

United Nations Peace-keeping in Internal Conflicts

Problems and Perspectives

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I. Introduction

Four decades ago, some of us on the threshold of a career in international law were excited, among other things, about the civil war in the Congo. The sudden departure of the colonial power, Belgium, from the Congo, effected apparently by the UN-inspired "wave of decolonisation," was followed by a barracks mutiny, triggered by the all-too-common demand of pay raise. The Belgians sent their paratroopers to quell the mutiny. The Congolese government asked for UN assistance, which led to a split between the President (Kasavubu) and the Prime Minister (Lumumba), who, in a struggle for supremacy, dismissed each other. The images of Lumumba's assassination, Khrushchev's "Troika" proposal and his shoe-banging in the UN General Assembly, the tragic death of the UN Secretary-General, Dag Hammarskjöld, in a plane crash, still haunt those of us with long memories.

Going by the images drawn by the print and television media, it appears the Congo has come full circle. An internal conflict, compounded by multiple external intervention, rages in the Congo today. Rwanda, Angola, Sierra Leone, to mention only a few other trouble spots in Africa offer competing pictures of horror. The ethnic cleansing and fratricide, the mass graves, the mutilation of limbs carried out by drugged -

and -indoctrinated child soldiers, continue with unabated fury. The present - day dramatis personae are different from those of four decades back, but the demonology and the motivations are similar grabs for power. An additional factor further vitiates the conflicts these days, i.e. the struggle to gain control over the natural resources of the country. Only the angels of peace, besides being in short supply, seem to be more ineffective this time - which can be attributed partly to a change in the perspectives at the UN headquarters. The present Secretary-General, Kofi Annan's views are fully presented in the following sections. For here, an introductory comment will be pertinent.

When asked to raise peace-keeping forces for the UN, one recalls, Dag Hammarskjöld scrupulously avoided contingents from the great powers. The present Secretary-General Kofi Annan, to the contrary, considers the troop offerings from the Third World insufficiently equipped and trained, and appeals to the great powers to contribute to a "rapid reaction force" with the capability to inflict unacceptable damage on the parties that defy the will of the international community - a stand reminiscent of that of the United States in the Military Staff Committee debates in the Fifties on the establishment of a permanent peace force to be kept at the disposal of the Security Council. The U.S., interestingly, has a different position on UN peace-keeping, that favours sending 5 to 6 thousand non-combatant, lightly equipped forces working under a non-unified command to do the job. It is also in favour of finding regional resolutions to internal conflicts. Witness, for example, its endorsement, with media support, of a regional initiative under Nigeria's leadership in the West African conflicts.¹

For this and a variety of other reasons discussed below, UN peace-keeping appears to be in big trouble these days. That is particularly saddening because the UN has had the advantage of hindsight of half a century of peace-keeping, the benefit of numerous scholarly expositions, and the availability of the analyses of the in-house "Lessons Learned Unit." Despite profound doctrinal expositions and the bitter experience over the last four decades, the UN still seems to be deficient. Interestingly, the debate on its deficiencies still centres round the size

¹ See, Editorial, "The War in Sierra Leone," *The New York Times* (NYT, hereafter) of 12 May 2000, which stated: "The Nigerians and their West African allies have a strong interest in stabilizing the region. Nigerian troops are also better equipped and better trained than the U.N. forces," an unfair reflection, for instance, on the Indian contingent with proven competence. See, "Kargil Heroes for Sierra Leone," *Times of India* of 16 May 2000.

and strength of UN response to contemporary conflicts. Quite obviously, the international community cannot muster enough forces to put peace-keepers in every town, for instance, in the Congo; but, if one were to wait for a force of 250,000 to take care of every internal conflict in the world, one would have to wait for long.² Apparently, it is not the overwhelming size or the formidable fire power that matters to meet these challenges; it is the clarity of the mandate and the resources placed at the disposal of the peace-keepers that will determine its effectiveness.

The debate on UN peace-keeping oscillates these days between two extremes: the rosy view, typically presented by the Secretary-General, and the one offered cynically by U.S. Senator Jesse Helms and his ilk in the media and the academia. Secretary-General Kofi Annan and Senator Jesse Helms merit, and have in the following sections received, an elaborate treatment. As a provocative sampler of the cynical view, one may present the opinion of Michael Ignatieff, the author of "Virtual War: Kosovo and Beyond". In a caustic comment on what he calls the UN's "astounding inability to learn from past mistakes" in peace-keeping, and recounting its failures in Rwanda, Srebrenica, Somalia etc., Ignatieff has lampooned its "incurable moral narcissism about its own good intentions [that] makes it unable to recognize that peacekeeping was so flawed that it must be abandoned altogether." He proceeds to add that it was time to "bury peacekeeping before it buries the UN," and that for its own survival, "it must abandon an ideal it has so comprehensively betrayed."³ Ignatieff's prescription let the Security Council to remain the ultimate source of legitimacy for the use of military force, and not the Secretariat, with combat-capable warriors operating under robust rules of engagement, with armour and ammunition and intelligence capability, and a single line of command to a national government or regional alliance.

A more vicious attack on UN peace-keeping was that of the conservative commentator Charles Krauthammer.⁴ Tracing its origin to then foreign minister of Canada, Lester Pearson, and its first application to the Suez conflict in 1957, Krauthammer argues that since then "the flimsiness and almost fictional quality" of peace-keeping has been con-

² See S. Mufson, "Sierra Leone's Peace Succumbs to Its Flaws," *Washington Post* of 8 May 2000.

³ M. Ignatieff, "A Bungling UN Is Undermining Itself," *International Herald Tribune* (IHT, hereafter) of 16 May 2000.

⁴ C. Krauthammer, "Take Over the Mess or Stay home," *IHT* of 5 June 2000.

sistently demonstrated. “Mercifully, however, Sierra Leone may finally mark the end of an idea whose nobility is matched by its emptiness,” is the cynical conclusion. Krauthammer’s believes that the only way to intervene is to occupy the country in question: “Take over a country, reorder the society, establish new institutions and create the basis for leaving one day. America did that in Germany and Japan after World War II and it worked... If you want to intervene, do it seriously”. “Occupy, or stay home,” is the advice. As against this carping extremism, Kofi Annan’s advocacy of intervention with force in cases of genocide and other gross human rights violations, sounds a refreshingly preferable idealism.

Although the language is strong and cynical, the analysis and the prescriptions (especially those of Ignatieff) bear scrutiny, and the point seems to get vindication in the United Nations’ own soul-searching exercises over Rwanda and Srebrenica and in its vicissitudes in Angola, Kosovo, Congo and Sierra Leone - a highly selective but significant list of UN woes.

II. The Setting

The end of the Cold War has ushered in a troubled and tenuous peace, characterised by a happy decline in inter-state warfare, but also by an upsurge in internal conflicts. These internal conflicts have been brutal, claiming more than 5 million lives. And, as the UN Secretary-General’s Millennium Report poignantly points out, the post-Cold War internal conflicts

“have violated, not so much borders, as people. Humanitarian conventions have been routinely flouted, civilians and aid workers have become strategic targets, and children have been forced to become killers. Often driven by political ambition or greed, these wars have preyed on ethnic and religious differences, they are often sustained by external economic interests, and they are fed by a hyperactive and in large part illicit global arms market.”⁵

The internal conflicts have posed an enormous challenge to the international community and to its institutional reflection, i.e. the United Na-

⁵ Millennium Report of the Secretary-General of the United Nations: “We the Peoples — The Role of the United Nations in the 21st Century.” Hereafter, The Millennium Report.

tions. This paper strives to explore the nature of the challenge and the international response to some of them, e.g. Rwanda, Kosovo, Angola and the Congo. The exercise is facilitated by, and relies mostly on, the reports of expert panels appointed by the United Nations. One could commence the analysis with the initiative taken by the UN Secretary-General to address the issues raised by internal conflicts and the adequacy of traditional peace-keeping by the United Nations.

In an apparent effort to salvage the sorely tested peace-keeping functions of the United Nations, Secretary-General, Kofi Annan, appointed on 7 March 2000 an international panel to look at every aspect of United Nations peace-keeping and make recommendations on how such missions can be made more effective. At a press conference that day, Annan clarified the panel's mandate thus: "Partly it is a question of being clearer about what we are trying to do. And partly it is a question of getting the nuts and bolts right."⁶ One specific question posed to the panel, he said, was: "What do you do if the peace you are trying to keep breaks down and large numbers of civilians are in danger of being massacred?"⁷ This question has troubled the conscience of the UN community from the time two damaging reports were presented by expert bodies on the UN's failure to stop the killing of Muslims in the Bosnian town of Srebrenica in 1995 and the massacre of the ethnic Tutsis in Rwanda the year before. These bitter experiences are described below. Before recounting them, some data on the peace-keeping operations of the UN will help.

⁶ The UN Department of Peace-keeping Operations had set up in 1995 "The Lessons Learned Unit", designed "to be a permanent mechanism that would act as both a repository of individual and organizational experience and an analytical core for the planning, management and execution of peacekeeping missions." See, the UN website under Peace-keeping Operations. The mandate of the new panel of experts set up by Kofi Annan coincides with most of the objectives of the Lessons Learned Unit. Despite the overlap, hopefully the two bodies will have many common lessons to draw from the peace-keeping missions.

⁷ See B. Crosette, "Annan Sets Up Panel to Study U.N.'s Peacekeeping Predicament", *NYT* of 8 March 2000. The panel is to be led by L. Brahimi, a former Algerian foreign minister, and the report is to be written by W. Durch an arms control and Balkan specialist at the Henry L. Stimson Centre in Washington, D.C. The other panel members are: J. Brian Atwood, Dame Ann Hercus, Richard Monk, Gen. Klaus Naumann, Hisako Shimura, Gen. Philip Sibanda, and Cornelius Sommaruga.

Between 1948 and 1998 there have been 49 United Nations peace-keeping operations. Thirty six of which were created between 1988 and 1998, the year in which the United Nations peace-keeping was awarded the Nobel Peace Prize. More than 750.000 military and civilian police personnel, and thousands of other civilians, from 111 different countries, have served in these peace-keeping operations. As of 31 August 1998, 14.453 peace-keepers were serving the UN peace-keeping operations. During those 50 years of peace-keeping, 1.581 had lost their lives (of which 1.375 were military personnel, and the rest non-military, including police personnel, observers, civil and local employees)⁸ in "an attempt", as Kofi Annan put it at the special commemorative meeting of the General Assembly honouring 50 years of peace-keeping, "to confront and defeat the worst in man with the best in man; to counter violence with tolerance, might with moderation, and war with peace."⁹

Recounting the mixed experiences of UN peace-keeping, attributing the failures to the mis-match between the mandate and the resources placed at the disposal of the peace-keepers, Annan confessed that

"in some places - Rwanda and the former Yugoslavia - we have found ourselves standing by, in impotent horror, while the most appalling crimes were committed. There the limits of peacekeeping were graphically demonstrated: we learned, the hard way, that lightly armed troops in white vehicles and blue helmets are not the solution to every conflict. Sometimes peace has to be made - or enforced - before it can be kept."¹⁰

Those calamities - the loss of life, the wanton destruction of towns and villages, the shredding of the very fabric of humanity, stated the Secretary-General, should not lead one to a sense of fatalism and to seek "the cynic's answer and the coward's solution" of doing nothing when conflict rages and fellow humans suffer in distant lands. One cannot claim that peace-keeping has been the answer to every conflict, nor had it prevented the recurrence of genocide, but one can proudly claim, added Annan, that the "blue helmets" have saved tens of thousands of lives.¹¹

⁸ See under www.un.org/Depts/dpko

⁹ See Doc. SG/SM/6732 of 6 October 1998.

¹⁰ Ibid.

¹¹ Ibid. A similar claim by the U.S. Secretary of State, Albright, that the NATO action, besides saving many lives, had enabled the return of 800.000 refugees, was dubbed by columnist Flora Lewis, as "self-congratulatory rhetoric". One year after NATO's big bombing and peace-enforcement, said Lewis, Kosovo "isn't still working: There is still no governance, no

Compared to the lives saved, the cost in terms of fatalities of UN personnel can be considered negligible. It is not, however, the number of dead and the injured that is worrisome. Not even the occasional ambushes, the hostage taking, the jostling and jeering, and the rock-throwing at the UN units.¹² Peace enforcers at the national level undergo more harrowing experiences. What is troubling is the kind of law-enforcement assignments that the UN peace-keepers are called upon to undertake in treacherous conditions of ethnic and civil conflicts, such as those in the Balkans, East Timor, several war zones in Africa, Cyprus, Tajikistan, Haiti, Guatemala, and so on. The United Nations is expected to scramble and deploy about 9,000 police officers in these troubled areas as soon as possible. That includes 4,718 for Kosovo, 2,057 for Bosnia, and 1,640 for East Timor. Governments have sent 5,122 officers by the time of writing.¹³ The Kosovo and East Timor peace-keepers were armed, but inadequately, as mentioned. According to an UN expert at the Council on Foreign Relations, Ruth Wedgwood: "Every time there has been any question of where to put together a really robust police force, everybody has ducked."¹⁴ Sending unarmed or inadequately armed personnel in volatile, and very often, explosive situations is a dangerous thing to do. Rwanda and Srebrenica show how dangerous it could get. The trouble in the Congo will enhance one's appreciation of those most tragic debacles.

In February 2000, the UN Security Council gave its unanimous support to an American-backed plan to send a peace-monitoring mission to the Congo. Under the Security Council plan, a team of 500 UN observers, protected by 5,000 troops and support personnel, are to be sent to four strategic areas to document violations of the cease-fire and to help arrange the movement of the various armies and militias to de-

adequate security, not enough economy, no prospect for the 30,000 troops operating there under NATO command to complete their mission." See F. Lewis, "The Kosovo Mission of the United Nations is Being Left to Fail," *IHT* of 10 March 2000.

¹² For an account of the humiliating treatment that NATO contingents in Kosovo are subjected to, see C. Gall, "Serbs Stone U.S. Troops in Divided Kosovo Town", *NYT* of 21 February 2000. See also W. Pfaff, "The News From the Kosovo-Serbia Border Is Bad", *NYT* of 9 March 2000, for a perceptive account of the Albanian and Serbian irredentism implying dolorous consequences for regional peace.

¹³ B. Crossette, "The U.N.'s Unhappy Lot: Perilous Police Duties Multiplying", *NYT* of 22 February 2000.

¹⁴ *Ibid.*

fensive positions. A truly daunting task indeed. For a country the size of the Congo and the bewildering complexities of combat, the sanctioned strength of 5.500 peace-keepers is apparently inadequate. But getting even that was not easy. The debate that preceded the adoption of the Congolese peace mission plan was intensely acrimonious, provoking a western diplomat to comment that at the end there was "blood on the floor." And the predominant role played by the U.S. in the debate led a few Africans to feel that they were "bullied."¹⁵ The blood letting preceding the adoption of the peace-keeping resolution in the Security Council forced it to take the cautious stand that the peace-keeping forces would not be deployed until there was peace on the ground and adequate assurances that all international personnel would be safe. Critics of the UN response to the Congo have noted its inadequacy in comparison to that of the Kosovo: the Congo has four times the land mass of Kosovo, with worse roads and thick forests, and Kosovo has proved a big task for nearly 40.000 NATO troops, which are generally better trained and equipped than United Nations peace-keepers.¹⁶

The peace-keeping predicament of the UN, more generally, gets magnified in the context of the many conflicts in Africa that are sustained by its bountiful natural resources. This theme, together with the problem of getting UN peace-keeping's "nuts and bolts right" (Kofi Annan's phrase), will be pursued in an ensuing section. This section will highlight the UN's tragic failures in Rwanda and Srebrenica, that led to what a commentator called an *examen de conscience* of the UN.

III. Examen de Conscience Cases

1. Rwanda

The Report of *The Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda*, officially so titled (Rwanda Report, hereafter)¹⁷ states categorically that approximately 800.000 people were killed during the 1994 genocide in Rwanda. The systematic slaughter of men, women and children took place between

¹⁵ B. Crosette, "U.N. Faces Big Challenge in Any Congo Peacekeeping Mission," *NYT* of 31 January 2000.

¹⁶ See, D.G. McNeil Jr., "Foes in Congo Appeal for U.N. Peacekeepers," *NYT* of 10 April 2000.

¹⁷ See, www.un.org/News/ossg/rwanda_report.htm

April and July 1994. In one of the most abhorrent events of the twentieth century, Rwandans killed Rwandans, brutally decimating the Tutsi population of the country, as well as moderate Hutus. Skipping the gruesome details, one may note the Report's findings of the failure of the United Nations to prevent the massacre of the country's Prime Minister, Minister for Labour and Social Affairs and his family, a former Foreign Minister, a judge and numerous others. The mayhem had started within hours of the shooting down of a plane on 6 April 1994 carrying Rwanda's President and the President of Burundi. Everyone on board was killed.

The Prime Minister was killed inside the United Nations Volunteers (UNV) compound in Kigali. The UN peace-keepers on security detail and those who resisted were badly beaten, and some Belgian soldiers were brutally killed. The tragedy can be attributed, among other things, to the instructions received from the headquarters to the effect that the UN mandate to the peace-keepers was not to use force, except in self defence. Some of them died defending themselves or those under their charge, while others fled into the fields when outnumbered.

The mandate was so interpreted because of the usual perception at the headquarters that in a civil war the role of the United Nations was that of a neutral mediator - a position consistent with the customary international law norm requiring neutrality of third parties in a civil war. In a classical state of belligerency - with a.) well-defined and recognisable leadership, b.) engaged in a civil war conducted in conformity with the laws of war, c.) exercising control over a substantial part of the state's territory, and d.) enjoying the allegiance of the people under occupation - the attitude of neutrality imposed by customary international law makes sense. But in a situation where hundreds of thousands civilians were being massacred, adherence to the customary norm of neutrality would, besides being morally wrong, constitute a clear violation of the tenets, identified above, on which the principle was based. The Rwanda Report had an unequivocal position on this

"Faced in Rwanda with the risk of genocide, and later the systematic implementation of a 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. While the presence of United Nations peacekeepers in Rwanda may have begun as a traditional peacekeeping operation to monitor the implementation of an existing peace agreement, the onslaught of the genocide should have led decision-makers in the United Nations -

from the Secretary-General and the Security Council to Secretariat officials and the leadership of UNAMIR - to realise that the original mandate, and indeed the neutral mediating role of the United Nations, was no longer adequate and required a different, more assertive response, combined with the means necessary to take such action."¹⁸

The Rwanda Report noted the reluctance of Member States to commit themselves to stop the genocide. Two months after the killing had started, the UN had too few troops on the ground. The apathy in the Security Council was close to criminal negligence. Six months before the massacre, a Special Rapporteur of the Commission on Human Rights had reported that massacres and other serious human rights violations were taking place in Rwanda.¹⁹ Although the report refrained from making a judgement as to whether the acts constituted genocide, it nevertheless stated that the cases brought to its attention indicated "very clearly that the victims of the attacks, Tutsis in the overwhelming majority of cases, have been targeted solely because of their membership of a certain ethnic group and for no other objective reason."²⁰ The Rwanda Report cites numerous other pieces of evidence, including primarily field reports, to the effect that the Security Council was aware of the massacre, but had chosen to ignore it for a crucial length of time. And when it chose to act, it was too late and too little.

Persistent reports of attacks amounting to genocide from the field forced the Secretary-General to change his stand on neutrality and to recommend to the Security Council stronger measures. The final observations in the Secretary-General's report to the Council were: "The delay in reaction by the international community to the genocide in Rwanda has demonstrated graphically its extreme inadequacy to respond urgently with prompt and decisive action to humanitarian crises entwined with armed conflict ... We must all realize that, in this respect, we have failed in our response to the agony of Rwanda, and thus have acquiesced in the continued loss of human lives."²¹ On 8 June 1994 the Security Council adopted Resolution 925 which endorsed the Secretary-General's proposal of May to create UNAMIR II, which would include 5.500 troops with an expanded mandate, and urged Member States to respond promptly to the Secretary-General's request for re-

¹⁸ Ibid., at 33.

¹⁹ Ibid., at 3.

²⁰ Ibid.

²¹ Ibid., at 17.

sources, including logistical support capability for rapid deployment of additional forces.

Three aspects of the Security Council's response should be noted at this stage. First, that the Secretary-General's effort to enlist support and mobilise more troops following the 8 June resolution did not meet with success. Second - months after that resolution was adopted, as stated, UNAMIR still had only a limited amount of troops, a tenth of the authorised strength, on the ground. The paltry response could be attributed to the rift in the Council over the measures to be employed to meet such a serious situation (France and New Zealand advocated enforcement action under Chapter VII; the U.S. and U.K. were unwilling to take such a step). Third - China and other developing countries, fearing the impact of such an intrusive precedent in their domestic situations, were not willing to view the proceedings in Rwanda as a genocide, preferring to call it "acts of genocide" - a term that became standard lingo of the Security Council resolutions.

The Rwanda Report, however, unequivocally concluded that the response of the United Nations before and during the 1994 genocide in Rwanda failed in a number of fundamental respects. The responsibility, said the Report, lied with a number of different actors, in particular the Secretary-General, the Secretariat, the Security Council, UNAMIR and the broader membership of the United Nations. The overriding failure was attributed to the lack of resources and political leadership, leading "to the terrible and humiliating situation of a UN peace-keeping force almost paralysed in the face of a wave of some of the worst brutality humankind has seen in this century."²² Recommendation 3 of the Report, consequently, was: that the Security Council and the troop contributing countries "must be prepared to act to prevent acts of genocide or gross violations of human rights wherever they may take place. The political will to act should not be subject to different standards."²³

Recommendation 14 of the Rwanda Report deserves attention. "The United Nations", it states, "should acknowledge its part of the responsibility for not having done enough to prevent or stop the genocide in Rwanda."²⁴ Earlier, the Report had categorically stated that the UN had failed to protect the people of Rwanda during the genocide in 1994. It was a failure, it said, "for which the United Nations as an organization,

²² *Ibid.*, at 19.

²³ *Ibid.*, at 37.

²⁴ *Ibid.*, at 38.

but also its Member States, should have apologized more clearly, more frankly, and much earlier."²⁵

The Report's last recommendation was swiftly acted upon. On 16 December 1999, the Secretary-General issued a statement to this effect: "On behalf of the United Nations, I acknowledge this failure and express my deep remorse."²⁶ The statement added: "Of all my aims as a Secretary-General, there is none to which I feel more deeply committed than that of enabling the United Nations never again to fail in protecting a civilian population from genocide or mass slaughter."²⁷ The remorse and confession of failure, however, left the chairman of the Rwanda expert panel, Ingvar Carlsson, a former Swedish Prime Minister, puzzled. At a news conference, after presenting the Report, Carlsson said that it was "hard to understand" why the Security Council decimated the peace-keeping force in Rwanda, reducing it to a few hundred-from 2,500 troops when the genocide began, and then increased the force to 5,500 when the weeks of massacres were over.²⁸ Carlsson was particularly hard on "those who didn't care at all, who said Rwanda is a distant African country."²⁹

Although Kofi Annan's apology was generally well received, some doubted if the responsibility was his or that of the organisation, as much as that of the individual members. The United Nations' ability to respond to crises can be only as strong as the will of its leading members to provide necessary resources. If the world's leading governments are indifferent to genocide, editorialised the *Washington Post*, the United Nations should not act as the vehicle for token interventions to hide their shame. "The shame of Rwanda", the editorial added, was "that the United Nations did send a token force to the region, as a salve

²⁵ *Ibid.*, at 34.

²⁶ See, http://www.un.org/News/ossg/sgsm_rwanda.htm
See also B. Crosette, "UN Bungled Intervention in Rwanda, Inquiry Says - World Body and U.S., Despite Warnings, Did Little to Stop Genocide," *IHT* of 17 December 1999; and for the searing editorials of *The Washington Post*, "The UN Apologizes," and "Confession on Rwanda," *IHT* of 19 and 21 December 1999. See also, F. Lewis, "A Strong Blow to Hypocrisy at the United Nations," *IHT* of 19 November 1999; and W. Pfaff, "A Valuable UN Apology, but Nations Were Mainly at Fault," *IHT* of 22 November 1999.

²⁷ See N. Winfield, "Report Concludes U.N. Failed Rwanda," *AP International News* of 17 December 1999.

²⁸ Crosette, see note 26.

²⁹ See, "Confession on Rwanda," see note 26.

to its members' consciences, but then stood by as the horror unfolded."³⁰

The disingenuous distinction made in the Security Council deliberations between "genocide" and "acts of genocide" equally attracted caustic comment. It was pointed out that the distinction had led to the slaughter of 500.000 to 800.000 Rwandans. "No finer distinction is likely ever to have cost so many so much", said Stephen Solarz, David Aronson and Stephen Weissman, the founders of the Campaign Against Genocide in a comment to *The Washington Post*.³¹ The commentators also noted that the U.S. was the only relevant power that had refused to investigate its response to the genocide. The French and Belgian parliaments and the Organisation of African Unity had undertaken such an *examen de conscience*, as the French elegantly phrase it, commented the writers.

This section must be concluded with the Secretary-General's own comment on the nature of the Rwanda tragedy. In his 16 December 1999 statement on receiving the Rwanda Report, referred to earlier, the Secretary-General stated categorically that approximately 800.000 Rwandans "were slaughtered by their fellow countrymen and women, for no other reason than that they belonged to a particular ethnic group. That is genocide in its purest and most evil form."³²

2. Srebrenica

The soul-searching at the United Nations did not start with the Rwanda fiasco. A month earlier, Secretary-General Kofi Annan himself had presented a report on the fall of Srebrenica which was equally damaging³³ (the Srebrenica Report, hereafter). The report was commissioned by the General Assembly a year earlier, by Resolution 53/35 of 30 November 1998. What followed was a classic case of self-examination of conscience, "a startling exercise in candour", as a commentator noted, "in an institutional context usually given to self-serving justification, hypocrisy and therefore a habit of cynicism which

³⁰ Ibid.

³¹ S.Solarz/D.Aronson/S. Weissman, "Genocide in Rwanda While Washington Dithered", *IHT* of 21 February 2000.

³² See note 26.

³³ Doc. A/54/549 of 15 November 1999. Cited as Srebrenica Report, hereafter.

pervades and undermines the whole idea of maintaining peace.”³⁴ Kofi Annan merited commendation in particular for the courage shown in paring away the usual excuses and exposing the unwillingness of the Member States to react to the impending tragedy. He was the head of the Bosnian peace-keeping operation and in the direct chain of command that so tragically failed Srebrenica.

The Srebrenica Report, however, goes beyond the personal courage or *mea culpa* of the Secretary-General. It throws a serious challenge and prods Member States to ponder over “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.”³⁵ The Report raises this and a range of other 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. The Report posits the cardinal question of the scope of institutional response and draws the lesson “that a deliberate and systematic attempt to terrorize, expel or murder an entire people must be met decisively with all necessary means, and with the political will to carry the policy through to its logical conclusion. In the Balkans, this lesson has had to be learned not once, but twice. In both instances, in Bosnia and in Kosovo, the international community tried to reach a negotiated settlement with an unscrupulous and murderous regime. In both instances it required the use of force to bring a halt to the planned and systematic killing and expulsion of civilians.”³⁶ The failure to do so, concluded the report, had led to the tragedy of Srebrenica that “will haunt our history for ever.”³⁷ The Srebrenica Report set out in meticulous, systematic, exhaustive and arrowing detail the descent of Srebrenica into a horror without parallel in the history of Europe since World War II. The International Tribunal for the Former Yugoslavia described the horror well in its indictment of Radovan Karadzic and Ratko Mladic:

“After Srebrenica fell to besieging Serbian forces in July 1995, a truly terrible massacre of the Muslim population appears to have taken place. The evidence tendered by the Prosecutor describes scenes of unimaginable savagery: thousands of men executed and

³⁴ Lewis, see note 26.

³⁵ Srebrenica Report, para. 505.

³⁶ *Ibid.*, para. 502.

³⁷ *Ibid.*, para. 503.

buried in mass graves, hundreds of men buried alive, men and women mutilated and slaughtered, children killed before their mothers' eyes, a grandfather forced to eat the liver of his own grandson. These are truly scenes from hell, written on the darkest pages of human history."³⁸

The barbarity was part of the war that began in April 1992, in which Serbia had captured and consolidated its territorial acquisitions in Bosnia and Herzegovina in the first 60 days of the war. During that short period of 60 days, approximately 1 million people were displaced from their homes; and several tens of thousands of people, most of them Bosnian Muslims, were killed.

The war in Bosnia and Herzegovina had in it elements of both an international and an internal armed conflict. The parties to the first were the Army of Yugoslavia, pitted against those of Bosnia and Herzegovina, and Croatia. The international conflict was conducted with minimal casualties and ended with peace agreements brokered by the United Nations, with a certain degree of coercive persuasion. The internal dimension of the conflict in Bosnia and Herzegovina was different. It was mostly local, with regular and irregular fighters - operating close to their homes. The central objective of this fight was the use of military means to terrorise civilian populations and perpetrate what later came to be known as "ethnic cleansing." Although several hundred thousand men were engaged in this conflict for three and a half years, and tens of thousands of combatants were killed, the conflict was more often one of attrition, terror, and negotiation, than it was of high-intensity warfare. The relief effort mounted by the UN - was frustrated by undisciplined and drunken soldiers of undetermined political affiliations and not responsible to any identifiable central authority. A report to the Security Council described how relief supplies were stolen, vehicles hijacked and international aid workers threatened and abused.³⁹ Operating in this chaotic conditions, the Security Council chose to adopt a policy which according to the Force Commander of the UN Protection Force (UNPROFOR) amounted to "mak[ing] war and peace at the same time."⁴⁰

The Srebrenica Report contains a painstakingly reconstructed narrative of how the international community failed in Srebrenica and elsewhere in Bosnia and Herzegovina. It also seeks to find answers to,

³⁸ Ibid., para. 2.

³⁹ See, Secretary-General's Report of 12 May 1992, Doc. S/23900, paras 3-6.

⁴⁰ Srebrenica Report, para. 51.

and draw lessons from, the conflicting responses of the numerous actors in this gruesome drama. The one pertaining to the Security Council merits recounting. The Security Council, the Report states, made many mistakes in handling the conflict, the principal one of which was the effort "to keep the peace and apply the rules of peacekeeping when there was no peace to keep." It established a peace-keeping force flouting all the tenets of peace-keeping, e.g. agreement between the parties, deployment by consent, and impartiality. It imposed an arms embargo - that froze the military balance that was overwhelmingly in favour of Yugoslavia, and thus "effectively deprived the Republic of Bosnia and Herzegovina of its right, under the Charter of the United Nations, to self-defence." The effort to provide humanitarian aid, although in itself admirable, was a wrong response to ethnic cleansing and to attempted genocide, the Report stated.⁴¹

Finally, on peace-keeping, the Srebrenica Report pointed out that the Security Council was repeatedly told by the Secretary-General that applying peace-keeping techniques would inevitably fail in a situation of war. None of the basic tenets of peace-keeping, mentioned in the preceding paragraph, i.e., cessation of hostilities under an international agreement, consent of the parties etc., existed in Bosnia and Herzegovina. "Nevertheless," added the Report, "*faute de mieux*, the Security Council decided that a United Nations peacekeeping force would be deployed. Lightly armed, highly visible in their white vehicles, scattered across the country in numerous indefensible observation posts, they were able to confirm the obvious: there was no peace to keep."⁴² Never again, was the concluding refrain of the Report.

⁴¹ Ibid., paras 488-493.

⁴² Ibid., para. 492. Former Secretary-General Boutros Ghali's warnings, incidentally, were supplemented by Flora Lewis with the revelation that he had told the columnist "that the job of the secretary-general was to serve the member states, and if what they required was a cover or a scapegoat for their own refusal to act, then that, too, was part of the job." Annan, according to Lewis, was saying "no" to that reading of the vocation of the Secretary-General, and was advocating "a robust, active, interventionist kind of peacekeeping than the United Nations has normally known. He is saying to member states: Put up or shut up - don't expect the UN without force of its own to do what you don't want to do." See Lewis, see note 26.

IV. The Problem of Perceptions of UN Peace-keeping

1. The American Mosaic

It is axiomatic that state sovereignty is not a license to kill and brutalise people. Nor is it a license to perpetuate genocide and ethnic cleansing. Such practices clearly constitute a violation of international law. What is less clear, however, is: who has the right to punish such violations? This ambiguity over the punitive authority has led unscrupulous national leaders to invoke and use the sanctity of state sovereignty as a shield for repressive policies. The United Nations is and ought to be the primary candidate for wielding such punitive power, but there have been some national claimants too, like the United States. This section examines the American position in this regard, by reference to the views of those that formulate and implement American foreign policy and determine its response to UN peace-keeping—the U.S. President, chairman of the U.S. Senate Foreign Relations Committee, and the Secretary of State. In an address to the end of the - millennium 54th Plenary Sess. of the UN General Assembly, President Bill Clinton vowed “to strengthen the capacity of the international community to prevent and *whenever possible* to stop outbreaks of mass killing and displacement.”⁴³ The response of the international community was bound to be different in view of the varying capacities of the countries to act and their perception of their national interests, he said, and added: “NATO acted in Kosovo, for example, to stop a vicious campaign of ethnic cleansing in a place we had *important interests at stake* and the *ability to act* collectively.”⁴⁴ Clinton was conscious of the fact that some were troubled at this conditional support of the U.S. to UN peace-keeping operations. The answer to such scepticism was: “We cannot do everything, everywhere.”⁴⁵ The different interests, however, in different parts of the world, warned Clinton, did not mean that the U.S. would be indifferent to the destruction of innocents in any part of the world. The U.S. would develop flexible responses to such tragic calamities, in association with other

⁴³ GAOR 54th Sess., 6th Plen. Mtg. of 21 September 1999, at 4. Italics ours.

⁴⁴ Ibid., Emphasis supplied. Despite the immense effort to combat the evils of ethnic cleansing and securing the return of hundreds of thousands of Kosovar Albanians, “Kosovo stands now”, editorialised *The Washington Post*, “as a test case of the merits of military intervention to defend human rights”, see *IHT* of 27 December 1999.

⁴⁵ Ibid.

concerned states conscious of their shared responsibility, as in Africa and East Timor.

For a comprehensive perspective of U.S. policy on humanitarian interventions, one must juxtapose President Clinton's statement to the UN General Assembly with the one made by Senator Jesse Helms in the Security Council a few weeks later. Senator Jesse Helms, chairman of the U.S. Senate Foreign Relations Committee, was invited by the Security Council's chairman of the month, Richard Holbrooke, to meet and exchange ideas with the members of the Council, and to address the Council on 20 January 2000. The invitation was an attempt to build bridges with a hostile U.S. congress that had held up payment of UN dues. The two leaders had in the immediate past worked out a deal on the payment of more than a billion US\$ owed to the UN over the years. The package, however, came with conditions. And Senator Helms took the opportunity to explain.

Although avowedly extending a "hand of friendship", Senator Helms delivered "the sort of clenched-fist message that has made him the symbol of right-wing hostility toward the United Nations," as a commentator noted.⁴⁶ Senator Helms' asserted repeatedly that he was speaking for the American people, a claim that cannot be ignored in view of his official position in the U.S. senate, despite the fact that the Secretary of State, Madeleine Albright, had issued a refutation to that claim saying that only the President of the U.S. and the state department formulated foreign policy and could speak on the subject on behalf of the American people.⁴⁷

Underlining the importance of paying heed to the conditions laid down by the congress for clearing the arrears, Senator Helms reminded his audience that an illustrious predecessor of his, i.e. Henry Cabot Lodge, had put up 14 conditions to the treaty establishing the League of Nations which President Woodrow Wilson had indignantly dismissed, for personal pique,⁴⁸ with disastrous results. The conditions prescribed by Lodge, in the words of Senator Helms, "included language to ensure

⁴⁶ B. Crosette, "Firm Words from Albright About Helms and the U.N.," *NYT* of 25 January 2000.

⁴⁷ *NYT* of 21 January 2000.

⁴⁸ President Wilson, according to Senator Helms, had refused to make a deal with Senator Lodge shouting at one point "Never, never, never ... I'll never consent to adopting any policy with which that impossible man is so prominently identified." See, for the text of Senator Helms' speech *NYT* of 21 January 2000, 11-16.

that the United States remained the sole judge of its own internal affairs, that the League not restrict any individual right of US citizens, that the congress retain sole authority for deployment of US forces through the League...."⁴⁹ Senator Helms derived some satisfaction that the present U.S. administration was not repeating President Wilson's "fatal" mistake. If the UN were to reject this compromise, Senator Helms proclaimed, "it would mark the beginning of the end for U.S. support for the United Nations."⁵⁰ He did not want that to happen, said Senator Helms, and urged the Security Council to measure up to the expectations of the American people and the vision they had of the United Nations, and desist imposing some utopian view of the organisation. Senator Helms' understanding of what the American people wanted of the UN deserves analysis.

Senator Helms and the American people, according to him, wanted a more effective UN, "but if the United Nations is to be effective, it must be an institution that is needed by the great democratic powers of this earth, the world, and most Americans - I must be candid - do not regard the United Nations as an end in and of itself. They see it as just one aspect of America's diplomatic arsenal." American people, in Senator Helms' view, will support the UN to the extent it meets their standard of effectiveness. If the organisation "becomes ineffective or, worse, a burden ... [they] will cast it aside", he declared. Senator Helms' understanding of the core tasks of the UN, again in terms of what the American people wanted was

"... to help sovereign nations coordinate collective action by coalitions of the willing, where the political [will] for such action exists, and ... to provide a forum where diplomats can meet and keep open channels of communications in times of crisis, and ... to provide to the peoples of the world important services, such as peacekeeping, weapons inspections, and humanitarian relief As matters stand, many Americans sense that the United Nations has greater ambitions than simply being an efficient deliverer of humanitarian aid, and a more effective peacekeeper, a better weapons inspector, and a more effective tool of great power diplomacy. The American people see the United Nations aspiring to establish itself as the central authority of a new international order of global laws and global

⁴⁹ Ibid., at 7.

⁵⁰ Ibid.

governance. This is an international order the American people, I guarantee you, do not and will not countenance.”⁵¹

Senator Helms made a strong plea for the protection of national sovereignty by the UN, but added a caveat, “but nations derive their sovereignty, their legitimacy, from the consent of the governed. Thus it follows that nations lose their legitimacy when they rule without the consent of the governed.”⁵² Measured by that yardstick, Senator Helms declared Milosević, Fidel Castro and Saddam Hussein unfit to govern their nations. From that niche it was natural for Senator Helms to take the position that “when the oppressed peoples of the world cry out for help, the free people of the world have a fundamental right to respond.” Intervention “in cases of widespread oppression and massive human rights” is then justified. The United States has a long history, according to Senator Helms, of coming to the aid of those struggling for freedom. During the 1980’s, this U.S. policy was christened the Reagan doctrine, stated Senator Helms.

Under the Reagan doctrine, according to Senator Helms, America had sought to bring down communist regimes that were oppressing their peoples. The democratic expansion of freedom in the last decade (the post-Cold War period in an obvious reference), for Senator Helms, was a direct result of the Reagan doctrine. Claiming legitimacy for the Reagan doctrine, Senator Helms maintained that the American people will never accept the claims of the United Nations to be the sole source of legitimacy on the use of force in this world. Referring to the establishment of the International Criminal Court against the wishes of the U.S., and more particularly the move of the chief prosecutor of the Yugoslav war crimes tribunal to investigate into the alleged war crimes committed by NATO forces during the Kosovo campaign, Senator Helms declared, any such move “would be the death knell of the International Criminal Court”. A brave new world which, according to Senator Helms, the UN was seeking to establish ushering in a system of global justice in which independent prosecutors and judges “answerable to no state or institution” was anathema to the foreign policy and national security interests of the U.S., and was unacceptable to the American people.⁵³

Senator Helms made the point - which is of interest to lawyers - that American courts routinely refuse to sit in judgement over the Execu-

⁵¹ Ibid., at 8.

⁵² Ibid., at 9

⁵³ Ibid., at 13.

tive's national security decisions, stating that they were not competent to judge such decisions. If the Administration did not submit national security decisions to its own courts why would it, Senator Helms argued, submit them to an international court. Americans, according to him, distrust concepts like the International Criminal Court and claims by the UN to be the sole source of legitimacy, and reject the "idea of a sovereign United Nations." If the UN was to survive into the 21st century, advised Senator Helms, "it must recognise its limitations," stop "trying to impose a utopian vision on America, and the world", failing which it "begs for confrontation and ... eventual U.S. withdrawal."⁵⁴

At the end of Senator Helms' address, nearly every member of the Security Council challenged his bleak portrayal of the United Nations and criticised the United States for letting it down. Significantly, the Namibian representative took impassioned exception to Senator Helms' assertion that the Reagan doctrine had brought freedom and democracy to the world. On the contrary, the Reagan doctrine, he said, denied independence to Namibia and its Southwest African Peoples Organisation, gave support to apartheid South Africa and empowered the UNITA rebel movement in Angola, that led to the prolongation of the civil war for a quarter century. The Namibian representative added: "It [i.e., the Reagan doctrine] contributed to a lot of suffering in Africa. Some of us in Swapo who were a legitimate and genuine national liberation movement were called other names: terrorists. And those that caused death and destruction were called liberators - and they were supported."⁵⁵

The reference to UN "sovereignty" and the alleged attempt to impose utopian ideals drew a deft rejoinder from Sir Jeremy Greenstock of Britain: "The United Nations is not a separate organ to which we turn, like a fire service. It is the Member States, and the United States owns 25 percent of the power and the resources of the United Nations. What it does well the U.S. gets credit for. What it does badly, the U.S. must bear some responsibility for."⁵⁶ But it was the Canadian representative, Robert Fowler, who put in the strongest demurrals to Senator Helms' vaunted U.S. contributions to the Organisation, claimed by him to be more than 10 billion US\$ in 1999 alone. In 1999, he stated, Bangladesh was owed approximately US\$ 18 million (for the troops it provided to the UN), or just under 175 times its regular budget contribu-

⁵⁴ Ibid., at 13-15.

⁵⁵ Crossette, see note 46.

⁵⁶ Ibid., at 3.

tions to this Organisation, and that Fiji was owed US\$ 4 million, or just under 100 times its regular budget assessment. "In that 60 percent of all monies owed to the United Nations are owed by the United States, 60 percent of those numbers are owed by Americans to Bangladeshis and to Fijians," he said.⁵⁷

Four days after Senator Helms' speech, the Secretary of State, Madeleine Albright, as mentioned earlier, felt necessary to counter the senator's claim to speak on behalf of the American people, coupled with the warning that Americans would cast the Organisation off if it failed to meet their demands. Only the president of the United States can speak for the American people, she said, and added: "today, on behalf of the president, let me say that the Clinton administration - and most Americans - see our role in the world and our relationship to this organization quite differently than does Senator Helms We strongly support the United Nations charter and the organization's purpose. We respect its rules, which we helped to write. We want to strengthen it through continued reform, and we recognize its many contributions to our own interest in a more secure, democratic and humane world."⁵⁸

Senator Helms had another opportunity to reiterate his views on the "unique role" the U.S. senate played in foreign policy matters, and to contest Albright's assertion that in that field the president alone was entitled to speak. The occasion was a historic visit, at the Senator's invitation, of all the members of the Security Council to the U.S. senate in Washington D.C.⁵⁹

Finally, another U.S. perspective of relevance is the one contained in a confidential document prepared for the White House by the National Security Council outlining America's global strategy for the 21st century.⁶⁰ The study reportedly recommends U.S. military intervention in trouble spots world wide, citing potential threat from terrorism and "rogue" nations, besides urging a national military strategy that would equip it to fight nuclear, biological, chemical and "cyber- attacks" etc. the document charts a road map for how 21st century policy makers

⁵⁷ Ibid., at 4.

⁵⁸ See Crosette, see note 46.

⁵⁹ See *IHT* staff compilation from dispatches entitled "Helms Draws UN Council to His Turf," of 31 March 2000.

⁶⁰ The document was excerpted by the American print media and was the subject of analysis in Ramesh Chandran, "White House Strategy for 21st Century: Interventions, combating terrorism," *The Times of India* of 25 August 1999.

should use America's economic, diplomatic and military strength to influence developments overseas and at home - in short an activist military policy for the new millennium to exert global leadership, and to remain the preferred security partner for the community of states that share America's interests.

The United States administration, however, continues to endorse the NATO campaign in Kosovo and advocate the Clinton position on UN peace-keeping. The U.S. Secretary of State, Madeleine Albright, reiterated that position in a comment in *The New York Times* on 28 March 2000, and rationalised: "History teaches us that America cannot be secure if Europe is not secure, and events have reminded us repeatedly that Europe cannot be secure when conflict engulfs the Balkans. With Mr. Milosević still present, the region remains a tinderbox. If we check out, wide-scale bloodshed will almost surely check back in."⁶¹ In a generous reference to the European allies, the article noted that, of the roughly 100,000 U.S. forces stationed in Europe, only 6,000 were deployed in Kosovo; that the European Union members had contributed 64 percent of the international troops; and that the U.S. was thus contributing fewer than 15 percent of total troops and less than 15 percent of the non-military costs of helping Kosovo recover from war and build stability.

2. The Kofi Annan Perspective

Secretary-General Kofi Annan presented to the 54th (last of the millennium) General Assembly session his vision of "the prospects for human security and intervention in the next century" that was profoundly provocative.⁶² His initial assumption, for instance, that the "sovereign state, in its most basic sense, is being redefined by the forces of globalization and international cooperation" is followed by the rhetoric: "The state is now widely understood to be the servant of its people, and not vice versa." A more daring proposition follows: "At the same time, individual sovereignty - and by this I mean the human rights and fundamental freedoms of each and every individual, as enshrined in our Charter - has been enhanced by a renewed consciousness of the right of every individual to control his or her own destiny."⁶³ A tantalising set

⁶¹ See *IHT*, see note 59.

⁶² Doc. A/54/PV.4 of 20 September 1999.

⁶³ *Ibid.*, at 1 and 2.

of arguable assumptions that is unlikely to stand the doctrinal test, or reflect ground realities! But this flight of fancy needs not detract one from the thesis put forward by Kofi Annan on how the UN can respond to the political, human rights and humanitarian crises affecting the world.

Picking up Rwanda and Kosovo, in particular, and several other crises as examples, Kofi Annan said that the duplicitous policy of taking action in some cases, "while limiting ourselves to humanitarian palliatives in many other crises whose daily toll of death and suffering ought to shame us into action."⁶⁴ Kosovo and Rwanda, according to Annan, "cast in sharp relief the dilemma of what has been called 'humanitarian intervention': on one side, the question of the legitimacy of an action taken by a regional organization without a United Nations mandate; on the other, the universally recognized imperative of effectively halting gross and systematic violations of human rights with grave humanitarian consequences."⁶⁵ The two equally compelling interests - universal legitimacy and effectiveness in defence of human rights - pose a core challenge to the Security Council and to the United Nations as a whole in the next century, stated Annan. The debate on the legitimacy of regional action without the approval of the Security Council, and inaction (or inadequate response) by it in the face of massive human rights violations or genocide should not end, affirmed Annan, with the conclusion that the UN Charter - with its roots in the aftermath of global inter-state war - was ill-suited to guide us in a world of ethnic wars and intra-state violence.

Kofi Annan put forward the thesis that the sovereign states that drafted the Charter "were dedicated to peace, but experienced in war." They realised that the pursuit of peace in certain cases necessitated the use of force; but they found such legitimacy only in cases of common interest ("armed force shall not be used, save in the common interest," declares the Charter). But what is the "common interest," Kofi Annan asked, and answered: "I believe that as the world has changed in profound ways since the end of the cold war, our conceptions of national interest have failed to follow suit. A new, more broadly defined, more widely conceived definition of national interest in the new century would, I am convinced, induce States to find far greater unity in the pursuit of such basic Charter values as democracy, pluralism, human rights and the rule of law. A global era requires global engagement. In-

⁶⁴ Ibid.

⁶⁵ Ibid.

deed, in a growing number of challenges facing humanity, the collective interest is the national interest.”⁶⁶

Kofi Annan’s prescription for resolving the tragic choice between the Councils unity but inaction on the ground (Rwanda) and division in the Council leading to regional action was: find a common ground in upholding the principles of the Charter and in acting in defence of our common humanity. The Charter requires, said Annan, the Council to be the defender of the common interest, and that warranted a demonstrable commitment to peace and willingness to take humanitarian action. “This developing international norm,” concluded Kofi Annan, “in favour of intervention to protect civilians from wholesale slaughter will no doubt continue to pose profound challenges to the international community,” which we should welcome, because “despite its limitations and imperfections, it is testimony to a humanity that cares more, not less, for the suffering in its midst; and a humanity that will do more, not less, to end it. It is a hopeful sign at the end of the twentieth century.”

Kofi Annan’s vision of the United Nations brings him close to Mathew Arnold’s Shelley: “A beautiful and ineffectual angel, beating in the void his luminous wings in vain.”⁶⁷ His advocacy of armed action to stop organised mass murder and egregious violations of human rights generated controversy in the debate that followed in the General Assembly. Some delegates pointed out that there was little consistency in the practice of states with the principle of humanitarian intervention that it could become a cover for gratuitous interference in the internal affairs of sovereign states; encourage secessionist movements deliberately to provoke governments into committing gross violations of human rights in order to trigger external interventions that would aid their cause; and that weak states were more likely to be subjected to it than strong ones.

Reverting to Secretary-General Kofi Annan’s activist role for the UN, one may add that Annan took the opportunity to counter his critics in his Millennium Report: “if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica - to gross and systematic violations of human rights that offend every precept of our common humanity?” We confront a real dilemma, Annan admitted, but added: “Few would disagree that both the defence of humanity and the defence of sovereignty are

⁶⁶ Ibid., at 3.

⁶⁷ See, M. Arnold, *Essays in Criticism*, 2nd Series.

principles that must be supported. That does not tell us which principle should prevail when they are in conflict." Annan stated his preference unequivocally

"Humanitarian intervention is a sensitive issue, fraught with political difficulty and not susceptible to easy answers. But surely no legal principle - not even sovereignty - can ever shield crimes against humanity. Where such crimes occur and peaceful attempts to halt them have been exhausted, the Security Council has a moral duty to act on behalf of the international community. The fact that we cannot protect people everywhere is no reason for doing nothing when we can. Armed intervention must always remain the option of last resort, but in the face of mass murder it is an option that cannot be relinquished."⁶⁸

Scholars have debated for long on what constitutes national interest. An interesting perspective relevant to Kofi Annan's theorisation may be mentioned here. In a recent issue of *Foreign Affairs*⁶⁹ Joseph S. Nye, Jr. has argued that the United States had generally viewed, and responded to threats to national interest in the following hierarchical order: a.) those that constitute a threat to its survival; b.) those that pose imminent threats to U.S. interests - but not to its survival; and finally c.) contingencies that indirectly affect U.S. security but do not directly threaten U.S. interests. The past Soviet threat was cited as an example of a.); North Korea and Iraq as illustrative of b.); and Kosovo, Bosnia, Somalia, Rwanda and Haiti were enumerated as cases falling under category c.). Nye Jr. noted that the U.S. had been traditionally reluctant to respond to the c.) category threat situations, but was dragged into some under pressure of politicians forced to react to human rights violations dramatised by the media ("the CNN effect"); but the same phenomenon had forced it to beat a hasty retreat, as in Somalia, when confronted with the televised pictures of a dead U.S. soldier dragged through the streets of Mogadishu. Nye Jr. advocated measured response to humanitarian situations, reserving violent options for the most egregious cases, conducted under "rules of prudence" similar to those that governed the "just war" doctrine: a just cause; saving innocent civilians; proportionality of means to ends; and a high probability of good consequences. The financial cost of such humanitarian interventions, it was noted, was high; but that factor combined with the notorious reluctance

⁶⁸ The Millennium Report, paras. 193-194, 209, 216-219.

⁶⁹ J.S. Nye, Jr., "Redefining the National Interest," *Foreign Aff.* 78 (1999), 22 et seq.

of the United States to take casualties was considered inconsistent with its super power status. "It is difficult to be a super power on the cheap", said Nye Jr.

Besides the inherent philosophical complexities that complicate the responses of the international community, there are other notorious factors that render intervention in the internal affairs of sovereign states even more difficult. One may mention, in particular, the parties' vicious struggle to gain control over the natural resources of the country. Those in Angola and Sierra Leone can be presented as exemplifying this difficulty.

V. Problems of Peace-keeping in Modern Wars

1. The Natural Resources Nexus

There are 500 million small arms and light weapons in circulation in the world - one for every 12 people. Since 1990 more than 2 million people have been killed by small arms in West Africa, an area rich in oil and diamonds. Such natural resources provide the means for buying weapons, achieving power and getting rich. The goal is achieved by granting concessions to companies from industrial countries and obtaining rich royalties, with which arms and the services of military advisers and mercenaries from the more advanced countries are bought. Substantial parts of the oil and mineral income get diverted to personal bank accounts abroad. The whole nexus of rich natural deposits, arms, war and corruption was veiled during the Cold War because of the indulgent super powers competing for control over the natural resources in the Third World. This terrible dynamic of revolutions and wars, as Therese Delpech notes, has drenched the 20th century in blood, leaving a corrosive legacy of cynicism, indifference and despair.⁷⁰ In his address to the 54th Sess. of the UN General Assembly, President Bill Clinton, described the twentieth century eloquently, as one "deeply scarred by en-

⁷⁰ T. Delpech, "Is the Violent Century of Wars and Revolutions really Over?," *IHT* of 3 February 2000. Prince (now, King) Hassan of Jordan, a signatory to the Geneva Appeal of 12 August 1999, made an eloquent case for changing the legacy of the 20th century which has been the bloodiest in history taking a toll of over 200 million people. See, "For the 21st Century, Create a global Culture of Peace", *IHT* of 31 August 1999.

during human failures: by greed and lust for power, by hot-blooded hatreds and stone-cold hearts.”⁷¹

A number of modern conflicts, according to Robert Neild, emeritus professor of economics at the University of Cambridge, especially those in Africa and other Third World countries, are sustained by the income earned by selling the plundered resources to rich customers in the West.⁷² Angola can be presented as an example of this phenomenon. For corroboration, one may use the report submitted to the UN Security Council by an independent panel of experts established by it under Resolution 1237 of 7 May 1999.

a. Angola's Diamonds

The panel of experts was mandated to investigate violations of Security Council sanctions against the UNITA which operates under the leadership of Jonas Savimbi. The sanctions at issue prohibit the sale or delivery of arms and military equipment to UNITA; prohibit the provision of petroleum products to UNITA; forbid the purchase of diamonds mined in areas controlled by UNITA; require the seizing of bank accounts and other financial assets of UNITA; and mandate the closing of UNITA representation offices abroad as well as restrictions on the travel of senior UNITA officials and adult members of their immediate families. Although the resolutions imposing the sanctions categorically invoke Chapter VII of the Charter of the United Nations, it was repeatedly emphasised that the purpose of the sanctions was not to punish UNITA but rather to promote a political settlement to the long conflict in Angola by requiring UNITA to comply with the obligations which it undertook when it signed the 1991 Bicesse Peace Accord and the 1994 Lusaka Protocol, and by limiting UNITA's ability to pursue its objectives by military means.⁷³

With that clarification, the panel of experts carried out its mandate in a professional manner and submitted an explosive report on how UNITA, with the help of some compliant state and non-state actors,

⁷¹ Doc. A/54/PV.6 of 21 September 1999.

⁷² R. Neild, “Expose the Unsavory Business Behind Cruel Wars,” *IHT* of 17 February 2000. For a detailed report on the situation in Congo, see “Chaos in Congo - A Primer: Armies Ravage a Rich Land, Creating Africa's ‘First World War’,” *NYT* of 6 February 2000.

⁷³ For the report of the panel of experts, with an annex of the relevant Security Council resolutions, see Doc. S/2000/203 of 10 March 2000.

has been violating the Security Council sanctions with impunity. The report stated that UNITA had violated the prohibition on import of arms and military equipment by obtaining end-user certificates from friendly states, like Zaire under Mobutu, Togo and Burkina Faso. Bulgaria was found to have supplied arms and other military equipment to UNITA in total disregard of their ultimate destination. The eagerness of international arms brokers and air transport carriers to act as intermediaries between UNITA and the suppliers of the arms and military equipment, together with its capacity to pay for what it wanted in cash or kind, was found responsible for the violation of the Security Council sanctions.⁷⁴ The machinations of these state and non-state actors, exposed in the report, are surprising; but what is shocking is the manner in which UNITA paid for the arms and equipment with the sale of diamonds plundered by UNITA from the territory controlled by it.

The report contains lurid details of the nefarious ways UNITA peddled diamonds for cash in international markets to obtain arms and buy political support. Smuggling diamonds was routine, stated the report, and it identified the conduits as Burkina Faso, Zaire (during the Mobutu era), Zambia and Rwanda. Namibia and South Africa also find a place in this list. There is a damaging finding in the report about the easy access for smuggled diamonds into Antwerp, which accounts for nearly 80 per cent of the world's rough diamond trade, with an estimated annual turnover for rough diamonds of approximately US\$ 5 billion: "In this context the Panel found that the extremely lax controls and regulations governing the Antwerp market facilitate and perhaps even encourage illegal trading activity."⁷⁵ The Belgian authorities are blamed for their failure to establish an effective import identification regime, and the diamond industry for its unwillingness or inability to police its own ranks.⁷⁶

The findings of the panel on the manner in which UNITA uses diamonds as a tool for buying friends and supporters are the highlights of the report. On the basis of direct first-hand testimony, the panel found that "large quantities of diamonds and cash were given by Savimbi to the former President of Zaire, Mobutu Sese Seko, in exchange for favours to UNITA." A "passport-sized" packet of diamonds was presented to President Eyadema of Togo. The President of Burkina Faso and his close associates were similarly favoured with direct personal

⁷⁴ Ibid., para. 51.

⁷⁵ Ibid., para. 87.

⁷⁶ Ibid., paras 90 and 91.

payments and by means of contributions to the President's political campaigns. In order to remedy the situation, the panel recommended forfeiture of diamonds where the legal origin of rough diamonds cannot be established by the possessor. More seriously, it called upon Member States of the United Nations to apply sanctions against individuals and enterprises discovered to be intentionally breaking UN sanctions relating to UNITA diamonds.⁷⁷

b. The Barbarity and Targeting of Civilians

Another aspect of the modern wars is the barbarity with which they are fought. Rwanda and Srebrenica, according to the United Nations' own exercises, expose the tragic ineffectiveness of the UN and that of the international community to meet the challenges posed by certain types of modern conflicts involving genocide, "acts of genocide", "ethnic cleansing" and other aggravated forms of inhumanity. As the Millennium Report of the UN Secretary-General notes, wars between states have become less frequent; but in the last decade internal wars have claimed more than 5 million lives, and driven many times that number of peoples from their homes. Some of these armed conflicts are "driven by greed, not grievance", as the Millennium Report states, and adds

"Despite the existence of numerous international conventions intended to protect the vulnerable, the brutalization of civilians, particularly women and children, continues in armed conflicts. Women have become especially vulnerable to violence and sexual exploitation, while children are easy prey for forced labour and are often coerced into becoming fighters. Civilian populations and infrastructure have become covers for the operations of rebel movements, targets for reprisal and victims of the chaotic brutalities that too often follow breakdowns in state authority. In the most extreme cases, the innocent become the principal targets of ethnic cleansers and genocidaires."⁷⁸

Calling for a halt to this "culture of impunity", the Millennium Report posits a conceptually reformulated notion of national security: "Once synonymous with the defence of territory from external attack, the requirements of security today have come to embrace the protection of communities and individuals from internal violence."⁷⁹ This and the

⁷⁷ *Ibid.*, paras 109 and 110.

⁷⁸ Millennium Report, para. 209.

⁷⁹ *Ibid.*, at para. 194.

Rwanda and Srebrenica Reports have been presented above. One may add to those, the extraordinarily detailed reports submitted after the UN exercises on Rwanda and Srebrenica by a less controversial European institution, i.e., the Organisation for Security and Co-operation in Europe (OSCE). Based on official Western sources and from its own interviews, the OSCE reports on Kosovo present a dark picture of an ugly war, full of individual and collective cruelty and crime by the Serbs, followed by an ugly peace displaying the same depredations, if on a smaller scale, by the province's Albanians.⁸⁰

The first OSCE report offers overwhelming evidence of a Serbian campaign, organised by a powerful authoritarian state and its security forces, to drive nearly a million Albanians from the province. It provides coherent detail and moving personal testimony about how the Serbs exercised their power, the pattern of expulsions and the vast increase in looting, killings, rape, kidnapping and pillage once the NATO air war began on 24 March 1999, with the connivance of the regular Yugoslav army. The second report describes the atrocities perpetrated by the Kosovo Albanians after the war. Those were conducted by the former Kosovo Liberation Army and had taken place, as the report notes, under the nose and often under the eyes of NATO-led peace-keeping forces that took control of Kosovo on 12 June 1999. The report adds that the Kosovo Albanians' desire for revenge "has created a climate in which the vast majority of human rights violations have taken place" and led to "the assumption of collective guilt," so that "the entire remaining Kosovo Serb population was seen as a target" irrespective of age and physical condition.⁸¹

Civilians in these wars have become the main victims, and the targets.⁸² In a short piece written on the occasion of the 50th anniversary of the Geneva Conventions, Henry Butterfield Ryan chronicled the routinely cruel manner in which combatants have targeted civilians in modern warfare avowedly to destroy the other side's will to fight, and to encourage rebellion in enemy ranks.⁸³ On the same occasion, the

⁸⁰ See S. Erlanger, "2 Kosovo Reports Show A Peace as Cruel as War," *IHT* of 6 December 1999.

⁸¹ *Ibid.*

⁸² For an account of this aspect of modern wars, see H. Butterfield Ryan, "In Warfare, Civilians Are Still the Target," *IHT* of 26 August 1999; also C. Sommaruga, "Renew the Ambition to Impose Rules on Warfare," *IHT* 12 August 1999.

⁸³ *Ibid.*

president of the International Committee of the Red Cross, Cornelio Sommaruga, lamented the slow erosion that is seen taking place in these wars between civilians and combatants. The attempt to target civilians, and the excessive use of force, is of course condemned. But what is worth noting is the point made by Sommaruga that the recent increase in the so-called "humanitarian interventions" should not lead to a blurring of the distinction between the victims of wars and those of humanitarian missions. The latter endeavours, said Sommaruga, "must not be wolves in sheep's clothing. War remains war, and humanitarian operations must remain humanitarian missions. A victim of war is a victim of war."⁸⁴

Reverting to the main theme of this section, namely the cruelty of contemporary ethnic and other territorial conflicts, one must note that the death toll in the 1990s in the Balkans, despite the humanitarian missions, has reached 120,000. The fratricidal conflict in Nigeria in the Biafran war of 1967-70 cost the lives of an estimated 1 million; and that in Colombia in 1948-58 was 200,000; in Rwanda, 800,000, and so on. The civilian toll in the "civil" wars has thus been staggering! When this civilian targeting is fuelled by the strategy to gain control over the natural resources of the country, it could get horribly inhuman. The conflict in Sierra Leone exemplifies this.

2. Sierra Leone

The conflict in Sierra Leone exposes the weaknesses of peace-keeping in internal wars more than anywhere else. The conflict began in March 1991 and continues to the day of writing. An attack launched by the Revolutionary United Front (RUF) against the government was subdued with the help of the army, which one year later itself staged a coup and overthrew the government. The army relinquished power in February 1996 in favour of the elected leader, Kabbah, and ousted him again six months later in May 1997. This time the army joined hands with the RUF, which had boycotted the 1996 elections and rejected Kabbah's rule. Kabbah went into exile in neighbouring Guinea. The Economic Community of West African States (ECOWAS) brokered a deal with the cooperation of the UN Secretary-General by which Kabbah was returned to office and the RUF was made a partner in the government.

⁸⁴ Ibid.

The ECOWAS-brokered deal was badly flawed and doomed. Making RUF a partner in peace was a tragic mistake. For, RUF, under the leadership of Foday Sankoh, was known to be one of the world's most brutal guerrilla movements. It had terrorised Sierra Leone by murdering thousands of civilians, gang-raping women and girls, and chopping off the limbs of suspected opponents. The leadership of this "gangster 'liberation movement'"⁸⁵ was allegedly trained and sponsored by the president of Liberia, Charles Taylor, who is said to have perfected the most brutal form of capturing and retaining power. It consisted of recruiting young children into an army, doping them with crack cocaine and pushing them into committing the said crimes. Sankoh was convicted of treason and sentenced to death in 1998. The 1999 Lome Peace Accord granted Sankoh and his comrades full amnesty and immunity from prosecution for previous war crimes and absolved them of the atrocities committed in a campaign of terror for almost a decade.

The United Nations was not involved – in spite of mediation efforts undertaken in 1995 – in the ugly conflict in Sierra Leone, but was drawn into it when, by a formal resolution, it welcomed the Lome Peace Accord, and revoked the sanctions imposed against the military junta in October 1997. In June 1998, the Security Council established the United Nations Observer Mission in Sierra Leone (UNOMSIL) for an initial period of six months, which in turn got converted into UNAMSIL (United Nations Mission in Sierra Leone). As of 19 May 2000, the Security Council increased again the authorized strength of UNAMSIL, to 13,000 military personnel, including 260 military observers.

Under the peace deal, full amnesty of course meant Sankoh's release from death row. On top of it, the deal also led to his appointment as chairman of a new commission for the management of strategic resources, national reconstruction and development. Four of his top commanders were given cabinet positions. The rank and file rebels, many of them illiterate child soldiers, were to receive about US\$ 150 each on entering disarmament camps where they were to receive some form of vocational training, and another US\$ 150 at the end of the training – considerable sums of money in a country where the per capita GNP is US\$ 140 a year. The price tag of the package, that came to be known as "D.D.R" – disarmament, demobilisation and reintegration – was originally estimated at US\$ 50 million, but rose to US\$ 90 million

⁸⁵ W. Pfaff, "The Problems in Africa Stem From Its Vast Mineral Resources," *IHT* of 18 May 2000.

owing to delays in start up and other problems.⁸⁶ Although it was the function of UNAMSIL to disarm the rebels it was unable to succeed in doing so.

The contributors to UNAMSIL, be it noted, did not include the United States. Haunted by the memory of 18 American soldiers killed in Somalia on a United Nations mission, the U.S. was unwilling to commit its troops to any African peace-keeping venture. A regional initiative was the other alternative. Nigeria was considered best placed to take that initiative for a variety of reasons: Nigerian troops were already on the scene, had dealt with the Sankoh rebels appropriately under the earlier regional peace-keeping dispensation, and it was willing to undertake the mission. An U.S. administration official placed a doctrinal gloss over its indifference when he said the U.S. saw no national interest of its own involved in the Sierra Leone conflict, and that the regional powers had much at stake in that tiny West African country.⁸⁷ The regional peace-keepers were deployed, under the Lome peace accord, throughout most of the country, except, significantly, in the rebel controlled diamond mining area.

The accord was criticised by the UN High Commissioner for Human Rights and other human rights organisations for granting blanket amnesty to those guilty of atrocities and war crimes.⁸⁸ Dennis Jett, former U.S. ambassador to Mozambique and Peru and author of "Why Peacekeeping Fails", put it bluntly: "Instead of dealing with a guy who obviously committed war crimes, they cut him a deal and put him in charge of diamonds in the hope that he'd steal enough to keep himself happy."⁸⁹ Secretary-General Kofi Annan expressed reservations over the deal. Describing what she saw as "unspeakable horror", the U.S. Secretary of State, Albright, offered help for the establishment of a truth and reconciliation commission to deal with past atrocities.⁹⁰

⁸⁶ See, N. Onishi, "Anger Still Fires the Hell that Was Sierra Leone," *NYT* of 31 March 2000.

⁸⁷ See, J. Perlez, "A Doomed Peace: Missteps and a Weak Plan Marred Effort for Sierra Leone," *NYT* of 10 May 2000.

⁸⁸ See, N. Onishi, "Sierra Leone Measures Terror in Severed Limbs," *NYT* of 22 August 1999.

⁸⁹ See, S. Mufson, "Sierra Leone's Peace Succumbs to its Flaws," *The Washington Post* of 8 May 2000.

⁹⁰ See, B. Crosette, "6,000 U.N. Peacekeepers to Be Sent to Sierra Leone," *NYT* of 23 October 1999.

When the not-so-hidden deal of leaving the rich diamond mines in charge of Sankoh was breached with the peace-keepers push into the diamond-producing areas, Sankoh balked. Obviously, Sankoh did not want peace-keepers in the rebel-controlled parts of eastern Sierra Leone because he feared they would interfere with a lucrative diamond smuggling operation he controlled there. Diamond smuggling had supported the rebels in their civil war and had reportedly made Sankoh very wealthy.⁹¹ Peace obviously did not suit him; so he reneged on the promise to disarm and began an assault against the government, and the UN peace-keepers. Fighting resumed before ink on the accord had dried and within six months the rebels were in Freetown, sharing power with junior army officers who had staged a coup against the elected president. The rebel invasion of Freetown, according to one estimate, resulted in the death of 6,300 people, and mutilation with machetes of hundreds. The city was pillaged and burned down.⁹² Sankoh's men repeatedly clashed with UN peace-keepers. Early May the clashes were intensified as the Nigerian-led West African peace-keeping force was about to complete its withdrawal. The attacks on UN peace-keepers led to seven casualties and to the capture by the rebels of 498 peace-keepers.

The attack on peace-keepers and the hostage taking had a design. According to one report, it was Sankoh's fall-back strategy. If he failed in his bid for political power and lost complete control of the areas rich in diamond mines, he could use the UN peace-keepers as pawns for bargaining himself into an alternative deal. Sankoh's partnership with the Liberian president, Charles Taylor, had helped them both, yielding, according to one report, US\$ 298 million to Liberia and to Sierra Leone US\$ 31 million, in an obviously disproportionate ratio of the two countries' diamond wealth.⁹³ According to the High Diamond Council in Antwerp, a hub of the world's diamond trade which compiles annual sales figures from around the globe, the value of uncut diamonds officially exported from Sierra Leone rose from US\$ 66 million in 1998 to US\$ 31 million in 1999. At the same time, the value of diamond exports

⁹¹ B. Harden, "Insurgents in Sierra Leone kill 7 in U.N. Peacekeeping Force," *NYT* of 4 May 2000.

⁹² See, Agence France-Presse, "Civilians Skeptical About U.N. Proposal for Ceasefire in Sierra Leone," *NYT* of 4 May 1999.

⁹³ See, N. Onishi, "U.N.'s Unlikely Ally for Sierra Leone," *NYT* of 16 May 2000.

from Liberia, which has virtually no diamond deposits, rose from US\$ 268 million in 1998 to US\$ 298 million in 1999.⁹⁴

Besides Charles Taylor, who at one time was involved in extradition proceedings in the U.S. on embezzlement charges,⁹⁵ Sankoh had assistance from another quarter, Rev. Jesse Jackson who was sent by the American President to broker a deal with Sankoh. This strange team had another interesting member - Johnny Paul Koromah, a retired colonel "who leads a motley and undisciplined assortment of militiamen and former soldiers who now form the bulk of the government forces fighting the rebels."⁹⁶ This leader of the Kamajors militia had staged a coup against the elected President two years back and is on the government's side this time. Koromah's militia, divided into groups with fanciful names, (one of which called the "Black Scorpion," captured Sankoh and handed him over to the government forces⁹⁷) had itself a gory record of atrocities similar to those of the RUF. "The real problem for the country" in this situation, as a human rights worker is said to have commented, "is that basically they have to choose between two gangs of thugs."⁹⁸

According to last reports, this assortment of the leaders and the led have only succeeded in further compounding the woes of the United Nations. The problems of the UN are reported to have been further worsened because of the leadership rivalries within the UN ranks, lending credence to the criticism that any increase in the numbers of the peace-keepers, without a corresponding enhancement in their strategic and armed capabilities, would end up their becoming targets for a ruthless rebel forces.⁹⁹

⁹⁴ See, D. Farah, "Diamonds Are a Rebel's Best Friend," *Washington Post* of 17 April 2000.

⁹⁵ See, Onishi, see note 93.

⁹⁶ See, D. Farah, "Old Problems Hamper U.N. In Sierra Leone," *Washington Post* of 11 June 2000.

⁹⁷ See, N. Onishi, "Neighbours Grab Fugitive Rebel in Sierra Leone," *NYT* of 18 May 2000; and D. Farah, "Sierra Leonean Rebel Leader Sankoh Captured," *Washington Post* of 18 May 2000.

⁹⁸ See, D. Farah, "Army Passes Sierra Leone Rebels," *Washington Post* of 16 May 2000.

⁹⁹ See, Farah, see note 96.

VI. Conclusions

Given the cost and complexity of internal conflicts raging throughout the world, how prudent is it for the United Nations to intervene in such conflicts and try, in the process, to control and determine the direction of sovereign choices in broad swaths of the globe? An interesting, but obviously cynical, suggestion made in this connection is that of Edward N. Luttwak. Writing in the *Foreign Affairs*,¹⁰⁰ Luttwak theorised that an unpleasant truth of war, often overlooked, was that, although a great evil, war did have a great virtue: it could resolve political conflicts and lead to peace. That happened, according to Luttwak, when the belligerents became exhausted or when there was a clear victor. He advocated continuance of fighting until that end was reached, and stated: "It might be best for all parties to let minor wars burn themselves out.... Peace takes hold only when war is truly over."¹⁰¹ Luttwak was critical of the United Nation's practice of prematurely intervening in cases of minor wars and imposing cease-fires on the not-as-yet exhausted belligerents - thus letting the belligerents to reconstitute and rearm their forces. That, according to Luttwak, "artificially freeze[s] conflict and perpetuate[s] a state of war indefinitely by shielding the weaker side from the consequences of refusing to make concessions for peace."¹⁰²

Luttwak's beguiling argument presupposes that the so-called minor wars, that ought to be left to burn themselves out, are the ones that are not likely to lead to global conflagration. That assumption is combined with another one that such "local" conflicts are less costly in terms of human casualties. Both assumptions are of course wrong. The casualties in the post - World War II internal conflicts, as mentioned above, have indeed been staggering. If one were to add to the prominent cases cited (Rwanda, etc.) the human cost of the Biafran war of 1967-70, the death toll in the Balkans and the massacre of civilians in Cambodia, one would realise how facile such assumptions are. The categorisation of any conflict as "minor" bristles with difficulties. Would a conflict between China and Taiwan, or between India and Pakistan be a minor one?¹⁰³

¹⁰⁰ E. N. Luttwak, "Give War a Chance," *Foreign Aff.* 78 (1999), 36 et seq.

¹⁰¹ *Ibid.*, at 37-38.

¹⁰² *Ibid.*, at 37.

¹⁰³ For an effective rebuttal of Luttwak's argument, see the editorial titled "Other People's Wars," of *The Economist* of 31 July 1999.

The response of the United Nations to this deeply divisive issue has been just that - divisive. It has ranged from neglect, with disastrous results, as in Rwanda and Srebrenica, to token and patently inadequate concern and action, as in Angola, the Congo, Sierra Leone and so on. "Today's challenge," advised a New York Times editorial, "is to make the new system of established states, new states, failed states, regional conflicts and tenuous alliances work better than the old."¹⁰⁴ The 20th century had witnessed the collapse of many empires that had sought to impose, among other things, an artificial and often brutal stability, disregarding the rights of minorities and the cultural identities of the world's thousands of ethnic, linguistic and religious sub-groups. Many of them increasingly wonder whether their moment to press for independence as a nation has arrived. The demands already made number 800 to 3,000, according to varying estimates. While respect for variety ought to be the pre-requisite of the emerging new world order, one cannot allow the rising crescendo of national aspiration to lead to the atomisation of the world into ever tinier nations. The challenge of striking a balance between the two warrants a re-examination of the seminal concept of self-determination that has had devastating consequences for the old imperial and colonial empires in the last century and threatens to destroy the precarious political order of the new century.

The balancing act also calls for a re-evaluation of the role of the United Nations in dowsing the flames ignited by ethnic and other passions in internal conflicts, and in constructively channelizing genuine national aspirations to statehood. The UN has had a stellar performance record of successfully steering national self-determination demands in the heydays of de-colonisation. The recent endeavour in East Timor could be considered as the most recent feather in its cap. But its recent record in Bosnia, Kosovo, Rwanda, the Congo, Sierra Leone has been apparently tarnished. The above analysis seeks to probe the causes of this failure by projecting the inherent complexities of the contemporary internal conflicts and the varying perceptions of the state and non-state players responsible to find solutions to them. The emergent scenario is quite disconcerting: the UN can no longer sit on its laurels over peace-keeping; modern internal conflicts pose a serious threat to its survival as a well-tested instrument for maintaining world peace and security; Secretary-General Kofi Annan's well-meaning agenda to transmute peace-keeping and peace enforcement in internal conflicts needs to be squared

¹⁰⁴ See, "Decline of Empires," *IHT* of 23 December 1999.

with the uncertainties of American and other great power endorsement. A toll order, indeed. But then the United Nations has time and again demonstrated its resilience and capacity to innovate. There is no need to doubt it now.