over different roles.[70] Critical investigations on Secretariat or western motives were regularly made by Lall who meticulously guarded the rights of Egypt and defended its national interests. Political arguments were generally balanced by rather technical reports on organizational and other matters. In this context one can not underrate the role of Ralph Bunche, who right from the beginning was endowed with a special responsibility.[71] In the committee Bunche was responsible for organizational, logistical and technical questions. Amongst other things, he had to deal with the problem of how to achieve a common sign of identification for the diverse troops. In this context the idea first evolved to have blue helmet liners.[72] At the same time Bunche coordinated the troop requests and offers of Member States — a task that went surprisingly well, prompt-

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[69] R. Wolfrum, "Consensus", in: Wolfrum, see note 24, Volume 1, 350 et seq. Examples can be found in K. Dicke, "Deciding upon the Budget of the United Nations: A Comparison", in: R. Wolfrum (ed.), *Law of the Sea at the Crossroads: The Continuing Search for a Universally Accepted Régime*, 1991, 189 et seq.

[70] Over the years the composition changed.

[71] Bunche's role takes on even more significance when one takes into account his role in outlining the principles of UNTSO in 1948 – those very principles which Hammarskjöld had also invoked for UNEF I. Cf. Urquhart, see note 1, 266.

[72] See Bunche's remarks in: AC UNEF of 14 November 1956, 27: "I might say, in conclusion, that we are trying to give some kind of common identification to the Force so that it can be readily identified as a United Nations Force. In addition to the arm bands and shoulder patches, we are purchasing a considerable supply of what is known as helmet liners – the liners that go in the steel helmets. These were considered by the military group yesterday. They will be painted in United Nations blue. They are light in weight, they are made of plastic, and they will look quite nice when painted with United Nations blue, with the letters 'UN' in white on each side and the UN seal in front. In addition we are having UN blue berets made so that the national units, while wearing their own uniforms, will have common headdress."

ing him to remark in November 1956: "This is the most popular army in history — an army which everyone fights to get into."[73]

A lot of questions, inevitably, remained open to improvisation in the field. The Committee had its difficulties in trying to keep track with the multitude of events and decisions.[74] Hammarskjöld very consciously acknowledged this fact: "I felt it was better to establish a fait accompli of an acceptance in principle of the arrival of the force, even if there might be things which still had to be cleared up; that is to say, in order to gain the necessary time, I accepted a certain lack of clarity."[75] Hammarskjöld explicitly saw the "good faith" agreement[76] with Egypt as a constitutive element of the situation — being even more important than some of the legal terms involved: "I feel myself that this is an operation where the exact legal text is much less important than the moral and political factors — that is, the good faith point — is more valuable. Because if Egypt — which I do not believe — would do something here, which certainly goes against what was the intention of the General Assembly, with this kind of registration on the stands, the attack would be less one for saying 'Well, this is against the letter of the law', than 'This is bad faith' and, for that reason, to be outlawed and condemned. Therefore, this is a stronger stand."[77] The "good-faith"-agreement re-

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[73] AC UNEF of 14 November 1956, 29.

[74] In this context see cf. Hammarskjöld's observation in: AC UNEF of 23 April 1957, 6: "I wonder if we will be able to write the exact story of all these matters, because there is such a wealth of information, more or less misleading, that it will be somewhat difficult to dig out and present the real story. But that is, of course, not in any way unique to this case. It happens only too often in politics."

[75] AC UNEF of 14 November 1956, 7.

[76] Cf. CF III, see note 24, 371. Hammarskjöld put down the agreement in a number of aide-memoires, especially in a text that was annexed to his report of 20 November: "The Government of Egypt declares that, when exercising its sovereign rights on any matter concerning the presence and functioning of UNEF, it will be guided, in good faith, by its acceptance of General Assembly resolution 1000 (ES-I) of November 5, 1956 (...). The United Nations takes note of this declaration of the Government of Egypt and declares that the activities of UNEF will be guided in good faith, by the task established for the Force in the aforementioned resolutions; in particular, the United Nations, understanding is to correspond to the wishes of the Government of Egypt, reaffirms its willingness to maintain UNEF until its task is completed." Cited according to CF III, see note 24, 375-376.

[77] AC UNEF of 19 November 1956, 13.

ferring to the modalities of a UNEF I withdrawal was an issue that had
been frequently discussed at the beginning of the mission. Ham-
marskjöld insisted on a link between the withdrawal and the fulfillment
of the mandate and functions of UNEF I. A unilateral abrogation of the
agreement in this reading would not have been possible. This link,
however, could not have been laid down in exact legal terms without
touching upon Egypt's jealously guarded sovereignty. Any such move
would most probably also have provoked opposition by various Mem-
ber States. The compromise that developed out of these considerations,
however, in the end did not forestall the Egyptian abrogation of the
agreement in 1967 and the subsequent withdrawal of UNEF I.[78] Ham-
marskjöld clearly seems to have been aware of this inherent flaw in such
a construction when in November 1956 he said: "If we cannot base the
United Nations action on a reasonable degree of good faith, then, of
course, we have embarked on an extremely dangerous adventure."[79]

The modalities of the good-faith construction also had to do with
the legal foundation of UNEF I in the Charter — a question that was a
constant issue in the committee. Which articles formed the basis of the
new tool of conflict resolution? Ambassador Lall speaking on different
claims on the Gaza strip said the organization in a way acted in a grey
area — certainly not working under Chapter VII of the Charter and
clearly going beyond Chapter VI which contains no provisions for an
operation like UNEF I.[80] Hammarskjöld spoke of a vacuum. [81] It was
then the Brazilian representative, Freitas-Valle, who coined a classic
formulation: "[I] think we are in Chapter six and a half."[82] Ham-
marskjöld took up this argument and related it to the "Uniting for

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[78]   Cf. Y. Tandon, "UNEF, the Secretary-General, and International Diplo-
       macy in the Third Arab-Israeli War", *International Organization* 22
       (1968), 529 et seq.; H. Morgenthau, "U Thant", in: H. Morgenthau, *Essays
       of a Decade 1960-1970*, 1970, 121 et seq.; Pearson, see note 33, 260-261 re-
       calls a discussion with Hammarskjöld after the Secretary-General had ne-
       gotiated with Nasser and the Egyptian leader and insisted on his right to
       bring about the withdrawal of UNEF I: "I remember reacting quite
       strongly, but not violently. I said, 'This is going to cause trouble in the fu-
       ture.' Hammarskjöld said: 'Oh, don't worry about it, because I told him
       (Nasser, M.F.) that condition was quite inadmissible.' It did not turn out to
       be inadmissible eleven years later."
[79]   AC UNEF of 14 November 1956, 24.
[80]   AC UNEF of 14 March 1957, 14.
[81]   AC UNEF of 14 March 1957, 21.
[82]   AC UNEF of 14 March 1957, 25.

Peace" Resolution. He further stated: "[T]he trouble is that it does not give us the rights of Chapter VII, although it presents us with some of the problems of Chapter VII."[83] The vagueness of the legal basis and mandate at the same time could be an asset in rendering the necessary amount of flexibility to the concrete work in the field. But this would last only so long as the UN's actions were not challenged; should this be the case, then the fragile foundations of its actions would reveal themselves with utmost clarity.

5. Principled Improvisation sets a Precedent

The improvised deployment of UNEF I did not settle all the difficulties that emerged once the troops reached Egypt. The Secretary-General had to defend the special status of the Force concerning very concrete and even banal decisions. So, for example, the force was continuously in danger of losing its international character in favour of a subsequent approval of the British-French intervention.

A similar issue came up when the transportation of troops to Egypt had to be organized. Hammarskjöld declined the offer by the United States in spite of the U.S. capacities providing the fastest and most efficient way of getting troops on the ground. In order to avoid political undertones and diplomatic difficulties, he, instead, established an assembly point for UNEF I at Naples. The troops generally were brought to Naples by U.S. planes, but the crucial passage from Italy to Egypt then was undertaken by Swissair.[84] A similar problem arose when the Canadian government chose to offer an infantry battalion called "The Queen's Own Rifles".[85] The technical equipment of this contingent would have fitted well into UNEF I but Hammarskjöld had to avoid political difficulties even taking into account irritations with the Canadian government. On the other side he had to resist Egyptian pleas for an exclusion of the NATO powers Norway, Denmark or Canada in UNEF I. This point was crucial, because Hammarskjöld used this debate to underline that UNEF I should not be considered as a sum of diverse national contingents but rather constituted an integrated international entity. In honoring the Egyptian reservations he made sure that Yugoslav and Indonesian contingents were also included to outbalance

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[83]   AC UNEF of 14 March 1957, 25.
[84]   CF III, see note 24, 362.
[85]   CF III, see note 24, 370 et seq.

criticism of a western overweight.[86] The most obvious practical step to underline the special international status of UNEF I was Hammarskjöld's decision to personally accompany the first units of UNEF I to Egyptian territory in order to underline their character as an international force.[87]

Hammarskjöld was very much concerned with the perception of UNEF I and this for him also meant regarding the UN operation as an ethically motivated action. In a speech given before UNEF I soldiers he said: "As members of the United Nations Emergency Force you are taking part in an experience that is new in history. You are soldiers of peace in the first international force of its kind. You have come from distant homelands, not to fight a war but to serve peace and justice and order under the authority of the United Nations. Thus the opportunity for service which is yours is not to be measured by your numbers or your armor. You are the front line of a moral force which extends around the world, and you have behind you the support of millions everywhere."[88] UNEF I for Hammarskjöld was the realization of a moral force in action whose moral status had to be constituted and defended in a very practical manner. In his Annual Report 1961 he explicitly spoke of the Charter as incorporating "some basic rules of international ethics by which all Member States have committed themselves to be guided": "To a large extent, the rules reflect standards accepted as binding for life within States. Thus, they appear, in the main, as a projection into the international arena and the international community of purposes and principles already accepted as being of national validity. In this sense, the Charter takes a first step in the direction of an organized international community, and this independently of the organs set up for international co-operation."[89]

These rules have three different roots: the bitter experiences of two World Wars, already established norms on the national level and a potential of commonly shared convictions that found its expression in the

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[86]   CF III, see note 24, 363.

[87]   K.R. Gray, "United Nations Notebook. The Relationship of Dag Hammarskjöld with the Press", in: *Development Dialogue* 1987, 45.

[88]   Message to the United Nations Emergency Force 10 December 1956, in: CF III, see note 24, 405.

[89]   Introduction to the Sixteenth Annual Report of 17 August 1961, in: A. Cordier/ W. Foote (eds), *Public Papers of the Secretaries-General of the United Nations, Volume V: Dag Hammarskjöld 1960-1961*, 1975 (to be cited as CF V), 543-544. For Hammarskjöld's view on political ethics in efforts for world organization cf. Fröhlich, see note 23.

very creation of the organization of the United Nations. Hammarskjöld saw the rules and convictions of the Charter not only as imperatives out of the international tensions in his time but as an attempt to work for a demanding concept of peace which he phrased under the heading of "reconciliation". With this concept of values respected on the national level and slowly transgressing into the international sphere the struggle for a world organization in Hammarskjöld's view, "has deep roots in the history of the efforts of man to eliminate from international life the anarchy which he had already much earlier overcome on the national level".[90] In the final analysis, it is the task of Member States to transform the Charter into "living reality in practical political action".[91] This implies that the United Nations is indeed representing a normative position which precludes neutrality and inaction in the face of disregard and destruction of its guiding principles.

Hammarskjöld's insistence on principles clearly stemmed from his conviction that the United Nations and UNEF I were establishing precedents for future missions.[92] The experiences with UNEF I were analyzed by Hammarskjöld in two major reports in 1957[93] and 1958.[94] Moreover, he laid down his personal account of the talks, debates and negotiations in various memoranda and notes possibly in order to publish them later on.[95] Right from the start he was concerned that UNEF I "get[s] the start it deserves and set[s] a precedent which the United Nations needs."[96] The precedent-character of UNEF I was also the subject of a report of Hammarskjöld's Legal Adviser.[97] Urquhart sums

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90 Annual Report, see above, 546.

91 Annual Report, see note 89, 552.

92 On the Congo see Urquhart, Hammarskjöld, see note 24 , 389 et seq., 494 et seq., 545 et seq.

93 Doc. A/3694 of 9 October 1957; cited according to CF III, see note 24, 670 et seq.

94 Doc. A/3943 of 9 October 1958; cited according to A. Cordier/ W. Foote (eds), *Public Papers of the Secretaries-General of the United Nations. Volume IV: Dag Hammarskjöld 1958-1960*, 1974, 230 et seq. (to be cited as CF IV)

95 For this context cf. Fröhlich, see note 23. Various documents in this context can be found in the Manuscript Division of the Royal Library Stockholm. See for example "Notes on part of my personal participation in the developments 29 October - 28 November", of 2 August 1957.

96 Press Conference of 12 November 1956, CF III, see note 24, 367.

97 AC UNEF of 8 December 1956, 11 where Hammarskjöld comments on this report: "I believe that we can all at least agree on the general judgment

up: "While the original conception of the emergency force was not his, Hammarskjöld clearly was the chief agent in its construction and the formulation of its basic principles, and was of course its primary administrative officer."[98] Pearson retrospectively attributes to Hammarskjöld the greatest part of the establishment of UNEF I.[99] Pearson's idea, together with the organizational capacities of Bunche and the principled stand and leadership of Hammarskjöld created this new option in peace-keeping.

But all their efforts probably would have been futile if the international environment had not been favourable for the UN undertaking. Above all, the role of the United States needs to be mentioned since UNEF I offered a more or less unique way of getting its allies out of a precarious situation while at the same time not supporting their actions.

Thus, apart from the above mentioned explicit five principles which Hammarskjöld laid down in his reports, the eventual "success" of UNEF I relied on a couple of further conditions and prerequisites. Among these factors were the active support of (one or more) permanent members of the Security Council, the ability to deploy a major force by logistical and technical improvisation, the will of Member States to contribute to the force, the personal engagement of the Secretary-General himself with the force right from its beginning by a continual attention throughout its existence, and the essential linkage of the concrete form of the operation with the "basic rules of international ethics" expressed in the Charter. Together with the principles described above they make up for a mixture[100] of what Urquhart calls "interconnected basic assumptions":

"(...) – the *consent* of the parties involved in the operation, to its mandate, to its composition and to its appointed commanding officer; – the continuing and strong *support of the operation* by the mandating

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that if this agreement, as I believe, will be signed, it will be not only very satisfactory, but an extremely valuable precedent for the future as to the arrangements for United Nations organs of this nature. It represents considerable progress, beyond what we have had, for example, in the case of the Truce Supervision Organization, and it is with some regret that I note that it is not until now that we have got something which, in this way, is so clear and clean."

[98] Rovine, see note 38, 291.

[99] L. Pearson, "The Four Faces of Peace". Nobel Prize Lecture of 11 December 1957, in: L. Pearson (ed.), *Diplomacy in the Nuclear Age*, 1959, 104.

[100] See also Bratt, Performance, see note 16.

authority, the Security Council; – a *clear and practicable mandate*; – the non-use of force except in the last resort in self-defence – *self-defence, however, including resistance to attempts by forceful means* to prevent the peace-keepers from discharging their duties; – the *willingness of troop-contributing countries to provide adequate numbers of capable military personnel* and to accept the degree of risk which the mandate and the situation demand; – (less often noted) the *willingness of the member states*, and especially the permanent members of the Security Council, to make available the necessary *financial and logistical support.*"[101] This set of constitutive features can now be applied to the developments that are dealt with in the three contemporary reports.

III. The Challenges of "Classical Peace-keeping"

Looking at Hammarskjöld's five principles one has to realize that not a single one is unchallenged any more.[102] Annan summarized in an article in 1996: "[T]he prerequisites of traditional peace-keeping will not exist in the majority of cases."[103] An option which already emerged in the context of the UN action in Cyprus in 1964 and which runs counter to the above mentioned principles is that troops from the permanent members can also take part in a peace-keeping operation and since 1992 all permanent members have participated in a peace-keeping operation.[104] Decisive are the changes with regard to *consent, impartiality* and *use of force*. These aspects should help us to see in more precise terms what kind of transformations the recent peace-keeping operations have gone through.[105] According to the findings from UNEF I these principles will have to be supplemented by further aspects dealing with political, ethical and plain operational issues that point to the role of the Secretariat's infrastructure and the responsibility of Member States. So the material offered in the three reports will be assembled and analyzed with a view to their effect on the theory and practice of peace-keeping.

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[101] B. Urquhart, "Beyond the 'sheriff's posse'", *Survival* 32 (1990), 196 et seq., (198).

[102] Especially Roberts, Crisis, see note 16, 93 et seq. and Kühne, Peace Support, see note 16, 358 et seq.

[103] Kofi Annan, "Challenges of the New Peace-keeping", in: Otunnu/ Doyle, see note 16, 171.

[104] Roberts, Crisis, see note 16, 105.

[105] Id.

1. Defining Consent

The question of consent is a key principle in UN peace-keeping which led the experts of the BR to place this question prominently on their agenda: "The Panel concurs that consent of local parties, (...) should remain the bedrock principle(s) of peace-keeping. Experience shows, however, that in the context of intra-State/transnational conflicts, consent may be manipulated in many ways by the local parties."[106] The "experience" mentioned can easily be drawn from the Srebrenica Case. The SR speaks of the Army of Bosnia and Hercegovina as a strange mix of "territorial defense units, police forces, paramilitary forces and criminal elements."[107] This characterization seems to fit nearly all other parties as well. In the case of the Bosnian Serbs there were additional overlapping groups between the Serb army and the renamed Bosnian Serb part of the former Yugoslav armed forces. The diverse patterns of military organization, local peculiarities and *ad-hoc* arrangements led to a profoundly irritating situation.

Moreover, right from the beginning the different parties had different and mutually exclusive perceptions and expectations of the role of a potential United Nations Force in Bosnia. President Alija Izetbegovic in the early stages of the conflict called for a peace-enforcement operation to "restore order"[108] whereas Radovan Karadžić and Franjo Tudjman first saw no need and use of a UN force. This led the Secretary-General to conclude in definite terms on 12 May 1992: "I do not believe that in its present phase this conflict is susceptible to the United Nations peace-keeping treatment. Any successful peace-keeping operation has to be based on some agreement between the hostile parties."[109] He furthermore stressed the fact that respect of the parties for a possible peace-keeping force was non-existent. This opened the door to mutually exclusive perceptions of the peacekeepers which had to face attempts of instrumentalization. The acronym UNPROFOR (United Nations Protection Force) — at least for the warring parties on the ground — stood for a broad range of things from a welcome humanitarian convoy, an obstruction to effective self-defence, a chess piece in the game of international opinion and fig-leaf for ethnic cleansing to a NATO mission in disguise. Depending on the military balances and the

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[106] BR para. 48.
[107] SR para. 17.
[108] SR para. 25.
[109] SR para. 26.

region in which it was deployed, the difference of UNPROFOR being loved and loathed could be a matter of days and kilometers thus rendering impossible a stable, continuing contribution to the overall peace effort.

The complex and ever-changing hierarchies of the parties involved further complicated the situation when for example the Bosnian Serbs agreed to a cease-fire or agreement at the military level which then was formally supported at the government level but finally rejected at parliamentary level, even hinting at a further level of possible referenda. The BR in this context states: "A party may give its consent to United Nations presence merely to gain time to retool its fighting forces and withdraw consent when the peace-keeping operation no longer serves its interests."[110]

During the Suez crisis and the Cold War era, approval of the parties was often reached by diplomatic, economic or other pressure employed on one party by its respective Super Power, but this somewhat ironic potential of conflict supervision is no longer available in the post-Cold War era. The Panel of Experts of the BR sees this as a crucial difference in comparison with classical peace-keeping.[111] The case of Rwanda further illustrates the difficulties of the Yugoslav situation. During the genocide, there was no attempt to disguise or maintain some identification as a party or distinguishable group, but rather sheer brutality and violence beyond rules and limits which ultimately contributed to the overall aim of genocide that was supported by hate speeches on a national radio station.

In the face of such developments and the obvious absence of "consent" in the traditional sense, should the United Nations then refrain from acting? Annan already dealt with the "consent" question before he became Secretary-General.[112] His answer to this problem was a new type of operation, namely "Inducement Operations".[113] Annan counts the Unified Task Force (UNITAF) in Somalia in these new types of operations, stressing their function to establish the pre-condition for traditional peace-keeping, i.e. demilitarization of the warring parties and stabilization of the military and political situation. "Consent" for Annan in this context needs to be redefined as the (presumed) consent of

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[110] BR para. 48.

[111] BR paras 18, 20.

[112] Kofi Annan, see note 103, 169 et seq.

[113] Kofi Annan, ibid., 173 following a concept by Donald C. F. Daniel and Bradd C. Hayes.

the majority of the population and not consent of this or that tiny (but powerfully armed) faction or government organs which disrespect their duties towards the population. The principle of not affecting the political or military relations in the country is even turned round in Annan's "Inducement Operations" whose aim should be "to forward political objectives: to gain people's support for a UN operation and to provide leverage in favor of reconciliation".[114] But UNITAF clearly did not make up a reasonable case for peace-keeping even in a broader definition. It was conceived as a temporary interposition between the two peace-keeping missions UNOSOM (United Nations Operation in Somalia) I and UNOSOM II. Apart from such a rather extraordinary mission of its own, the "inducement"-element has entered many UN operations — and in this context the language of the BR is very telling since it prefers to speak of "peace operations" instead of limiting its scope to "peace-keeping" or distinguishing between peace-keeping and various levels of peace enforcement.[115] The Security Council's reference to Chapter VII in any case marks a crucial difference to UNEF I which was based on General Assembly action. In fact, Hammarskjöld's accentuation of the consent principle directly stemmed from the fact that UNEF I could not refer to Chapter VII competences. But the consent principle is not rendered superfluous: Chapter VII was designed for classical breaches of international peace by state-to-state violence whereas nowadays the Security Council has to confront more and more intra-state violence. He did this by giving new meaning and relevance to Article 39 as the defining moment for any further measures under Chapter VII.[116]

The consent principle in this respect touches upon a new understanding of sovereignty and intervention in international relations.[117] In

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[114] Kofi Annan, ibid., 176.

[115] Kühne, see note 10, 1355.

[116] K. Dicke, "National Interest vs. the Interest of the International Community – A Critical Review of Recent UN Security Council Practice", in: J. Delbrück (ed.), *New Trends in International Lawmaking – International Legislation in the Public Interest*, 1997, 145 et seq.

[117] For this question see for example C. Greenwood, "Gibt es ein Recht auf humanitäre Intervention?", *EA* 48 (1993), 93 et seq.; A. Roberts, "Humanitarian War: Military Intervention and Human Rights", *International Affairs* 69 (1993), 429 et seq.; O. Schachter, "Sovereignty and Threats to Peace", in: T.G. Weiss (ed.), *Collective Security in a Changing World*. A World Peace Foundation Study, 1993, 19 et seq.; K. Dicke, "Interventionen zur Durchsetzung internationalen Ordnungsrechts: Konstitutives Element

a number of speeches and reports Annan juxtaposed two antagonistic concepts of sovereignty: "The Charter protects the sovereignty of peoples. It was never meant as a license for governments to trample on human rights and human dignity. Sovereignty implies responsibility, not just power."[118] In another context he relates the sovereignty of a state to the sovereignty of the individual and the people as a whole.[119] Member States in such a situation have to decide which concept they would appreciate most in case of doubt and so "consent" remains a crucial re-

der neuen Weltordnung?", *Jahrbuch für Politik* 2 (1993), 259 et seq.; T. Hoppe, "Zur Problematik 'humanitärer Intervention'. Politisch-ethische Reflexionen", in: K. Graf Ballestrem (ed.), *Sozialethik und politische Bildung. Festschrift Bernhard Sutor*, 1995, 447 et seq.; S. Hoffmann, "The Politics and Ethics of Military Intervention", *Survival* 37 (1995), 29 et seq.; T. Schilling, "Die 'neue Weltordnung' und die Souveränität der Mitglieder der Vereinten Nationen", *AVR* 33 (1995), 67 et seq.; M. Barnett, "The New United Nations Politics of Peace: From Juridical Sovereignty to Empirical Sovereignty", *Global Governance* 1 (1995), 79 et seq.; K. Dicke, "Friedenswahrung durch Interventionen. Die Notwendigkeit eines internationalen Ordnungsrechts", *Internationale Politik* 50 (1995), 21 et seq.; B. Parekh, "Towards the just world order", *The Times Literary Supplement* of 26 September 1997, 14 et seq.; T. Knudsen, "Humanitarian Intervention Revisited: Post-Cold War Responses to Classical Problems", in: Pugh, see note 16, 146 et seq.; S. Hobe, "Der kooperationsoffene Verfassungsstaat", *Der Staat* 34 (1998), 521 et seq. as well as N.J. Wheeler, "Humanitarian intervention after Kosovo: emergent norm, moral duty or the coming anarchy?", *J. Int'l Aff.* 77 (2001), 113 et seq. This context cannot be explored further at this place. Annan has made this a topic of several of his major speeches. Cf. the Ditchely Foundation Lecture of 26 June 1998, Doc. SG/SM/6613/Rev. 1. "Nothing in the UN charter precludes a recognition that there are rights beyond borders. What the charter does say is that 'armed force shall not be used, save in the common interest'. But what is the common interest? Who shall define it? Who shall defend it? Under whose authority? And with what means of intervention?". See also Kofi Annan, "Two Concepts of Sovereignty", in: *The Economist* of 18 September 1999, 49-50 where he outlines four impediments to and conditions for a reasonable policy of intervention: not to limit "intervention" to a military understanding; apart from a new concept of sovereignty there has to be a redefinition of national interests; the will by the Security Council to resolutely fulfil its role as the central authority in the maintenance of international security and the will to keep up the responsibility for a conflict region once the military intervention has ended.

118 Doc. SG/SM/6613/Rev.1, page 3.

119 Cf. his speech at the occasion of introducing his Annual Report for 1999 (Doc. SG/SM/7136).

quirement for peace-keeping. Problems emerge when an already deployed consent-oriented mission experiences a "downgrading of the consent".[120] The problem of so-called "spoilers"[121] in peace processes points to the fact that consent given for deployment may not automatically guarantee consent for implementation. Tharoor, in this context notes that "(...) classical, consensual peace-keeping does not respond fully to the nature of the world we live in and the challenges the new world disorder poses to the international community."[122] Obviously, there may be cases where the need to do something coincides with a lack of consent. While not totally abandoning the principle of consent and the condition of a cease-fire, terms like "cooperative environment" as used in the BR indicate cautious adjustments.[123]. But, as generally with peace-keeping, adjustment of one principle also has direct consequences for other principles.

2. Distinguishing Impartiality and Neutrality

The transgression of the classical borderline of impartiality need not come about as a sudden and conscious change of policy by one of the parties concerned, as both Srebrenica and Rwanda amply demonstrated. Even the distribution of humanitarian aid can put a question mark behind impartiality: "The use of UN peacekeepers in the delivery of humanitarian aid inevitably, even if unconsciously, leads to a shift in a conflict's balance of power. Decisions regarding aid become decisions about which parties benefit and which do not."[124] Dobbie adds: "Like consent, impartiality will be far from exact or absolute. It will not be enough for a peace-keeping mission to operate impartially — it must be

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120 Roberts, Crisis, see note 16, 99.
121 Cf. S.J. Stedman, "Spoiler Problems in Peace Processes", *International Security* 22 (1997), 5 et seq. The spoiler problem is also mentioned in the Brahimi Report with reference to Sierra Leone and Somalia (BR para. 21).
122 S. Tharoor, "The Changing Face of Peacekeeping", in: Benton, see note 16, 210.
123 BR para. 27. In a first report on the implementation of the BR (Doc. A/55/502) Annan significantly felt the need to clarify that consent for development remained a corner stone for peace operations and that he does not interpret the Panel's recommendations as a plea "to turn the United Nations into a war-fighting machine or to fundamentally change the priciples according to which peacekeepers use force."
124 Bratt, Peace, see note 16, 69.

seen to operate impartially."[125] And impartiality is already challenged when due to existing threats and the situation on the ground UN forces give an implicit or explicit pledge simply to protect people. This was not only done e.g. by the mandates of the various resolutions establishing safe areas in the Yugoslav Conflict but constituted a constant feature in the peacekeepers daily work. Therefore the Secretary-General stated: "Several of the newer tasks have placed UNPROFOR in a position of thwarting the military objectives of one party and therefore compromising its impartiality, which remains the key to its effectiveness in fulfilling its humanitarian responsibilities".[126] The Dutch battalion (Dutchbat) in Srebrenica was soon in a situation where there was little doubt as to which party did violate the agreements since it organized a kind of medieval siege on the town which also included withholding supplies from the peacekeepers. In late June, the commander reported: "My battalion is no longer willing, able and in the position to consider itself as being impartial due to the (...) policy of the Bosnian-Serb government and the BSA."[127] This report (which did not reach the level of command in Zagreb because of problems in command and control that will be outlined below) is an authentic expression of the factual erosion of the impartiality condition.

Going back to Suez and Hammarskjöld, the notion of impartiality can be conceptualized with somewhat greater clarity. Hammarskjöld saw the UN as the "detached element" in world politics, standing above partisan interests and having the task of preventing the involvement of the great powers into smaller conflicts. In such a situation the UN's role was definitely limited but also facilitated by the discipline forced on contesting parties by the East and West Bloc powers.[128] The possibility to attribute one party to one power bloc not only made impartiality a necessity but also offered a relatively easy way of definition: impartiality more or less meant equi-distance. This supported the impression that the UN while being "impartial" also had to be "neutral" because it could not take a stand on the political or normative arguments at stake. The equation of impartiality and neutrality, however, proved to be a consequence of international relations at the time and not a definite statement of principle. On the contrary, the decline of the East-West

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[125] Dobbie, Concept, see note 16, 135.

[126] SR para. 219.

[127] SR para. 235.

[128] E. Newman, *The UN Secretary-General from the Cold War to the New Era. A Global Peace and Security Mandate*, 1998, 94.

conflict brought both the limitation of supportive bloc power discipline and the enlargement of the scope of action to be taken by the UN. It is allowed more and more and is also asked to articulate its own point of view in conflicts going beyond the geometrical definition of "impartiality".[129] Although Hammarskjöld, in his days, was very restricted in exercising this function of the United Nations, he nonetheless provided the conceptual basis for such action in a distinction between impartiality and neutrality: the UN, in his view, could not afford "neutrality" in relation to the principles of the Charter. The decision to go beyond equal treatment of the parties therefore has to stand upon ethical reasons. In this context, one point of orientation emerges from the reports. Both the Rwanda Inquiry and the SR deal with a situation in which people perceive the United Nations as protection, seeking refuge on UN premises or putting their trust in a UN-declared "safe area". The Inquiry states: "Whether or not an obligation to protect civilians is explicit in the mandate of a peacekeeping operation, the Rwandan genocide shows that the United Nations must be prepared to respond to the perception and the expectation of protection created by its very presence." (RR page 51). The BR directly takes up this recommendation and further introduces a rule that one could call the "witness principle": "Indeed, peacekeepers — troops or police — who witness violence against civilians in conflict situations should be presumed to be authorized to stop it, within their means, in support of basic United Nations principles and, as stated in the report of the Independent Inquiry on Rwanda, consistent with the 'perception and the expectation of protection created by [an operation's] very presence'." (BR para. 62). While there is considerable uncertainty which violation of norms and principles in which circumstances can be regarded as sufficient reason to overcome the duty to observe impartiality, the concept is definitely rendered impossible when encountering ethnic cleansing or genocide. This observation is even more plausible and obligating for an international institution that considers itself to have introduced new patterns of conduct in international relations,[130] which led Hammarskjöld to say that the UN Charter embodies a basic set of international ethics.

This reasoning is taken even further in the SR where Annan, speaking of the challenges of peace-keeping reforms put emphasis on the problems of "an institutional ideology of impartiality even when con-

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[129] R.K. Betts, "The Delusion of Impartial Intervention", *Foreign Aff.* 73 (1994), 20 et seq.

[130] Kühne, Peace Support, see note 16, 363.

fronted with attempted genocide."[131] The RR, in a similar vein, addresses this aspect: "Faced in Rwanda with the risk of genocide, and later the systematic implementation of genocide, the United Nations had an obligation to act which transcended traditional principles of peacekeeping. In effect, there can be no neutrality in the face of genocide, no impartiality in the face of a campaign to exterminate part of a population."[132] The ethical impulse that once motivated the establishment of a peace-keeping operation risks becoming a caricature of itself when it transforms into indolence and indifference while carrying out the mandate. The BR gets even more explicit: "Impartiality for United Nations operations must therefore mean adherence to the principles of the Charter: where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the United Nations can in the best case result in ineffectiveness and in the worst may amount to complicity with evil. No failure did more to damage the standing and credibility of United Nations peacekeeping in the 1990s than its reluctance to distinguish victim from aggressor."[133] This will directly lead to the third principle being challenged: the use of force.

3. Balancing Coercion and Persuasion

The use of force is a recurring issue in all three reports and represents a crucial feature not only of the missions in the former Yugoslavia and Rwanda.[134] In Rwanda a concrete problem arose when the UNAMIR (United Nations Assistance Mission for Rwanda) force commander in January 1994 received notice from an informant who was involved in preparing plans for a full-scale effort to exterminate the Tutsi population. He asked for the approval of UNAMIR not only offering protection to the informant, but also to actively move against a selection of leaders engaged in the plot and their suspected weapon-collection points. Headquarters expressed caution and even the subsequent Inquiry "does not see reason to criticize the decision taken by the Secre-

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[131] SR para. 505.

[132] RR page 50.

[133] BR Executive Summary, ix.

[134] J. Ciechanski, "Enforcement Measures under Chapter VII of the UN Charter: UN Practice after the Cold War", in: Pugh , see note 16, 82 et seq.

tariat on the mandate issue."[135] With hindsight, such a step could have been the last chance to substantially influence the later course of events with the capacities of UNAMIR. After the plane crash of 6 April 1994 in which the presidents of Rwanda and Burundi were killed, fighting broke out and seemed to follow the script of which the informant had warned the United Nations. Now, UNAMIR was quickly over-whelmed by events and brutality. Moreover — as foreshadowed in the informant's account — the peacekeepers themselves were targeted.[136] This situation clearly would have been a case of "self-defence" since the lives of UN troops were directly threatened in a calculated move to bring about the withdrawal of the Belgium contingent. But as often in peace-keeping operations, the problem is not solved by identifying the application of "self-defence" in theory. The question is always practical in that it presupposes the military ability to effectively resort to force. In Kigali, this was not the case and the Security Council, instead of in-creasing UN manpower chose to withdraw the mission. This move also had direct consequences for the people who had hoped for UN protec-tion: about 2000 people sought refuge at a school in a suburb of Kigali where Belgian soldiers where stationed. But the "protection" they sought turned into a tragic catastrophe when French and Belgian sol-diers were evacuated from the school, leaving behind the assembled refugees. The assumption of UN protection also proved fatal for a number of high-ranking politicians who were especially sought after by the murderous gangs. The Prime Minister hid in a building of the United Nations Volunteers in Kigali where ultimately he was found and shot. Overwhelmed in terms of manpower and brutality, there were also several incidents of peace-keepers fleeing the sites they were ex-pected to guard. The hasty evacuation with its priority on safeguarding non-Rwandese people further added to the picture of confusion and disintegration. The Belgium plea to downsize or even terminate the UNAMIR mission and its unilateral decision to withdraw its contin-gent (which had been a vital component for the mission) practically dis-solved the UN effort in Rwanda.

In a structural dimension, the situation in Bosnia very much resem-bled these problems since the very concept of "safe areas" brought with it the need to think about exactly how "safety" was to be guaranteed in

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[135]   RR page 34.

[136]   A group of Belgian soldiers that tried to protect the Prime Minister was surrounded, disarmed and taken away from the residence by Hutu soldiers. Then they were brutally beaten and finally killed after they had been sepa-rated from their fellow peace-keepers from Ghana and Togo.

the case of attack. The concept itself emerged more because of different opinions in the Security Council (which will be analyzed below) rather than because of a pre-meditated plan on how to implement "safety". Thus it directly confronted military leaders and UN personnel on the ground with the question of how much force should be employed without giving them detailed guidance. Warnings and doubts in this respect were expressed from the beginning when first plans were discussed in 1992/1993. The Secretariat rightly foresaw the crucial question whether "traditional peace-keeping rules of engagement would be sufficient to discourage any violations of the safe areas."[137]

In this context, the diplomatic compromise concerning the wording of the resolutions had important repercussions for troops on the ground. Resolution 836 of 4 June 1993 which was based on a French memorandum, invoked Chapter VII, but only authorized the Force "to deter attacks" on the safe areas. Getting more specific it stated that UNPROFOR was mandated to "acting in self-defence, (...) take the necessary measures, including the use of force, in reply to bombardments against the safe areas by any of the parties or to armed incursion into them or in the event of any deliberate obstruction in or around those areas."[138] The phrase "necessary measures" applied to the use of air power. But Resolution 836 brought no change in the intensity of Serb bombardments. The Secretariat had outlined the necessity to deploy round about 32.000 troops to have a chance of coercively implementing the 836 mandate on the ground. Since it was clear that such an increase in troops would not come about, the Secretariat held on to another approach in defining UNPROFOR tasks, stating that "UNPROFOR's major deterrent capacity, rather than being a function of military strength, would essentially flow from its presence in the safe areas"[139] thereby applying methods of persuasion instead of force. The Secretariat in this way made a virtue out of necessity: even the very sponsors of Resolution 836 did not offer substantial increases of troops.[140] The question of force, therefore, was primarily directed towards the use of air power. Air power seemed to provide an option for Member States which did not have the will and the ability to engage

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[137] SR para. 50.

[138] S/RES/836 (1993) of 4 June 1993.

[139] SR para. 95.

[140] Instead the Secretariat got offers from countries with political stakes in the conflict – a situation that resembled the Suez case. When the Canadian unit at Srebrenica had to be replaced, Sweden first refused to take over, resulting in the eventual deployment of a Dutch contingent.

lightly armed troops that were committed for peace-keeping purposes into heavy fighting and peace enforcement. The use of air power furthermore was expected both to be less dangerous in terms of casualties and to provide the chance to detach the UN operation from enforcement that was to be done by NATO. But air power did not offer itself as the all-encompassing answer to the question of force. Eisele expresses the problems of such an arrangement by pointing to the fact that this in a way meant applying Chapter VII from the air while sticking to Chapter VI on the ground.[141]

Much debate concentrated on the distinction between "close air support" as an immediate enlargement of the self-defence capabilities of peacekeepers on the one hand and "air strikes" that included action in retaliation against the violation of agreements on the other. The latter could include a broad range of targets of strategic nature not only in the immediate surroundings of endangered peacekeepers. Air strikes from a UN perspective had to be applied very cautiously in order not to escalate the situation and loose control over the process. So target verification and the avoidance of "collateral damage" held a high position in the conditions that the UN wanted to see observed by NATO. This, for example, had the consequence that the military might of NATO, in a way, was restricted when pilots were asked to double-check on their targets with which they were supposed to have visual contact before attacking. Such a procedure more easily exposed the planes to attack from the ground and was the reason for aircrafts being shot down. The logic of a primarily military and a mainly diplomatic institution inevitably clashed. NATO from its point of view wanted to have the ability to identify targets for itself, thus harmonizing the aims with its military means and way of operation. This would have included knocking out Serb air defence assets before any campaign. So, even in order to allow for efficient "close air support," it would have been useful for NATO to conduct "air strikes" in advance.[142] As may be imagined, such differences of opinion can eventually have significant consequences when military forces have already shifted gear to full-scale combat readiness. The situation was further impaired by command and control problems outlined below.

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141 Eisele, see note 16, 169.
142 After the attack on Bihac, the different approaches became visible when the Udbina airfield was targeted on 21 November. NATO wished to neutralize the airfield and associated facilities altogether, but UNPROFOR insisted that only the airstrip should be struck, and not the aircraft operating from it. (SR para. 159).

Because of the cautious approach taken by the Secretariat and the Force Commander, as well as the vagueness of the resolutions' wording, various incidents occurred without adequate reaction by UNPROFOR. The Force Commander read Security Council resolutions as an expression of the "light option". This, for instance, led him to not react to the Markale massacre on 5 February 1994 because such a risk might "drag the United Nations into war".[143] In other instances, as for example concerning violations of the safe area in Gorazde, a request by UNPROFOR for close air support was not realized because of severe failures in communication and subsequent delays. When the first use of air power came about on 10 April 1994 it was partly hampered by bad weather conditions. Its result was twofold: it stopped Serb activity in the region and was directly answered by General Mladić threatening to take hostage or kill UN personnel. This, among other things, led the UNPROFOR Commander in August 1994 to oppose the wider use of force. The problem became a central issue at a Secretariat meeting of troop-contributing countries on 28 November 1994 where the position of the Secretary-General was portrayed as being prepared "to cross the line that divides peace-keeping from peace enforcement."[144]

The dilemma facing the United Nations was exposed even more visibly with the turn of the year: it brought the first hostage taking of about 100 UNPROFOR personnel (committed by Bosnians in January) and Mladić's warning to the new UN Commander for Bosnia and Herzegovina that he might take action against the eastern enclaves. With the restructuring of the UN effort and the installment of General Rupert Smith in Sarajevo, the latter chose to pursue a more robust attitude. In May 1995 he asked for air strikes around Sarajevo which were dismissed. The conflict between the "robust" attitude on the one side and the "cautious"[145] attitude of Special Representative Yasushi Akashi on the other side dominated the developments. Then the hostage crisis in May changed the overall picture with UN troops even being used as human shields against any air attacks by NATO. During the hostage crisis Akashi issued a statement that "the execution of the mandate was to be secondary to the security of United Nations personnel"[146] and there has been suspicion as to whether the UNPF (United Nations Peace Forces — the collective organization of peace operations in the

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[143] SR para. 118.

[144] SR para. 162.

[145] Cf. his view in Y. Akashi, "Managing United Nations Peace-keeping", in: Bierman/ Vadset, see note 5, 125 et seq.

[146] SR para. 193.

former Yugoslavia since March 1995) Commander entered into a kind of secret deal with Mladić trading the release of hostages with a promise not to order further NATO air strikes.[147] The hostage crisis also led the United Kingdom, France and the Netherlands to work on their plan of a Rapid Reaction Force in order to have a better chance of protecting their troops. These confusing signals and lack of clearness made up the background against which the Srebrenica tragedy was to unfold.

Annan, as the responsible Under-Secretary-General, summarizes the reasons for the cautious use of air force.[148] But he ultimately acknowledges that the United Nations deprived itself of a crucial option in reacting to the intensified violations of cease-fire agreements. The UN thus became calculable and exposed itself to the cynical game of provocation and partial withdrawal that the Bosnian Serbs in particular, played: "We were, with hindsight, wrong to declare repeatedly and publicly that we did not want to use air power against the Serbs except as a last resort, and to accept the shelling of the safe areas as a daily occurrence. We believed there was no choice under the Security Council resolutions but to deploy more and more peacekeepers into harm's way. The Serbs knew this, and they timed their attack on Srebrenica well. The UNPROFOR Commander in Sarajevo at the time noted that the reluctance of his superiors and of key troop contributors to 'escalate the

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147 The report could not find anything to support this theory. Mladić had prepared an agreement in this respect but the Force Commander refused to sign it (SR para. 197). Mladić also proposed access of UNHCR humanitarian aid into Sarajevo on the condition that an equal amount of supplies were delivered to Serb communities in the East (SR para. 200) – a proposal that led to substantial disagreements between UNHCR and UNPF.

148 "What is clear is that my predecessor, his senior advisers (among whom I was included as Under-Secretary-General for Peace-keeping Operations), his Special Representative and the Force Commander were all deeply reluctant to use air power against the Serbs for four main reasons. We believed that by using air power against the Serbs we would be perceived as having entered the war against them, something not authorized by the Security Council and potentially fatal for a peace-keeping operation. Second, we risked losing control over the process – once the key was turned we did not know if we would be able to turn it back, with grave consequences for the safety of the troops entrusted to us by Member States. Third, we believed that the use of air power would disrupt the primary mission of UNPROFOR as we then saw it; the creation of an environment in which humanitarian aid could be delivered to the civilian population of the country. Fourth, we feared Serb reprisals against our peacekeepers." (SR para. 482).

use of force' in the wake of the hostage crisis would create the conditions in which we would then always be 'stared down by the Serbs.'[149] The eventual fall of Srebrenica was partly televised in the grim pictures of Dutchbat being "hopelessly outnumbered and outgunned"[150] assisting in bringing Bosnians from the UN compound to buses. Although they tried to keep track of the civilians by names and escorting buses, they were quickly overburdened and seem to have lost their overview. Information on the ground relating to the scope and intensity of the killings was lacking at this time. It was only later on, that the United States provided satellite images showing the sites of suspected mass graves.

After the fall of Srebrenica, the crucial turning point in the attitude of the UN and Member States towards the use of force came when the Markale marketplace was shelled once again. Operation "Deliberate Force" then began on 30 August, just when most of the Blue Helmets were withdrawn from exposed sites from within the country. At this time the line between peace-keeping and peace enforcement at least for the Secretariat was still valid.[151] On the other hand a spokesman for UNPROFOR said that the Force was now engaged in "peace enforcement" and the commander stated: "As a result of our enforcement action, UNPROFOR abandoned its peace-keeping mission — at least in the Sarajevo area. We remain, for the time being, in the position of combatants: coercing and enforcing our demands on the BSA." Consequently he asked for new rules of engagement based on the conviction that "we need to be prepared to fight".[152] The Dayton peace process and the subsequent deployment of IFOR/SFOR (Implementation/Stabilization Forces) spared the UN the effort of harmonizing the different interpretations concerning the use of force.

Based on the Rwanda and Srebrenica experiences, the BR formulates a central principal for further UN action: "There are many tasks which United Nations peace-keeping forces should not be asked to undertake

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[149] SR para. 483.

[150] Urquhart, see note 7. Boutros-Ghali and the Force Commander had asked for about 34.000 troops for the protection of the safe areas. The Security Council authorized a mere 7.600 of which only 4.800 where deployed when the fall of Srebrenica occurred. Military rationale would even have argued for a strength of about 50.000 troops. At the fall of Srebrenica 300 lightly armed blue helmets faced 15.000 heavy armed Bosnian Serbs. Cf. Eisele, see note 16, 171-177.

[151] SR para. 445.

[152] Smith cited according to Shawcross, see note 2, 160. See also SR para. 454.

and many places they should not go. But when the United Nations does send its forces to uphold the peace, they must be prepared to confront the lingering forces of war and violence, with the ability and determination to defeat them."[153] The dilemmas of UN peacekeepers experienced in Rwanda and Srebrenica form the background against which the report calls for a doctrinal shift in the application of force: "This means that United Nations military units must be capable of defending themselves, other mission components and the mission's mandate."[154] In this context it is interesting to note that there is reason to support the view that Hammarskjöld originally did not want to have self-defence restricted to cases of an attack on UN personnel or troops. Oscar Schachter who had advised Hammarskjöld on some of the questions relating to troop status recalls that Hammarskjöld insisted "to include the defense of decisions as well as self-defense in the criminal law sense of somebody being shot at in being able to use arms."[155] And starting with ONUC (United Nations Operation in the Congo) which was partly based on Chapter VII measures by the Security Council,[156] there have been further cases where defence of the mandate was agreed on.[157] Hammarskjöld already in his UNEF I Report took the stand that "self-defence" covered the defence of the force's mandate as long as troops did not engage in taking the initiative with hostile intentions.[158]

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[153]   BR para. 1.
[154]   BR para. 49.
[155]   O. Schachter, "Interview", *United Nations Oral History Programme* 1985, 13.
[156]   Ratner, see note 10, 232.
[157]   Goulding, see note 22, 455.
[158]   In his Report on UNEF I Hammarskjöld dealt with open questions relating to the authority of UNEF I "to fire during darkness at infiltrators approaching the line from either direction, which would be somewhat broader than its unquestioned right to fire in self-defence" (678). In his Summary Study of 9 October 1959, in: CF IV, see note 94, 251 he then argued: "UNEF troops have a right to fire in self-defence. They are never to take the initiative in the use of arms, but may respond with fire to an armed attack upon them, even though this may result from a refusal on their part to obey an order from the attacking party not to resist; a proper refusal, since they are to take orders only from the Commander. UNEF is authorized to apprehend infiltrators and persons approaching the demarcation line in suspicious circumstances." M. Goulding, "The Use of Force by the United Nations", *International Peacekeeping* 3 (1996), 8 et seq., cites UNEF II as further evidence when in 1973 self-defence was clearly linked with the execution of the mandate.

But the BR's recommendations not only point to a (somewhat forgotten) re-consideration of "classical peace-keeping". In recent years the scope of the actions possible under mandate defence based on Chapter VII resolutions is much wider and more explicit causing some observers to speak of Chapter VI ¾.[159] The BR supports this development and argues even further: "Rules of engagement should not limit contingents to stroke-for-stroke responses but should allow ripostes sufficient to silence a source of deadly fire that is directed at United Nations troops or at the people they are charged to protect, and, in particularly dangerous situations, should not force United Nations contingents to cede the initiatives to the attackers."[160] This ties in with the above mentioned "witness principle" and has direct consequences for the Force's structure: "It means that mandates should specify an operation's authority to use force. It means bigger forces, better equipped and more costly, but able to pose a credible deterrent threat, in contrast to the symbolic and non-threatening presence that characterizes traditional peace-keeping."[161] It was the Danish contingent of UNPROFOR which already in 1994 secured its humanitarian convoys with heavy tanks — a strategy that went beyond the UN rationale at the time but proved successful and served as a model for the relatively strongly armed capacities of UNTAES (United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium).[162] Once again, it should be noted that these observations will not apply to all future peace-keeping operations; there may be more "classical" and even intra-state buffer-function forces. But the problems faced by the three reports occur (rather frequently) in new types of environment and conflict patterns. Recommendations in these directions would easily recall Brian Urquhart's warning that "(a) peace-keeping force which descends into the conflict may well become part of the problem instead of the solution to it."[163] Urquhart's successor in the responsibility for peace-keeping operations, M. Goulding, also argued for various conditions which should be met in order to successfully resort to the use of force, e. g. to overcome obstruction of humanitarian deliveries or enforce ceasefires: evident military superiority, readiness to use force in proportion and

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[159] This term is used for example by L. Gordenker/ T.G. Weiss, "The Collective Security Idea and Changing World Politics", in: T.G. Weiss (ed.), *Collective Security in a Changing World*, 1993, 15.

[160] BR para. 49.

[161] BR para. 51.

[162] Cf. Eisele, see note 16, 107.

[163] Urquhart, see note 101, 201.

against any party concerned as well as absence of further (political) mandates which in the end depend on the continuing commitment of Member States.[164] Apart from Goulding's conditions, any approach to re-define the scope of force in UN peace operations — on the assumptions of circumstances that would vindicate it — requires serious changes and improvements both at the level of Member States and the organization itself. What kind of demands have to be met by the peace-keeping infrastructure on various levels in order to cope with the transformation of the consent, impartiality and force as depicted above?

IV. Responding to Challenges: Improving Capacities, Resources and Commitment

The reports offer a wealth of recommendations and suggestions addressed not only at the institutional setting of the UN but also at Member States and primarily at the members of the Security Council. These recommendations again tie in with the legal, operational and political conditions for the successful conduct of a peace-keeping operation outlined above. They will be dealt with separately.

1. Proposed Changes at the Level of the Organization

The analysis and recommendations concerning the United Nations organization as such can be subdivided into two fields: the problems relating to command, control and communication in peace-keeping operations and the broader proposals for reform of the institutional setting and administrative structures of the Secretariat.

a. Improving Command, Control and Communication

As was described in the development of UNEF I, the unity of command that was to be established under exclusive United Nations authority had to be created by means of improvisation and right from the beginning encountered the difficulties of placing diverse national troops under a single command. In the case of Suez, however, this problem — although it had to be managed for the first time — did not

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[164] Goulding, see note 158, 16-18.

evolve into a major stumbling-block for the operation. With the variety of national interests at stake and the diversification of tasks and functions and the experience gathered over time, the command and control problem stayed on the agenda of peace-keeping operations. Again, the severe test of the very principles of peace-keeping in Srebrenica and Rwanda highlighted an aspect that for most operations did not play a dramatic role. The SR for example concludes that there were "command-and-control-problems from which UNPROFOR suffered throughout its history".[165]

Concerning the communication problems within the United Nations, the cable by UNAMIR commander Dallaire probably is one of the most striking examples. His request for the protection for the informant, who informed him about the planned genocide[166] was sent to New York on 11 January and there went to the Military Adviser of the Secretary-General (Boutros-Ghali claims to have learned of the cable only three years later).[167] It was also seen by then Under-Secretary-General Kofi Annan and his Assistant-Secretary-General. Annan's first reaction urged for caution and restraint. With a further telegram Dallaire was reminded that despite mounting evidence of the informant being trustworthy, an operation to intervene and take measures against the plot would go beyond the mandate of UNAMIR.[168] Instead of UN action the information was shared with Belgium, France and the United States in order to collectively convince President Habayarimana of the threat portrayed by the informant's testimony. But Habayarimana did not show himself much impressed. As has been noted above, the inquiry found reason for a restrictive reading of the mandate excluding forceful action against the plot. But at the same time it "believes serious mistakes were made in the follow-up to the cable."[169] This not only points to the responsibilities of Member States: much the same as the commander of UNPROFOR in Yugoslavia, Dallaire in November 1993 had issued a draft on Rules of Engagement for UNAMIR to be approved by the Secretariat including the use of force in cases of specific crimes.[170] His draft never received an answer and later it became

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[165] SR para. 471.
[166] RR page 10.
[167] Boutros-Ghali, see note 2, 130.
[168] RR page 11.
[169] RR page 34.
[170] RR page 9.

clear that "Headquarters did not have a procedure in place for the formal approval of draft Rules of Engagement."[171]

The difficulties of a unified command then became obvious with the beginning of the genocide and the subsequent mission to evacuate inhabitants from particular countries. In one remarkable incident troops from Bangladesh did not let their Belgian colleagues into a stadium for refuges.[172] The presence of evacuation troops under national command and UN peacekeepers from the same country further complicated matters. Although the report acknowledges "courageous acts" by some troops, at the height of the crisis, UNAMIR was judged to be "not functioning as a cohesive whole": "(...) consistent testimony points to a lack of political leadership, lack of military capacity, severe problems of command and control and lack of coordination and discipline".[173] The BR in what seems to be a direct reference to this kind of problem argued: "Troop contributors must ensure that the troops they provide fully understand the importance of an integrated chain of command, the operational control of the Secretary-General and the standard operating procedures and rules of engagement of the mission. It is essential that the chain of command in an operation be understood and respected, and the onus is on national capitals to refrain from instructing their contingent commanders on operational matters."[174]

But the "chain of command" in Srebrenica for example had its own pitfalls. Concerning the use of air power the story of Srebrenica can be told as a continuous delay caused by rather unimaginable deficits in command and communication. There has been much criticism of the appropriateness of the "dual-key" structure for the approval of such strikes which required both the United Nations and NATO to agree on such a move. At a closer look the coordination of NATO and the United Nations was not that problematic apart from the different approaches described above. What was adding to this problem of coordination was that the UN "key" turned out to be a whole bunch of keys within the military hierarchy of UNPROFOR/UNPF. When the attack on Srebrenica started on 6 July, the Dutchbat commander asked for close air support after Bosnian Serbs repeatedly fired directly at a UN observation post. The chain of command that had to be observed in this case illustrates the difficulties of command and control: the Com-

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[171]   RR page 35.

[172]   RR page 36.

[173]   RR page 30.

[174]   BR para. 267.

mander in Srebrenica had to contact the UNPROFOR commander for the Sector North East in Tuzla who (if he agreed with the request) would have to contact the UNPROFOR commander in Sarajevo who, at the time, was on leave. His deputy in charge discouraged the request because it — in his view — did not fulfil the criteria for close air support.[175] Even if he had consented with the request he would have had to transmit it to the UNPF Commander in Zagreb. He then would have had to recommend close air support to Akashi who eventually would have to ask Secretary-General Boutros-Ghali to decide the matter before it was NATO's turn to implement the request.[176] But on that day, the civilian side of UNPROFOR, the UN Secretariat in New York as well as NATO did not even know of a request and consequently held a totally misconceived view of the situation with disastrous consequences on the ground.

The Dutchbat commander repeated his request on the evening of 7 July asking for "assistance by all means: ground and air"[177] but this request, for some reason, was not put through to Zagreb. Meanwhile, the Blue Helmets found themselves right in between the conflicting parties with Serbs in front and Bosnians behind their observation post shooting at each other. The UNPROFOR chief of staff on 8 July once again turned down the request for close air support on the assumption that the Bosnian Serbs did not want to take the town. Dutchbat received orders to withdraw rather than to engage in combat. The Serbs meanwhile took over further observation posts and the weapons of the peacekeepers. Being confronted with the advancing Serbs and defending Bosnians behind them, even withdrawal was not risk-free.

The UNPROFOR commander on leave was recalled on 8 July when still no information of the events had reached New York. Further Dutchbat troops were overrun and disarmed and the Bosnian Serbs forced them to leave the combat zone.[178] On 9 July the UNPROFOR commander in Sarajevo handed in a written request for close air support to his superior, the UNPF Force Commander in Zagreb. The re-

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[175] SR para. 243.

[176] Boutros-Ghali had largely delegated his authority to Akashi and only after Srebrenica delegated his authority further to the UNPF commander. Cf. Boutros-Ghali, see note 2, 241.

[177] SR para. 249.

[178] The responsible military commander, General Tolimir, made a number of cynical comments on their status and whereabouts while at the same time denying that his troops were in offensive action in Srebrenica.

quest also included information on possible targets.[179] When finally all preparations for the close air support were in place, the Dutchbat commander who initially had pledged for air support expressed doubts because of the extent that the Bosnian Serb Army had moved forward into Srebrenica thus risking the lives of not only his troops but also those of the civilians in Srebrenica. At the same time in New York, a representative of the Secretary-General[180] briefed the Security Council but his report was based on wrong information, namely that the attack had stopped. In Srebrenica the Dutch soldiers, from their blocking position, fired over the heads of the advancing Bosnian Serbs but to no avail since they were eventually outflanked and had to fall back.

On 10 July, the request for close air support still was not decided. NATO planes were on stand-by, but the Force Commander said he did not have targets for them. When he learned of the concerns of Dutchbat that air strikes might affect civilians and UN personnel, he contacted the Netherlands Ministry of Defence[181] which did not claim any restrictions and said it would support all appropriate action. After this further consultation it was too dark for air strikes and they were postponed till the following morning.[182] But on the morning of 11 July the support was further delayed because there was uncertainty in Zagreb as to whether the request of Dutchbat was still valid.[183] By the time Zagreb had double-checked on this, NATO planes had to refuel. When four hours later, the planes were ready again, the Serb flag already had been raised in suburbs of Srebrenica[184] and the Bosnian Serbs immediately threatened that they would shell the town and especially places were large numbers of people had assembled around the UN personnel, in a "sitting duck position".[185] By then the Netherlands Ministry of Defence also had changed its mind and now asked for the ending of close air support. Once again as in Rwanda, a national request decided the action of the UN operation as a whole, but this came only after the UN command had missed the opportunity to act.

The above outlined difficulties concerning the communication within an operation as such might have had less dramatic consequences

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179 SR para. 273.
180 SR para. 282.
181 SR para. 287.
182 SR para. 295.
183 Ibid.
184 SR para. 304.
185 SR para. 315.

if, from the very beginning, in Rwanda as well as in Srebrenica the Member States had shared the information they had from their respective intelligence services. The SR bitterly complains about the unwillingness of those very states that were shaping the course of action for United Nations peacekeepers to adequately share their nationally acquired intelligence information with the organization: "This failure of intelligence-sharing was also not limited to the fall of Srebrenica, but an endemic weakness throughout the conflict, both within the peacekeeping mission, and between mission and Member States."[186] The Secretary-General in particular pointed to the fact that the attack on the safe area came as a surprise for the UN: "I can confirm that the United Nations, which relied on Member States for such intelligence, had no advance knowledge of the Serb offensive. Indeed, the absence of an intelligence-gathering capacity, coupled with the reluctance of Member States to share sensitive information with an Organization as open, and from their perspective, as 'insecure' as the United Nations, is one of the major operational constraints under which we labour in all our missions."[187] The BR in this context recommends that the Secretary-General should establish within a special unit for information and strategic analysis the Executive Committee on Peace and Security (ECPS) because at the moment there is a lack of "significant knowledge generation and analytic capacity" without which the Secretariat will remain an reactive institution.[188] This leads to the concrete reform measures and recommendations concerning peace-keeping infrastructure which make up the biggest part of the BR.

b. Reform of Peace-keeping Infrastructure

The BR offers a whole range of concrete administrative and operational reform measures for the peace-keeping infrastructure at UN Headquarters[189] which cannot be dealt with in detail here. Summarizing, one could arrange the various proposals into four groups of measures aiming at (a) enhancing the speed of UN action, (b) increasing the financial resources for peace-keeping, (c) improving coordination and

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[186] SR para. 474.

[187] SR para. 486.

[188] BR para. 67.

[189] Cf also J.O.C. Jonah, "The Management of UN Peacekeeping", in: I.J. Rikhye/ K. Skjelsbaek (eds), *The United Nations and Peace-keeping. Results, Limitations and Prospects: the Lessons of 40 Years of Experience*, 1990, 75 et seq.

management practices as well as (d) adjusting to new demands in the area of peace building.

A first group of reform measures aims at enhancing the speed and quality of UN action. According to the BR, the UN should define rapid and effective deployment capacities by specific time frames: full deployment of a traditional peace-keeping mission within 30 days and 90 days for a complex operation. Member States for this purpose are encouraged to form several coherent brigade-size forces, with necessary enabling forces, ready for effective deployment, within the context of the UN Stand By Arrangement System. There should be lists of military and police officers as well as experts and civilian specialists available.[190] Troop contributing countries that cannot meet the terms of the Memoranda of Understanding, should so indicate to the UN and should refrain from deployment. The Secretary-General should be given the resources and support needed to assess potential troop contributors preparedness prior to deployment.[191]

Addressing the lack of coherence in a number of missions, the report states that in order to function as a coherent force, the troop contingents themselves should at least have been trained and equipped according to a common standard, supplemented by joint planning at the contingents command level.

A second group of measures deal with the financial resources for peace-keeping. In the face of the above described pre-deployment activities it recommends that the ACABQ approves the commitment of up to US$ 50 million from the Peace-keeping Reserve Fund "once it became clear that an operation was likely to be established" and also that the level of procurement authority be increased.[192] As regards preliminary planning, the Report also calls for the Secretary-General to be given the resources to conduct a "preliminary site survey" (BR para. 58). An interesting use of further financial resources is argued for in the context of peace-building: "Effective peace-building requires active engagement with local parties, and that engagement should be multidimensional in nature. First, all peace operations should be given the capacity to make a demonstrable difference in the lives of the people in their mission area, relatively early in the life of the mission. The head of the mission should have authority to apply a small percentage of mission funds to 'quick impact projects' aimed at real improvements in

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[190] BR para. 96.
[191] BR para. 109.
[192] BR para. 169.

quality of life, to help establish the credibility of a new mission." (BR para. 37). This in a way echoes the Hammarskjöld concern that UNEF got the "start it deserves" and may be looked at "the right way". But the most dramatic plea regarding the financial aspect of peace-keeping is the proposal to include the expenses for peace-keeping into the regular budget of the organization:"In general, there is a need to rethink the historically prevailing view of peace-keeping as a temporary aberration rather than a core function of the United Nations."[193] With regard to finances, the Report "therefore recommends that Headquarters support for peace-keeping be treated as a core activity of the United Nations, and as such that the majority of its resource requirements be funded through the mechanism of the regular biennial program budget of the Organization."[194]

A third group of measures aims at improving coordination and management within the administrative structure of the Secretariat. The report makes an urgent plea for a substantial improvement and enlargement of the supporting structures: "No national government would send 27.000 troops into the field with just 32 officers back home to provide them with substantive and operational military guidance. No police organization would deploy 8.000 police officers with only nine headquarters staff to provide them with substantive and operational policing support" (BR para. 181). Stressing the primary importance of the Department of Peace-Keeping Operations (DPKO) consideration should be given to increasing the number of Assistant-Secretaries-General from two to three.[195] The Panel's recommendations, at the same time, introduce a new flexible way of organizing administrative structures for peace-keeping missions, the Integrated Mission Task Forces (IMTF): "Task Force Members should be formally seconded to IMTF for such duration by their home division, department, agency, fund or program. That is, an IMTF should be much more than a coordinating committee or task force of the type now set up at Headquarters. It should be a temporary but coherent staff created for specific purpose, able to be increased or decreased in size or composition in response to mission needs."[196] According to this scheme, the primary administrative structure would no longer be regional. Traditional peace-keeping operations could be regrouped into one IMTF, while large and

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[193] BR para. 133.
[194] BR para. 193.
[195] BR Executive Summary, x.
[196] BR para. 209.

complex operations would make up for a separate IMTF. The Panel directly builds on the management reforms initiated by Annan and the reform of the peace-keeping sector is inherently linked to the overall reform of the organization. Finally, the panel is convinced that the necessary people will only be attracted to the UN if its system of recruitment and career prospects is profoundly transformed. Generally speaking, the report hints at the deficits of a recruitment system that gives undue consideration to diplomatic or regional criteria.[197]

The fourth group of measures addresses the variety of new tasks put before UN missions. In one of the rather rare references to the "Agenda for Peace", the BR takes over the definition that "United Nations peace operations entail three principal activities: conflict prevention and peacemaking; peacekeeping and peace-building". The latter is a strong concern of the Panel. Police forces in this respect should take on special responsibilities and the report calls for a "doctrinal shift in the use of civilian police and related rule of law elements in peace operations...".[198] The report then goes a long way to deal with the multitude of demands which might come up together with post conflict peace-building.[199] The Panel undoubtedly expresses reservations in this respect speaking of the "the larger question of whether the United Nations should be in this business at all, and if so whether it should be considered an element of peace operations or should be managed by some other structure."[200] Concerning the question of the "post conflict applicable law" the Report recommends convening a panel of international experts to evaluate the feasibility and utility of developing an interim legal code for the use by such operations based on agreed international standards pending the re-establishment of local rule of law.[201]

Far-reaching as they are, the Panel believes that its recommendations "balance principle and pragmatism" and constitute "the minimum threshold of change needed to give the United Nations system the opportunity to be an effective, operational, twenty-first century institu-

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[197] BR para. 95.

[198] BR Executive Summary, ix.

[199] BR para. 77.

[200] BR para. 78.

[201] BR para. 82. In this context, the report further states: "Property law would probably remain beyond reach of such a 'model code', but at least an operation would be able to prosecute effectively those who burned their neighbours' homes while the property law issue was being addressed." (BR para. 82)

tion."[202] For these recommendations to become reality they, to a large extent, need the cooperation and approval of Member States. But the responsibility of Member States does not exhaust itself in supporting reform measures as will be outlined below.

2. Proposed Changes at the Level of Member States

Time and again, fundamental problems that arose in the field could be traced back to inadequate orientation and supplies from Member States. Both the Srebrenica and Rwanda Report, while not hesitating to identify the responsibility and failures of the Secretariat, also place a decisive amount of responsibility on their action or inaction. Criticism centres on the members of the Security Council which in various ways fell short of their obligation for international peace and security. This, of course, has to do with different national attitudes and interests in the conflicts.

In the case of the former Yugoslavia, the Security Council was in many ways divided: there was not only Russia which for a long time — much the same as China — opposed too tough "interventionist" measures in general and too strong condemnations of the Serbs.[203] The dividing line between the western powers and Russia/China was further complicated by a majority of the non-aligned and especially Muslim countries definitely taking sides with the Bosnians. They favoured lifting the arms embargo and were ready to support UN action to reverse Bosnian Serb aggression. Amidst these rudiments of old conflict-lines and conflicting favours, another faultline had to be observed and divided the western countries (France and the United Kingdom against the United States) themselves: "Those countries which opposed lifting the arms embargo committed increasing numbers of troops to UNPROFOR, but resisted efforts to expand the UNPROFOR mandate in such a way as to bring the Force into direct military confrontation with the Bosnian Serbs. Those countries which favoured more robust action, but which did not have troops on the ground, sought pro-

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[202] BR para. 7.

[203] Cf. S. Lavrov, "The Russian View of Peace-keeping: international Activity for Peace", *Brown Journal of World Affairs* 3 (1996), 23 et seq. and B. Gill/ J. Reilly, "Sovereignty, Intervention and Peace-keeping: The View from Beijing", *Survival* 42 (2000), 41 et seq., which also sees some changes in perception.

gressively to expand the UNPROFOR mandate and to use Force directly to confront the Serbs."[204]

Out of these differences and shifting majorities developed a huge number of resolutions whose half-measure character at the same time guaranteed the considerable frequency with which the Council adjusted and readjusted its course of action. More or less open-eyed the urge to do something did materialize in the deployment of a peace-keeping operation. Right up until the Dayton peace accord, different peace plans and initiatives with the aim of securing those very conditions that should have been the condition upon which any peace-keeping operation could be based, tried to catch up with the escalation of the military conflict.

The safe area concept is another example of diverging attitudes among the Member States. The Security Council could only agree on the formulation to "deter attacks" on the safe areas.[205] France had called for the inclusion of the phrase "to use all necessary means" in 1993.[206] And Boutros-Ghali initiated a stronger stand, when in a Report of 9 May 1994 he changed the wording: "The conscious use of the word 'protect' was aimed at obtaining the Council's acquiescence in a broader interpretation of the safe area mandate than the initial resolutions had warranted."[207] But even when wording got tougher, the results remained discouraging: "Chapter VII of the Charter was invoked with increasing frequency, though often without specifying what that implied in terms of UNPROFOR operations."[208] It is not a great surprise that subtleties of a diplomatic game were not compatible with the situation on the ground especially when it had no effect in terms of augmenting strength and resources. But the effect on the parties involved was similar. At some stages the Council devaluated its own action by stating that the very resolutions it had just released could easily be supplemented by further moves and did not rule out any future op-

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[204] SR para. 43. Boutros-Ghali, see note 2, 87 indirectly criticizes the US attitude in this context: "To some observers at the United Nations, it seemed that Washington had devised a way to gain domestic political benefit from tough talk about air strikes, knowing that it was shielded from acting because its European allies would never agree to put their personnel serving with the United Nations in Bosnia in danger."

[205] SR para. 3.

[206] SR para. 72.

[207] SR para. 150.

[208] SR para. 43.

tions — so apparently one could interpret some kind of further leeway regarding the actions of the parties concerned.

Concerning lack of commitment, difficulties resulting from ambiguous wording and the least-common-denominator approach, the Rwanda experience in many ways paralleled the developments during the debates on the former Yugoslavia. A particular difficulty of the Council sessions during the Rwanda conflict was the fact that Rwanda was a member of the Security Council at the time, which led to the situation whereby only one of the conflicting parties took part in the deliberations on United Nations action. A further distinctive feature of Security Council action was the shadow of Somalia that loomed over the discussions. The Inquiry makes reference to the UN commission of inquiry for Somalia which stated that "the UN should refrain from undertaking further peace enforcement actions within the internal conflicts of States".[209]

When the crisis finally broke out, the UN effort was not only downsized, but the role of the United Nations more generally was sidelined: "Thus the lack of political will to react firmly against the genocide when it began was compounded by a lack of commitment by the broader membership of the *United Nations to provide the necessary troops in order to permit the United Nations to try to stop the killing*."[210] Plans on the deployment of a UN force in a hostile environment were discussed, but preparations for that did not get far because of the slow reaction to a plea for troop contributions, so that the Security Council fell back on a French proposal to insert an interim force which was mandated as a Chapter VII measure later known as "Operation Turquoise". The report notes: "The Inquiry finds it unfortunate that the resources committed by France and other countries to Operation Turquoise could not instead have been put at the disposal of UNAMIR II."[211]

The aversion to the word "protect" in Yugoslavia was echoed by the aversion to the word "genocide" in Rwanda. Whereas for Srebrenica the conscious use of "protect" would have implied actual military action, the reference to "genocide" had a specific legal implication because the Genocide Convention of 1948 held in store the obligation to act against the emergence of such situations. In the words of the Inquiry: "Arguably, in this context, the members of the Security Council have a

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[209] RR page 41.
[210] RR page 25.
[211] RR page 49.

particular responsibility, morally if not explicitly under the Convention to act against a situation of genocide."[212] The report consequently put the blame on the Council for the "delay in identifying the events in Rwanda as a genocide" and chose unambiguous language to express its evaluation: "The overriding failure in the response of the United Nations before and during the genocide in Rwanda can be summarized as a lack of resources and a lack of will to take on the commitment which would have been necessary to prevent or to stop the genocide."[213]

The BR for its part draws unambiguous conclusions reflecting both the Rwanda and Srebrenica problems: "The Secretariat must tell the Security Council what it needs to know, not what it wants to hear."[214] The crucial link of a decision on a resolution and the necessary means to fulfil that resolution which appeared as a major problem in Rwanda and Yugoslavia causes the Panel to recommend a significant transformation in the procedure of the Security Council: "The Panel is of the view that, once realistic mission requirements have been set and agreed to, the Council should leave its authorizing resolution in draft form until the Secretary-General confirms that he has received troop and other commitments from Member States sufficient to meet those requirements."[215] The overall aim of this procedure would be to avoid "commitment gaps"[216] by Member States that ultimately will affect the credibility of the organization. To facilitate this aim, the report urges again to institutionalize the interaction of troop contributing countries and the Security Council.[217] This recommendation leads back to Ham-

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212 RR page 38.

213 RR page 30.

214 BR Executive Summary, x. The wording later on is more diplomatic: "In advising the Council on mission requirements, the Secretariat must not set mission force and other resource levels according to what it presumes to be acceptable to the Council politically." (BR para. 59).

215 BR Executive Summary, x.

216 BR para. 61.

217 "Troop contributor advice to the Security Council might usefully be institutionalized via the establishment of ad hoc subsidiary organs of the Council, as provided for in Article 29 of the Charter. Member States contributing formed military units to an operation should as a matter of course be invited to attend Secretariat briefings of the Security Council pertaining to crises that affect the safety and security of the mission's personnel or to a change or reinterpretation of a mission's mandate with respect to the use of force." (BR para. 61).

marskjöld's institution of the Advisory Committee in the Suez crisis and offers a starting point for some concluding remarks.

V. Conclusion: Building on Experience

The conclusions from the experience at Srebrenica and Rwanda as well as the recommendations of the three reports point to manifold directions and identify a whole set of reform measures. The Suez experience and an analysis of the way the Hammarskjöld Secretariat framed constitutive principles for peace-keeping could be used as a critical scale to measure the more recent failures, achievements and challenges of peace-keeping. Even if there has been a fundamental change in scope and content of these principles they are still a useful analytical tool to illustrate the difficulties UN peace-keeping encountered in the 1990s.

The primary difference between classical peace-keeping and new challenges as confronted in Srebrenica and Rwanda may be that the relatively clear-shaped principles and the political framework of inter-state conflicts all show themselves in a different light in intra-state conflicts. "With the benefit of hindsight, one can see that many of the errors the United Nations made flowed from a single and no doubt well-intended effort: we tried to keep the peace and apply the rules of peace-keeping when there was no peace to keep. Knowing that any other course of action would jeopardize the lives of the troops, we tried to create — or imagine — an environment in which the tenets of peace-keeping — agreement between the parties, deployment by consent, and impartiality — could be upheld. We tried to stabilize the situation on the ground through cease-fire agreements, which brought us close to the Serbs, who controlled the larger proportion of the land. We tried to eschew the use of force except in self-defence, which brought us into conflict with the defenders of the safe areas, whose safety depended on our use of force."[218]

But new types of conflicts not only challenged the principles of UN peace-keeping but also the political prerequisites. As has been shown in the case of Suez, UN involvement materialized in order to prevent the fervour and sparks of a local or regional conflict from igniting the explosive atmosphere of bloc-power rivalry. Peace-keeping thus func-

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[218] SR para. 488.

tioned primarily as a "shock absorber".[219] This meant, that a failure or even abandonment of a given "small" conflict in many cases would automatically have meant a failure in preventing greater international tensions. It may be that someday the simultaneous overburdening and eventual lack of will and resources in peace-keeping operations during the 1990s may be attributed to the consequence that a failure in a local or intra-state conflict did not so manifestly threaten own national interests as did inter-state conflicts in the fifties and sixties. The "enlightened" self-interest that Member States have in participating and supporting UN peace-keeping may not be so easily justified in some cases. At the same time this effort may just as well be regarded as a litmus test on how far talks of globalization can be substantiated with political action in the field of international peace and security that goes beyond a reflex to momentarily paying tribute to the CNN factor on national electorates. It should not be underrated, however, that with the lack of respect and authority for United Nations personnel (both civilian and military) and the simultaneous increase in situations where the use of force may become necessary, peace-keeping missions have become even more risky and dangerous undertakings.

All this, of course, is a far cry from the "most popular army in history" of which Bunche spoke. And it is typical of the BR not to shy away from stating the consequences of such an approach: "Willingness of Member States to contribute troops to a credible operation of this sort also implies a willingness to accept the risk of casualties on behalf of the mandate."[220] But the report at the same time recognizes that "memories of peacekeepers murdered in Mogadishu and Kigali and taken hostage in Sierra Leone help to explain the difficulties Member States are having in convincing their national legislatures and public that they should support the deployment of their troops to United Nations-led operations, particularly in Africa."[221]

This, then, seems to be the singular most important "lesson learned" in the 1990s: after the events in Somalia,[222] Member States did not show themselves inclined to start new missions in similar circumstances. But

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[219] Ryan, see note 16, 27. See also I.L. Claude Jr., "United Nations Use of Military Force", in: D.A. Kay (ed.), *The United Nations Political System*, 1967, 201 et seq.

[220] BR para. 52.

[221] BR para. 105.

[222] V. Matthies, "Zwischen Rettungsaktion und Entmündigung. Das Engagement der Vereinten Nationen in Somalia", *VN* 41 (1993), 45 et seq.

the "lesson" from one disaster in peace-keeping prepared the ground
for another one. It is not only Boutros-Ghali who sees "a direct con-
nection"[223] between Mogadishu and Rwanda. The Rwanda Inquiry
"finds the campaign to secure the complete withdrawal of UNAMIR
difficult to understand".[224] The reason of course was the shadow of
Somalia that was present in the Council debates. In retrospect, it is even
more disturbing to note that apart from a reluctance to send troops into
high-risk situations, the financial costs of any operation made up a cru-
cial argument in the debates.[225] Somalia also brought about a funda-
mental shift in the U.S. attitude towards the United Nations[226] that
found a manifestation in "The Clinton administration's policy on re-
forming multilateral peace operations" or PDD 25 as it came to be
known. This document allowed "only the easiest, cheapest and safest
peace-keeping operations",[227] thus effectively ruling out much of what
would get on the future agenda of possible UN involvement. This
change of policy is significant in that it severely limited U.S. support for
UN peace-keeping — a condition that had already proved to be vital
for UNEF I but that since then has even become more important be-
cause of the singular role of the United States in post Cold-War inter-
national relations.

It remains to be seen how this change of policy will influence future
UN efforts. The temporary cordial U.S.-UN relations that character-
ized the cooperation during the Suez crisis are clearly far away from the
process of deterioration which Secretary-General Boutros-Ghali chose
to make the leitmotif of his memoirs. With Kofi Annan in office, the
working relations have been mended again[228] — even with the chance
of finally receiving the U.S. arrears in UN contributions. But the mate-

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[223] Boutros-Ghali, see note 2, 129.
[224] RR page 37.
[225] Melvern, Council, see note 6, 104.
[226] For a detailed account see M.G. MacKinnon, *The Evolution of US Peace-
keeping Policy under Clinton. A Fairweather Friend?*, 2000 as well as I.H.
Daalder, "Knowing when to say No: the Development of US Policy for
Peace-keeping", in: Durch, see note 5, 35 et seq. and M. Knapp, "Die
Macht der USA und die Moral der Staatengemeinschaft: Zur UN-Politik
der Clinton-Administration", in: M. Berg et al. (eds), *Macht und Moral.
Beiträge zur Ideologie und Praxis amerikanischer Außenpolitik im 20.
Jahrhundert. FS Knud Krakau*, 1999, 295 et seq.
[227] Boutros-Ghali, see note 2, 134.
[228] See M. Fröhlich, "The Old and the New UN Secretary-General", *Aussen-
politik* 48 (1997), 301 et seq.

rial from the reports also offer consequences for the role of the UN Secretary-General in peace-keeping.

The first thing to observe is that, unlike in Hammarskjöld's days, the Secretary-General cannot possibly micro-manage all the operations under way. The vast amount of institutionalization of peace-keeping — which Hammarskjöld in his days was highly skeptical of[229] — is a natural development in this respect. Expectations of Member States, the constant threat of financial bankruptcy and the various calls for reform will guarantee that time does not allow for a special role at every mission by the Secretary-General of today. The establishment of a Deputy Secretary-General probably eases the burden placed upon him, but does not create a fundamentally different situation. So, for example the participation of the Secretary-General in Security Council sessions as often as possible emerges as one of the key duties of the Secretary-General. The representation even by people of the stature of a Special Political Adviser or representatives etc. cannot substitute his prominent role as embodiment of the institution as such. As has been shown, Boutros-Ghali in various circumstances tried to push the international will to a more resolute answer. The method by which he pursued this aim - frequent reports that outlined different (but generally mutually exclusive) options on which Member States had to decide - certainly deserves credit. On the other hand, his absence from New York in the first weeks of the genocide in Rwanda[230] led to a serious lack of information and diplomatic momentum. In particular, at the point when the strengthening of UNAMIR was debated, there seems to have been a lack of orientation as to which option the Secretary-General preferred. The RR concludes: "Although the Secretary-General has argued that he made his preference for strengthening UNAMIR clear through a statement by his spokesman to the press, the Inquiry believes that the Secretary-General could have done more to argue the case for reinforcement in the Council."[231] Hammarskjöld (with far fewer missions under his responsibility) not only participated personally to a greater extent in Security Council sessions. In various unofficial discussions in his office he probably would have outlined the UN preference which by the time of the Council session would most probably have been framed into a draft resolution. The Inquiry in a similar vein concludes: "Boutros-Ghali was absent from New York during much of the key period of the

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[229] Urquhart, Life, see note 24, 137.

[230] Cf. Melvern, Council, see note 6, 108.

[231] RR page 37.

genocide. The Inquiry understands that Secretaries-General cannot be present at every meeting of the Security Council. (...) However, the role of the Secretary-General in relation to the Council in true crisis situations such as that of the Rwandan genocide, is one which can only to a limited extent be performed by proxy. Without the opportunity of direct personal contacts between the Secretary-General and the Security Council as a whole, and with its members, the role of the Secretary-General in influencing Council decision making cannot be as effective as if he were present."[232]

The era of such a prominent personal role[233] as Hammarskjöld played when bringing in the first peace-keepers to the spot or driving along demarcation lines may be over and would today merely create an even tighter schedule for the Secretary-General. The personal engagement by the Secretary-General is a precious asset that also can be devalued by over-emphasis. But there may be situations when the Secretary-General probably will face events that call for his involvement although the risk of failure may be high. The plea of the Dutchbat commander in the crucial hours before the fall of Srebrenica at least seems to point in such a direction. Maybe a Secretary-General would not get even near the place where the principles of the international community are at stake; but even then such a situation would probably help to clarify the political and moral claims in a given conflict.

In sum, all the information and recommendations in the various reports do not chart a definite course for the variety of present and future peace-keeping missions. While stressing the structural similarities between Rwanda, Srebrenica and even Suez, it has also become abundantly clear that every mission has its own special status, environment and "reality". Annan concludes that "it is almost impossible to define a technique that has differed nearly every time that it has been practised."[234] Therefore, it is likely that any peace-keeping effort will bring about hard choices to be made. Experiences in Rwanda and Srebrenica point to the fact that the detachment of the peacekeepers "remaining

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[232] RR page 48.
[233] Hammarskjöld's role and his philosophy of the United Nations were deeply inspired by a variety of sources and personal convictions that he modeled to become a sort of political ethics to permeate the theory and practice of the United Nations. This aspect encompassing such diverse elements as Christian Mysticism, the philosophies of Albert Schweitzer, Martin Buber or Henri Bergson cannot be dealt with here. For further details see Fröhlich, see note 23.
[234] Kofi Annan, see note 4, 3.

above the conflict"[235] from the warring parties may perhaps not only be established by refraining from the use of force but also perhaps that there could arise situations where even disproportionate force could underline the fact that an attack on UN peacekeepers and the people the international community pledged to protect is not the same (or even less risky for the aggressor) as attacking the military units of its rival party.

The experience of the NATO bombardments and action by the Rapid Reaction Force in Yugoslavia on the other hand cannot be read as an unambiguous proof of generally following this course of action. While the approach in the case of the former Yugoslavia seemed inevitable and paved the way to the Dayton peace accords, it also happened in the special circumstance that the UN peace-keeping force handed over to NATO after this escalation. But the crucial point for any use of force by peacekeepers is the question on how to get back to work with the parties once force has been applied with great intensity. Decisions in this context will inevitably have an ethical nature. The dilemma appears even more clearly with the SR hinting at the fact that UN inaction may not only have failed to prevent or hinder the planned massacre but may also have facilitated the realization of this plan.[236] In this context three concluding observations can be drawn from the present analysis and comparison:

First, peace-keeping is not scheduled to easily apply its constitutive principles without encountering conflicting choices between defending the mandate and not putting peacekeepers at risk, between saving lives and not supporting ethnic cleansing, between demilitarizing safe areas and depriving people of their right of self-defence, between offering face-saving compromise even for the "aggressor" party and not losing

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[235] B. Urquhart, "Mission Impossible", in: *The New York Review of Books* of 18 November 1999, 28.

[236] "Documents later obtained from Serb sources appear to suggest that this assessment was correct. Those documents indicate that the Serb attack on Srebrenica initially had limited objectives. Only after having advanced with unexpected ease did the Serbs decide to overrun the entire enclave. Serb civilian and military officials from the Srebrenica area have stated the same thing, adding, in the course of discussions with a United Nations official, that they decided to advance all the way to Srebrenica town when they assessed that UNPROFOR was not willing or able to stop them" (SR para. 264). Later on the report states: "Information from Serb sources appears to suggest that the decision to kill the men of Srebrenica may have been taken only after the fall of Srebrenica." (SR para. 345).

its own face or being humiliated by hostage-taking. It may also have to choose between providing humanitarian aid and not supporting criminal gangs which make a living out of the continuity of crisis and violence. Faced with hard choices like these a partial way out is offered by prevention. In this respect the above mentioned strengthening of the analytical and intelligence-gathering capacities of the organization is of vital importance. The RR in full acknowledgment of the difficulties UNAMIR faced when confronted with genocide strongly endorses plans for an early warning mechanism and an "action plan to prevent genocide".[237] Secretary-General Annan's pleas for a "culture of prevention"[238] therefore should not be misread as some illusionist formula. Prevention is a constitutive feature of any effort to breathe life into the concept of collective security by the United Nations.[239] Again this effort can be traced back to Hammarskjöld who conceptualized preventive diplomacy: "Corrective action, as you know, is infinitely more costly than preventive action."[240]

Second, peace-keeping means a fragile balance of ethical and legal principles based on the Charter kept alive by political and diplomatic support while partially employing military means. In order to keep the delicate equilibrium between principles and prerequisites, it has to work on improvisation and pragmatism. In that, it is as much a political as a military effort. As the case of Suez has already demonstrated, the problems, demands and commitments do not altogether cease but rather begin once the mission is deployed. The effort is not self-sustaining and neglect, erosion or absence of one of the principles or prerequisites cannot be compensated by abundance of others. Hammarskjöld's prognosis that existence of "good faith" is irreplaceable urges for a constant need "of nurturing the political support".[241] Otherwise, Boutros-

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[237] RR page 54.

[238] Cf. his speech before the Carnegie Forum on the prevention of deadly conflict Doc. SG/SM/6454 of 5 February 1998. The thought permeates his Annual Report for 1999, Doc. A/54/1.

[239] K. Dicke, "Bedeutungswandel kollektiver Sicherheit in der neuen Weltpolitik?", in: D.S. Lutz (ed.), *Globalisierung und nationale Souveränität. FS Wilfried Röhrich*, 2000, 399 et seq. See also M.S. Lund, "Underrating Preventive Diplomacy", *Foreign Aff.* 74 (1995), 160 et seq.

[240] Document in the Manuscript Division of the Royal Library Stockholm: Secretary-General, Statement Committee of Experts 24 June 1960.

[241] B. Urquhart, "Peace-keeping: we need serious Rethinking", *UN Chronicle* 35 (1998), 36 et seq.

Ghali's concern for orphan conflicts in world politics may be supplemented by orphan peace-keeping missions.

Third, peace-keeping after Srebrenica and Rwanda cannot be conceptualized as the tool to bring about a new world order. Five years after his predecessor's "Agenda for Peace"[242] Annan judged this document to come from a different time. Boutros-Ghali himself had made several adjustments to the original concept in his supplement to the agenda.[243] The three reports analyzed above may well constitute an alternative "Agenda" building on experience. While not having all the answers for peace-keeping efforts they still offer a remarkable potential for orientation. "Srebrenica" in this respect does not denote "a village in Europe"[244] but has become a landmark in the geography of "a vaguely defined no-man's-land lying somewhere between traditional peace-keeping and enforcement"[245] much the same as "Rwanda" indicates "a turning point in United Nations peace-keeping".[246] In other words, just as there is a "Mogadishu line" (which has been meticulously observed) there is also a "Srebrenica line" and a "Rwanda line" drawn by bitter political experience. It is by experience that a social institution like the United Nations develops its capacities and functions. As Hammarskjöld argued in his 1959 Annual Report on the work of the organization: "The statement of objectives in the Charter is binding and so are the rules concerning the various organs and their competence, but it is not necessary to regard the working methods indicated in the Charter as limitative in purpose. Thus, they may be supplemented by others under the pressure of circumstances and in the light of experience if these additional procedures are not in conflict with what is prescribed. (...) In this respect, the United Nations, as a living organism, has the necessary scope for continuous adoption of its constitutional life to the needs."[247]

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[242] Doc. A/47/277 - S/24111 of 17 June 1992. See also T. G. Weiss, "Problems for Future U.N. Military Operations", in: Kühne, Blauhelme, see note 16, 177 et seq.

[243] Doc. A/50/60 – S/1995/1 of 3 January 1995.

[244] F. Ajami, "The Mark of Bosnia. Boutros-Ghali's Reign of Indifference", Foreign Aff. 75 (1996), 162 et seq., (164) citing Boutros-Ghali.

[245] Ruggie, see note 3, 26.

[246] RR page 39.

[247] Introduction to the Fourteenth Annual Report 20 August 1959, in: CF IV, see note 94, 448-449.