

THE SECURITY COUNCIL, PEACEKEEPING AND INTERNAL CONFLICT AFTER THE COLD WAR

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I. INTRODUCTION

It is now widely accepted that the uneven record of U.N. peacekeeping efforts in recent years is closely linked to the nature of the mandates drawn up by the Security Council as the basis for U.N. involvement. There can be no doubt, for example, that the Council has frequently not taken into account the operational requirements and implementation problems raised by individual resolutions.¹ More critically, where a succession of mandates has lacked internal consistency, as in the former Yugoslavia, it has damaged the overall role of the United Nations.² Even in those cases where military and financial requirements have been properly identified before deployment in the field, member states have often proved reluctant to provide the necessary resources. Against these realities, it is hardly surprising that academic observers and government and U.N. officials have increasingly called for greater consistency and clarity of mandates.³

The focus of this Article, however, is less on how such clarity may be achieved than on the reasons *why* the lack of clarity has tended to persist. Focusing on the case of the former Yugoslavia, its

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1. Lieutenant-General Francis Briquemont, a deeply frustrated Commander of U.N. forces in the former Yugoslavia, commented shortly before his tour of duty ended in January 1994 that his mission had been plagued by "a fantastic gap between the resolutions of the Security Council, the will to execute these resolutions, and the means available to commanders in the field." *THE NEW INTERVENTIONISM 1991-1994: UNITED NATIONS EXPERIENCE IN CAMBODIA, FORMER YUGOSLAVIA AND SOMALIA* 16 (James Mayall ed., 1996).

2. See *infra* Part III.A. (examining the background to the establishment of Bosnian "safe areas" during the spring of 1993).

3. See, e.g., GARETH EVANS, *COOPERATING FOR PEACE: THE GLOBAL AGENDA FOR THE 1990S AND BEYOND* 109 (1993).

central argument is that Security Council agreement on a particular resolution does *not* necessarily mean underlying agreement about the causes of conflict. It argues further that the increased resort to Chapter VII resolutions—a distinctive feature of Security Council activities in the 1990s—does not reflect an emerging consensus among U.N. member states about the basis for outside involvement in *internal* conflict or about what the nature of the response necessary to address a given internal conflict should be. While not underplaying the United Nations' own failings with regard to its management of large-scale and complex field operations, this Article accepts the view that, in terms of *substantive* policy output, "the failings of the United Nations are the failings of its member states."⁴ Moreover, the United Nations has blurred distinctions once clearly understood and adopted resolutions in a bid to demonstrate resolve rather than to address the root causes of conflict. These failings have done considerable damage to the United Nations as a potentially useful instrument of conflict management.

In exploring these issues, this Article will address three sets of questions. First, in what ways has the context of U.N. involvement in the field of peace and security changed since the late 1980s and, more specifically, how has the Security Council sought to address the increasing number of internal conflicts that have come to its attention? Second, what lessons should one draw from the Security Council and the U.N. involvement in the conflicts in the former Yugoslavia? Finally, looking more broadly at U.N. field operations since 1992, what conditions are necessary in order for U.N. action to have a constructive and beneficial impact on conflict resolution and management efforts?

II. THE SECURITY COUNCIL AND THE EVOLUTION OF U.N. PEACEKEEPING

A. The Cold War Period

By endowing the Security Council with "primary responsibility for the maintenance of peace and security"⁵ and granting a right of

4. Sir David Hannay, *The U.N.'s Role in Bosnia Assessed*, 7 THE OXFORD INT'L REV. 4, 9 (1996). Sir David Hannay served as Britain's Permanent Representative to the United Nations in New York from 1990 to July 1995.

5. U.N. CHARTER art. 24, para. 1.

veto on non-procedural matters to its five permanent members,⁶ the founding U.N. members sought to take into account the realities of power and hierarchy in international relations.⁷ The right of veto, given to the United States, the United Kingdom, France, the Soviet Union and China, was a tacit recognition that it would not be enough to merely admonish states to settle their disputes by peaceful means. Above all, it implied that, without the collaboration of the major powers in defense of common interests, the organization was unlikely to be very effective in keeping the peace. As such, the system set up by the Charter rejected the idea of “collective security” in its pure and original form: a universal system of international security operating with a high degree of automaticity on the principle of “all for one and one for all.”⁸ Article 51 of the Charter, affirming the “inherent right of individual or collective self-defense” of member states, further implied that some conflicts could not be handled within the U.N. framework. The “system” of the Charter, then, based its effective functioning upon the assumption that the victorious allies of the Second World War would continue to cooperate after the common enemy had been defeated. This did not happen, however, and the emergence of rival power blocs after the war meant that the system for maintaining international peace and security envisaged in the Charter was undermined almost from the outset.

The emergence of rival power blocs did not lead to a complete paralysis of the United Nations in the field of international peace and security. Starting in the late 1950s, the organization gradually found for itself a distinct, albeit peripheral, role in the mitigation and containment of local conflicts world-wide. Many of these conflicts, as Dag Hammarskjold had feared, might otherwise have brought the Soviet Union into more direct conflict with the Western powers.⁹ This practice came to be known as “peacekeeping,” a distinctive form of third-party intervention involving the deployment of lightly-

6. *Id.* art. 23, para. 1; *id.* art. 27.

7. See generally Anthony Clark Arend, *The United Nations, Regional Organizations, and Military Operations: The Past and Present*, 7 DUKE J. COMP. & INT'L L. 3 (1996) (reviewing the drafting of the U.N. Charter and the tensions inherent therein).

8. For a definitive treatment of the idea of collective security in relation to the establishment of the United Nations, see INIS L. CLAUDE, JR., *POWER AND INTERNATIONAL RELATIONS* (1962), especially chapter five. The veto provision also “represented a declaration that the United Nations would not be drawn into any attempt—presumably foredoomed to futility and disaster—to implement the collective security principle in opposition to a great power.” *Id.* at 159.

9. See BRIAN URQUHART, *HAMMARSKJOLD* 256 (1973).

equipped military personnel to a dispute with the consent of the parties. The term itself is not mentioned in the charter. Yet, as Rosalyn Higgins has stressed, "the Charter is an extraordinary instrument, and . . . a huge variety of possibilities are possible under it."¹⁰ Seen in this light, the development of U.N. peacekeeping was a functional response to the fact that, during the Cold War, the United Nations could no longer rely on continued cooperation among the Allied powers. Not surprisingly, the Security Council did not play an important role in this development.¹¹ Throughout the Cold War period, the nature of the tasks undertaken by U.N. forces and the requirement of consent from the parties generally meant that operations were carried out in fairly benign and static operational environments. Under such conditions, as in the case of the United Nations Disengagement Observer Force (UNDOF), deployed since June 1974 to oversee the disengagement of forces on the Syrian front after the Yom Kippur war, U.N. operations were often highly successful.¹²

Yet, there were also important exceptions to the pattern of U.N. Cold War operations described above, the most significant being the United Nations Operation in the Congo (ONUC) from July 1960 until June 1964.¹³ Not only did the Congo operation threaten to bring about the virtual collapse of the organization, it also foreshadowed some of the problems which the United Nations would encounter, on a much larger scale, after the end of the Cold War. In the Congo, the United Nations intervened in an internal conflict and, although the Secretary-General stressed the necessity of consent, minimum use of force except in self-defense and strict impartiality,¹⁴ the United Nations found it difficult not to become embroiled in the civil war. The difficulties which ONUC encountered in trying to control domestic violence and restore law and order were similar to those experienced in Somalia, Cambodia and the former Yugoslavia some thirty years later.

10. ROSALYN HIGGINS, PROBLEMS AND PROCESS: INTERNATIONAL LAW AND HOW WE USE IT 184 (1994).

11. During the Cold War, armed forces of the permanent members of the Security Council did not, as a general rule, participate with peacekeeping troops on the ground.

12. For an analytical overview of U.N. peacekeeping operations since 1948, see THE EVOLUTION OF U.N. PEACEKEEPING: CASE STUDIES AND COMPARATIVE ANALYSIS (William J. Durch ed., 1993).

13. See generally William J. Durch, *The U.N. Operation in the Congo*, in THE EVOLUTION OF U.N. PEACEKEEPING: CASE STUDIES AND COMPARATIVE ANALYSIS (William J. Durch ed., 1993).

14. See *id.* at 326-329.

B. Developments After the Cold War: Internal Conflict and the Resort to Chapter VII

For the United Nations, the most obvious consequence of the end of superpower rivalry was that the Security Council ceased to be subject to the decision-making paralysis which had hampered its activities since the late 1940s.¹⁵ To many, this opened new possibilities for the United Nations in the area of international security and was, therefore, a source of considerable optimism.¹⁶ The rapid growth in the number of operations launched by the organization after 1988 was testimony both to this renewed optimism and to the ability of the Security Council to reach agreement on issues of common interest. There was more to these changes, however, than just a growth in the number of operations.

When the period since 1988 is viewed as a whole, post-Cold War U.N. operations have been marked by two significant developments. First, there has been a considerable increase in the number, scale and types of missions given to peacekeepers.¹⁷ Second, the United Nations has become much more involved in attempts to contain, resolve and address the consequences of conflicts within states. This in turn has meant that, as a general trend, the physical environment in which peacekeeping forces are deployed has become more volatile, complex and dangerous. Indeed, in a growing number of cases, peacekeepers have been obliged to work with only partial consent from warring parties, and have also often been unable to identify "front lines" or legitimate political authorities within the area of operations.¹⁸ Not only has this led to a dramatic rise in the number of fatalities sustained by U.N. forces,¹⁹ it has also led to calls for the United Nations

15. For a succinct account of the failure of the United Nations to "create the framework of international security intended by its founders," see Michael Howard, *The Historical Development of the UN's Role in International Security*, in UNITED NATIONS, DIVIDED WORLD: THE UN'S ROLE IN INTERNATIONAL RELATIONS 63-80 (Adam Roberts & Benedict Kingsbury eds., 1993).

16. Such optimism was particularly pronounced at the first meeting ever of the Security Council at the level of heads of state and government in New York in January 1992. See *World Leaders Optimistic on Future: U.N. Declaration*, FIN. TIMES (London), Feb. 1, 1992, at I3.

17. For useful data on the quantitative changes, see the Supplement to AN AGENDA FOR PEACE at 6, U.N. Doc. DPI/1623/PKO, U.N. Sales No. E.95.I.15 (1995). For a discussion of the tasks and missions given to peacekeepers, see Mats R. Berdal, *Whither U.N. Peacekeeping?*, 281 ALDELPHI PAPER 3, 6-25 (1993).

18. For a more complete discussion see Berdal, *supra* note 17.

19. As of late 1994, there had been 130 fatalities in the United Nations Protective Force in the former Yugoslavia (UNPROFOR) alone. Interview with Ian Johnstone, Special Assistant in Department of Peacekeeping Operations, United Nations, in New York (December 1996).

to abandon past practices altogether in favor of a doctrine that would allow for a much greater use of force. In effect, such a doctrine envisages an enforcement action that goes beyond "traditional peacekeeping," but still falls short of classical war-fighting doctrines.²⁰ What is significant in terms of the argument of this Article, however, is that these calls for more "robust" or "muscular" peacekeeping were matched, in the years between 1992 and 1995, by a real tendency on the part of the Security Council to weaken the requirement of *consent* as a basis for U.N. involvement and to place an increasing number of missions (and resolutions) on a Chapter VII footing. While the Security Council passed two Chapter VII resolutions in the whole of the 1980s, it passed forty-eight in 1993 and 1994 alone, and the majority of these concerned internal conflicts.²¹ But there is a further and more significant consideration. Not only has the Security Council increasingly resorted to Chapter VII as a basis for action in internal conflict, but, as Christopher Greenwood has noted, the formal determination of a "threat to international peace and security" under Article 39 of the Charter has increasingly come to be treated more as a procedural than a substantive hurdle.²² Evidence of this can be seen not only with regard to Somalia²³ but also, as will be shown, in the numerous resolutions passed concerning the war in the former Yugoslavia.

III. THE UNITED NATIONS IN THE FORMER YUGOSLAVIA

From late 1991 until the summer of 1995, consensus among the permanent five members of the Security Council (as well as the principal troop-contributing countries not on the Council) about the U.N.'s role in the former Yugoslavia under the aegis of the United

As of early 1996, there have been 410 fatalities in U.N. peacekeeping operations in the former Yugoslavia. *See id.*

20. For views from a proponent of this "middle-ground" approach, see Richard Conoughton, *Time To Clear The Doctrine Dilemma*, 21 JANE'S DEFENCE WKLY 19 (1994).

21. *See* Sally Morphet, *The Influence of States and Groups of States on and in the Security Council and General Assembly, 1980-94*, 21 REV. INT'L STUDIES 435, 461 (1995).

22. *See* Christopher Greenwood, *Legal Constraints on U.N. Military Operations*, IISS STRATEGIC COMMENTS, March 22, 1995.

23. *See* S.C. Res. 794, U.N. SCOR, 47th Sess., 3145th mtg., at 1, 3, U.N. Doc. S/RES/794 (1992) (determining that the "magnitude of the human tragedy caused by the conflict in Somalia, further exacerbated by the obstacles being created to the distribution of humanitarian assistance, constitutes a threat to international peace and security" and, acting accordingly, decided to take "[action] under Chapter VII of the Charter of the United Nations . . . [in order] to establish as soon as possible a secure environment for humanitarian relief operations in Somalia.").

Nations Protective Force (UNPROFOR) was confined to three basic objectives: (1) relieving as far as possible the humanitarian consequences of the war; (2) containing the conflict to the territories of the former Yugoslavia; and (3) encouraging and facilitating a negotiated solution among the parties.²⁴ These objectives have been seen by many, quite legitimately, as having been too limited and largely reactive in nature.²⁵ Yet, these objectives always reflected deeper disagreements among the outside powers about the origins and nature of the conflict. Indeed, as William Shawcross observed in December 1994, the Western powers “never defined a political objective for former Yugoslavia.”²⁶ And, as Britain’s Permanent Representative to the United Nations during much of the conflict has commented more recently:

From the very beginning of hostilities in Bosnia the one common point amongst all the external parties was their determination not to be drawn into the fighting themselves nor, despite the undoubted primary responsibility of Milosevic and of the Bosnian Serbs for the outbreak of fighting and for the brutality and inhumanity with which it was prosecuted, to see this as a black and white issue calling for enforcement action. There was thus a clear unwillingness to treat it in a parallel way to Iraq’s aggression against Kuwait.²⁷

It is against the background of this political reality that the U.N.’s concern about maintaining impartiality as the determinant of operational activity for U.N. soldiers in the field must be understood. In terms of the basic objectives outlined above, UNPROFOR remained essentially a “peacekeeping” mission, however unsatisfactory that term has been in describing its operations in the midst of an ongoing war.²⁸ The central difficulty in Bosnia, however, was precisely

24. See *Impact of a Unilateral United States Lifting of the Arms Embargo on the Government of Bosnia-Herzegovina: Hearing Before the Senate Comm. on Armed Services*, 3rd Cong., 18 (1994) (statement of Major-General Rupert Smith, Ministry of Defense, United Kingdom). General Smith, who served as U.N. Force Commander in Bosnia from 1994 to 1995, testified while serving as Assistant Chief of Defence Staff (Operations/Security) at the United Kingdom Ministry of Defence. For the background to the disintegration of Yugoslavia, see generally SUSAN WOODWARD, *BALKAN TRAGEDY: CHAOS AND DISSOLUTION AFTER THE COLD WAR* (1995). A good account may also be found in LAURA SILBER & ALLAN LITTLE, *THE DEATH OF YUGOSLAVIA* (1995).

25. See, e.g., *Pretending About Bosnia*, N.Y. TIMES, April 18, 1993, at A19.

26. William Shawcross, *Don’t Blame U.N. Personnel for Bosnia Failures*, INT’L HERALD TRIB., December 3, 1994, at 8.

27. Hannay, *supra* note 4, at 5.

28. My comments are confined to UNPROFOR’s role in Croatia and Bosnia.

that the war continued in spite of the United Nation's presence. At the same time, new resolutions, usually aimed at addressing specific contingencies arising in the field, were passed by the Council at an alarming rate.²⁹ Meanwhile, divisions among the external powers persisted, making UNPROFOR's role on the ground increasingly difficult to sustain.³⁰

Although UNPROFOR struggled hard between 1992 and 1995 to reconcile the tensions inherent in its complex and contradictory mandates, it remained under constant and conflicting pressure from member states to take more forceful action without actually altering the peacekeeping basis of its mandate. More often than not, the term "peace enforcement" was used in discussions about the United Nations and Bosnia "to cover the desire to go to war without making the hard political and military choices that war requires."³¹ A draft report, produced by senior U.N. officials on the future of the mission in May 1995, succinctly summarized the dilemmas which had by then become acute:

While the function UNPROFOR was tasked to implement was adopted under Chapter VII of the Charter of the United Nations, the resolution determining its deployment assumed normal peacekeeping rules of engagement. UNPROFOR's mandate became further complicated by resolutions referring to Chapter VII for security and freedom of movement purposes, without clearly defining the tasks or ramifications emanating from them. Finally, the introduction of the safe area mandate by the Council in Resolution 836 (1993) has brought the Force to the edge of an almost untenable balance between its impartiality as a peacekeeping force and the use of force.³²

To understand how these tensions arose and how, with the termination of UNPROFOR's mission in 1995, they were eventually resolved, it is necessary to consider certain key aspects of the UNPROFOR experience more closely.

29. As of October 5, 1996, there have been 99 Security Council resolutions and 102 Presidential Statements on the former Yugoslavia. The latest was October 1, 1996, and involved the lifting of economic sanctions on the Federal Republic of Yugoslavia and the Republic of Sprska. See S.C. Res. 1074, U.N. SCOR, 51st Sess., 3700th mtg., U.N. Doc. S/RES/1074 (1996).

30. See CARNEGIE ENDOWMENT FOR INT'L PEACE, UNFINISHED PEACE: REPORT OF THE INTERNATIONAL COMMISSION ON THE BALKANS 55-68 (1996).

31. Shashi Tharoor, *Should U.N. Peacekeeping Go 'Back to Basics'?*, SURVIVAL, Winter 1995-96, at 52, 60.

32. Draft quoted in *Report of the Secretary-General Submitted Pursuant to Security Council Resolution 982 (1995) and 987 (1995)*, U.N. SCOR, 50th Sess., U.N. Doc. S/1995/444 (1995).

A. Security Council Resolution 836 and the Establishment of "Safe Areas" in Bosnia

Security Council Resolution 836 regarding the establishment of "safe areas" in Bosnia and Herzegovina marked a critical point in the United Nations' involvement in Bosnia. It is instructive therefore to look at the circumstances of its adoption carefully. This resolution illustrates, perhaps more clearly than any other decision by the Security Council between 1992 and 1995, the adverse effects on the conduct of U.N. field operations of competing political pressures and of the differing perceptions of interests among permanent members of the Security Council. To that extent, this resolution also highlights the predicament in which the United Nations in New York and the UNPROFOR leadership in the field found themselves in seeking to carry out contradictory mandates.

In March and April 1993, Bosnian Serb forces intensified their attacks on parts of eastern Bosnia controlled by the Bosnian government.³³ The vulnerability of these areas was cruelly exposed by the continuing and indiscriminate Serbian bombardment of Bosnian Muslim enclaves—especially around Cerska, Srebrenica, Zepa and Gorazde—all resulting in large numbers of civilian casualties.³⁴ Throughout April, as Bosnian Serb military operations continued, American pressure for action to "punish Serb aggression" intensified.³⁵ During the 1992 presidential election campaign, candidate Bill Clinton had strongly hinted that such action would be taken.³⁶ Accordingly, the Clinton administration only extended lukewarm support to the Vance-Owen peace plan once Clinton entered office in early 1993.³⁷ As the situation deteriorated in eastern Bosnia in March and April, administration officials began to press more openly for a "lift and strike" strategy, i.e., lifting the arms embargo as it applied to the Bosnian government combined with "compensatory air strikes to

33. JAN WILLEM HONIG & NORBERT BOTH, *SREBRENICA: RECORD OF A WAR CRIME* 71-98 (1996). This book is among the best to have emerged concerning Western policy and the role of the United Nations in Bosnia.

34. See SILBER & LITTLE, *supra* note 24, at 293-305.

35. See Elaine Sciolino, *In Congress, Urgent Calls for Action Against Serbs*, N.Y. TIMES, Apr. 20, 1993, at A9; Gwen Ifill, *Clinton Considers Air Strikes*, N.Y. TIMES, Apr. 24, 1993, at A1.

36. See Mats R. Berdal, *Fateful Encounter: The United States and U.N. Peacekeeping*, SURVIVAL, Spring 1994, at 30, 35-36.

37. See SILBER & LITTLE, *supra* note 24, at 319-24; WOODWARD, *supra* note 24, at 324. On the initially highly ambiguous attitude of the administration to the peace plan see Elaine Sciolino, *Christopher Leery of Bosnia Accord*, N.Y. TIMES, Jan. 22, 1993, at A1.

prevent the Serbs from overrunning the Bosnians while the Bosnians were being armed."³⁸ The strategy did not envisage, however, the deployment of U.S. ground troops in Bosnia. Indeed, as David Hannay later observed, the Clinton administration had a "mandate from the elections to be more muscular and more overtly pro-Bosnian while being just as determined as the Bush administration had been to avoid the involvement of U.S. ground troops."³⁹

As fighting intensified, a concerted attempt was made by administration officials to enlist allied support for the "lift and strike" option.⁴⁰ European governments did not, on the whole, share American views on the lifting of the embargo, as foreign ministers of the European Union made clear at a meeting in Denmark on April 25, 1993.⁴¹ Britain and France were most concerned about the U.S. stance, not least due to the large contingents of soldiers each country had deployed with UNPROFOR in Bosnia. In early May 1993, Secretary of State Warren Christopher made a six-day trip to European capitals in order to "sound out" allies on the "lift and strike" option.⁴² The trip, however, only highlighted divisions among the allies. In particular, it heightened British and French concerns about the direction of U.S. policy, especially the growing calls for large-scale air strikes against Serbian positions. Thus, it was partly in order to forestall what was perceived to be mounting pressure for "lift and strike" that Britain and France came to argue in favor of designating several Bosnian-controlled towns as "safe areas."⁴³ Adding to the pressure

38. Interview by Robert MacNeil with Warren Christopher, Secretary of State of the United States, *The MacNeil/Lehrer Newshour* (PBS television broadcast, June 1, 1993), available in LEXIS, Nexis Library.

39. Hannay, *supra* note 4, at 6.

40. SILBER & LITTLE, *supra* note 24, at 318-19; see also R.W. Apple, Jr., *Clinton Says US Must Harden Line Toward the Serbs*, N.Y. TIMES, Apr. 27, 1993, at A1.

41. See *Controversy Over Suggestions of Lifting of Arms Embargo to Ally Supplies to Bosnian Muslims*, *News Digest for April 1993*, KEESING'S RECORD OF WORLD EVENTS 39,426 (1993).

42. Daniel Williams, *US Confident Reluctant Europe Will Accept Clinton's Bosnia Plan*, WASH. POST, May 9, 1993, at A27.

43. This information is based primarily on private interviews with officials conducted in New York and London in November of 1994 and May of 1995. Further details of these interviews can be obtained by contacting the author. As Elaine Sciolino perceptively observed, British and French support for the creation of "safe areas" was in effect a "counter strategy" to American pressure. See Elaine Sciolino, *Bosnia's Serbs Smirk, and Keep Shooting*, N.Y. TIMES, May 9, 1993, at A1. Against this background of disunity, the very fact that the United States had no intention of providing ground troops and had effectively rejected the Vance-Owen plan made the "safe area" concept increasingly attractive as a compromise option that would restore at least a semblance of unity to the activities of the outside powers. See also HONIG & BOTH,

for action were the strong and persistent calls from the non-aligned groups for action to be taken against the Bosnian Serb army, whose activities were progressively destroying Muslim communities throughout Bosnia.⁴⁴

Against this background of continued fighting and American and non-aligned pressure for more decisive action, the Security Council declared on May 6 that the towns of Zepa, Tuzla, Srebrenica, Sarajevo, Gorazde, and Bihac "and their surroundings should be treated as safe areas by all the parties concerned and should be free from armed attacks and from any other hostile act."⁴⁵ On May 22, the United States, Russia, Britain, France and Spain also agreed at a meeting in Washington, D.C. to a "Joint Action Plan" in which the creation of the "safe areas" was a central element.⁴⁶ This did not, however, turn out to provide an adequate respite for negotiations to proceed. A tenuous cease-fire collapsed with a new upsurge in fighting in late May, and the Security Council "decided to ensure full respect for the safe areas"⁴⁷ by adopting Resolution 836. Specifically, Security Council Resolution 836, adopted with two abstentions on June 4, decided to extend the

mandate of UNPROFOR in order to enable it, in the safe areas referred to in Resolution 824 (1993), to deter attacks against the safe areas, to monitor the cease-fire, to promote the withdrawal of military or paramilitary units other than those of the Government of the Republic of Bosnia and Herzegovina and to occupy some key points on the ground.⁴⁸

To this end, the Security Council authorized UNPROFOR ". . . acting in self-defense, to take the necessary measures, including the use of force, in reply to bombardments against the safe areas by any one of the parties or to armed incursions into them . . .,"⁴⁹ and decided that

Member states, acting nationally or through regional organisations

supra note 33, at 111 ("In need of a quick solution, Britain and the U.S. turned, in an instance of willy-nilly diplomacy, towards the safe-area concept.")

44. See HONIG & BOTH, *supra* note 33, at 108-113.

45. S.C. Res. 824, U.N. SCOR, 48th Sess., 3208th mtg., at 2, U.N. Doc. S/RES/824 (1993).

46. See "Safe Areas" Plan, *News Digest for May 1993*, KEESING'S RECORD OF WORLD EVENTS 39,469 (1993).

47. S.C. Res. 836, U.N. SCOR, 48th Sess., 3228th mtg., para. 4, U.N. Doc. S/RES/836 (1993).

48. *Id.* para. 5.

49. *Id.* para. 9.

or arrangements, may take, under the authority of the Security Council and subject to close coordination with the Secretary-General and UNPROFOR, all necessary measures, through the use of air power, in and around the safe areas in the Republic of Bosnia and Herzegovina, to support UNPROFOR in the performance of its mandate set out in paragraph 5 and 9 above.⁵⁰

This wording raised serious concerns both at the U.N. headquarters in New York and among UNPROFOR commanders, who feared that the sponsoring states were passing a critical resolution without regard to its operational consequences. In particular, it was felt that without an adequate number of troops, the "safe areas" would be impossible to defend in accordance with the apparent requirement of the operative paragraphs of the resolution. Partly in order to clarify the operational implications, but also acutely aware of the difficulties it would encounter in trying to raise additional troops, senior officials in the Secretariat raised their concerns with the Security Council in a meeting held in New York on June 7, 1993.⁵¹ In addition to the lack of troops (none of the sponsoring countries were prepared to promise an increase in their contingents), UNPROFOR commanders in the field were also concerned about the lack of provisions for demilitarizing the safe areas—a necessary first step for preventing military activity within the safe areas.

At the meeting on June 7, the Secretariat arranged for an oral presentation to the Security Council outlining the findings of a "preliminary military staff study" by UNPROFOR that called for 32,000 additional troops in order "to credibly implement the safe areas concept." The reaction from members, notably Britain and France, was swift and negative, emphasizing their preference for a "light minimum" option which had been drawn up earlier by France and which envisaged the deployment of only approximately 5000 troops.⁵² As for the wording of Resolution 836, it was made clear that

50. *Id.* para. 10.

51. This and the information in the following paragraph is based on private interviews with and information obtained from officials from the United Nations, troop-contributing countries and Security Council members. The interviews were conducted in Zagreb and Sarajevo in November 1994 and New York in April and May of 1995. Further details of these interviews can be obtained by contacting the author. Much useful detail and analysis is also found in Hans-Christian Hagman, *UN-NATO Operational Co-operation in Peacekeeping 1992-1995* (1996) (unpublished Ph.D dissertation, King's College London, University of London) (on file with the Department of War Studies, King's College London).

52. The French paper outlining this option was presented to Russia, the United States and Britain on May 10, 1993. See *Note Verbale Dated 19 May 1993 From the Permanent Represen-*

the phrase “to deter attacks against the safe areas” (operative paragraph 6) had deliberately been chosen over “to defend” and, similarly, that “to promote withdrawal of military and paramilitary forces” (operative paragraph 5) had been chosen over “ensure or enforce.” Preference was expressed by the permanent Council members for a “gradual build-up” in the safe areas and it was stressed that UNPROFOR’s “deterrent capacity” was to derive from its mere presence in the safe areas rather than from its military strength.⁵³ Thus, the sponsoring powers did not seriously contemplate the enforcement of heavy weapons exclusion zones. As for demilitarizing Bosnian Government troops within the safe areas, UNPROFOR should “seek assurances” and, if possible, negotiate “voluntary agreements” with the Bosnian Government.

By the time the “safe areas” came under sustained attack again by Bosnian Serb forces in 1995, even the “light minimum” option of 1993 was not being met. Lacking military resources and with national governments anxious to avoid casualties among their own troops, thinly dispersed U.N. forces throughout Bosnia were repeatedly humiliated and were unable to implement the mandate given to them.⁵⁴ As Shashi Tharoor pointedly observed with respect to the role of the United Nations in Bosnia and, no doubt, with Resolution 836 in mind, “[t]he end objectives of Security Council resolutions have been framed in terms that would require war to fulfil them, while the world has clearly committed neither the political will nor the resources to conduct warfare for those ends.”⁵⁵

B. The Termination of U.N. Presence and the Use of Force

In the debate about the United Nations’ role in Bosnia, the argument has been made that Chapter VII resolutions explicitly allowed for “all necessary means” to be employed and that the failure to act more forcefully had nothing to do with any restrictions imposed by the mandate.⁵⁶ This view, however, overlooks an important

tative of France to the United Nations Addressed to the President of the Security Council, U.N. SCOR, 48th Sess., at 3, U.N. Doc. S/25800 (1993); see also HONIG & BOTH, *supra* note 33, at 111.

53. See Hagman, *supra* note 51.

54. See INT’L INST. FOR STRATEGIC STUD., STRATEGIC SURVEY 1994/95 93-105 (1995); INT’L INST. FOR STRATEGIC STUD., STRATEGIC SURVEY 1993/94 98-106 (1994).

55. Tharoor, *supra* note 31, at 59-60.

56. See Paul Williams & Michael Scharf, *The Letter of the Law*, in WITH NO PEACE TO KEEP . . . UNITED NATIONS PEACEKEEPING AND THE WAR IN THE FORMER YUGOSLAVIA 34-41 (Ben Cohen & George Stamkoski eds., 1995).

feature of Security Council decisionmaking with respect to the conflict in the former Yugoslavia. It also involves a misreading (or at least it conveniently ignores certain aspects) of the events leading up to the termination of UNPROFOR's mission in the summer of 1995.

While it is true that several resolutions sanctioned the use of force in defense of specific mandates, the Security Council was also always careful to reaffirm earlier resolutions that did not allow the use of force.⁵⁷ Indeed, as far as those charged with implementing decisions on the ground were concerned,

no single Security Council resolution on Bosnia [could] be read in isolation from the others. Even in those resolutions that allowed for the use of force, the Security Council reaffirmed its previous resolutions on UNPROFOR; in other words, it did not want UNPROFOR to abandon its existing mandates in order to undertake new ones. UNPROFOR thus had the difficult challenge of reconciling its authority to use force with its obligation to perform all the other tasks mandated by the Security Council—tasks which required the cooperation of, and deployment amongst, all parties to conflict.⁵⁸

The nature of UNPROFOR's disengagement from Bosnia also raises some additional questions about the use of force and peacekeeping. UNPROFOR's involvement in Bosnia came to an end with the signing of a comprehensive peace agreement for Bosnia and Herzegovina in late 1995.⁵⁹ It has since been replaced by a much more robust Implementation Force (IFOR) operating "under the direction and political control of the North Atlantic Council, through the NATO chain of command."⁶⁰ To many observers, the extensive bombing campaign initiated by NATO in late August and early September 1995 is seen as supporting the argument that a more forceful option was always available to UNPROFOR, and that it was the belated air campaign which finally "produced the results" that allowed a peace agreement to be reached.⁶¹ There can be little doubt that the

57. See S.C. Res. 859, U.N. SCOR, 48th Sess., 3269th mtg., U.N. Doc. S/RES/859 (1993).

58. Tharoor, *supra* note 31, at 59.

59. See *Letter Dated 29 November 1995 From the Permanent Representative of the United States of America to the United Nations to the Secretary-General*, U.N. GAOR, 50th Sess., U.N. Doc. A/50/790 (1995).

60. *Id.* at 7.

61. Ian Williams, *The Constraints of Bureaucracy, in WITH NO PEACE TO KEEP . . . UNITED NATIONS PEACEKEEPING AND THE WAR IN THE FORMER YUGOSLAVIA 29-32* (Ben Cohen & George Stamkoski eds., 1995).

weakening of the military position of the Serbs allowed for progress at the negotiating table. What should not be forgotten, however, is that before the air campaign started, U.N. troops had been withdrawn from the areas of most acute vulnerability, i.e., the weapon collection points around Sarajevo and Gorazde, the only remaining safe areas in eastern Bosnia (Zepa and Srebrenica having already fallen to Serbian forces in July).⁶² At the same time, British and French forces deployed a Rapid Reaction Force with, for the first time, artillery support, on Mount Igman near Sarajevo.⁶³ Taken together, these developments meant that the ground was prepared for a transition from peacekeeping to enforcement. The necessary steps, which hitherto had been resisted, were taken for enforcement action to proceed.

One may legitimately ask whether peacekeeping was ever the right instrument to be applied to the particular case of the former Yugoslavia.⁶⁴ It is no secret that in 1992 senior U.N. officials were already deeply skeptical about involving the United Nations in the conflict after the failure of European Community attempts to mediate.⁶⁵ Many of the concerns expressed at the time were borne out by later events. A comprehensive review by the United Nations of its entire operation in May 1995, regarded as unhelpful by key Council members, accurately spelled out the situation in which the United Nations had gradually been placed:

UNPROFOR remains deployed in a war situation where, after more than three years, there is still no peace to keep. Its position is further complicated by the fact that its original peace-keeping mandate, which cannot be implemented without the cooperation of the parties, has gradually been enlarged to include elements of enforcement, which cause it to be seen as a party to the conflict As a result of these contradictions, UNPROFOR now finds itself

62. See *Agreements on Bosnia Signed*, U.N. CHRON., Dec. 1995, at 4, 5; see also Chris Hedges, *Conflict in the Balkans: Serb Forces Shell U.N. Peacekeepers at 2d "Safe" Area*, N.Y. TIMES, July 15, 1995, at A1; *Report of the Secretary-General on the Work of the Organization*, U.N. GAOR, 50th Sess., para. 911, U.N. Doc. A/50/1 (1995).

63. See INT'L INST. FOR STRATEGIC STUD., STRATEGIC SURVEY 1995/96 130 (1996).

64. See Rosalyn Higgins, *The New United Nations and Former Yugoslavia*, 69 INT'L AFF. 465 (1993).

65. This is the case especially with respect to Bosnia. See the report drawn up by Marrack Goulding after his fact-finding mission to Bosnia in May 1992 where he recommended against a U.N. peacekeeping operation on the grounds that the situation was too "dangerous, violent and confused." The findings of the report were incorporated into *Further Report of the Secretary-General Pursuant to Security Council Resolution 749 (1992)*, U.N. SCOR, 47th Sess., U.N. Doc. S/23900 (1992).

obstructed, targeted by both sides, denied resupply,⁶⁶ restricted in its movements, [and] subject to constant criticism

It seems that during most of its time in the former Yugoslavia, the United Nations served the "international community" by acting as a substitute for lack of agreement and coherent policy towards the conflict. It is increasingly recognized, at least in some of the European capitals, that against this background the United Nations' performance in the former Yugoslavia was far less catastrophic than is often portrayed.⁶⁷ More significantly, it is also accepted that, in the words of Pauline Neville-Jones, "the failure of the United Nations had partly to do with a widening mismatch between mission and capability but also with serious underlying transatlantic disagreement about the direction of policy."⁶⁸ Such acknowledgments may not, however, undo the damage that has been done to the United Nation's role as a potentially effective instrument of conflict management. Reflecting on the UNPROFOR experience while it was still underway, Rosalyn Higgins concluded that "[a]ll the lessons of the necessary conditions for U.N. peacekeeping seem to have been forgotten; and all the alternative possibilities under the Charter ignored. U.N. peacekeeping, together with collective measures under Chapter VII of the Charter, appears to be entering a period of deep incoherence."⁶⁹

IV. NECESSARY CONDITIONS FOR SUCCESSFUL UNITED NATIONS CONFLICT RESOLUTION

What, then, are some of the broader lessons that can drawn from the experience of U.N. operations after the Cold War? Specifically, what are the conditions that need to be in place for U.N. involvement to have a constructive and positive bearing on efforts to manage and resolve conflict? Five sets of conditions may be identified: (1) maintaining a clear distinction between consent-based operations and enforcement; (2) continuing political support; (3) clarity of mandate; (4) quality of personnel; and (5) adequate financial and military re-

66. *Report of the Secretary-General Submitted Pursuant to Security Council Resolutions 982 (1995) and 987 (1995)*, U.N. SCOR, 50th Sess., paras. 68-69, U.N. Doc. S/1995/444 (1995).

67. Pauline Neville-Jones, *Dayton, IFOR and Alliance Relations in Bosnia*, SURVIVAL, Vol. 38, No. 4, 1996. Ms. Neville-Jones served as Political Director at the Foreign and Commonwealth Office of the United Kingdom at the time of the Dayton negotiations.

68. *Id.*

69. HIGGINS, *supra* note 10, at 181.

sources. For the purpose of this analysis it is useful to look at each of these in turn, even though in practice they cannot easily be separated.

A. Distinguishing Between Consent-Based Activities and Enforcement⁷⁰

Although the United Nations clearly deserves some criticism for the management of its field operations in recent years, its senior officials have rightly stressed that in the absence of a firm willingness to impose a solution on warring parties from the outside, the limitations upon the use of force by peacekeepers remain considerable.⁷¹

Although consent in civil wars will never be absolute, it is the conscious promotion of it which distinguishes peacekeeping from enforcement. As the experience of UNOSOM II in Somalia in the summer and autumn of 1993 clearly showed, any attempt to combine these two sets of activities in one operation is certain to destabilize the operational environment in which forces are deployed.⁷² The key reason for this is that

the logic of peacekeeping flows from political and military premises that are quite distinct from those of enforcement; and the dynamics of the latter are incompatible with the political process that peacekeeping is intended to facilitate.⁷³

To reassert the importance of clearly separating peacekeeping (or, more broadly, consent-based operations) from war-fighting is not tantamount to ruling out enforcement as an option available to the international community. Indeed, as indicated above, peacekeeping may have always been an inappropriate instrument in the particular case of Bosnia. Yet, enforcement action requires political will (and willingness to accept casualties), as well as proper military resources to prosecute it. These conditions did not obtain in the case of the former Yugoslavia.

70. For detailed discussions of the law of host-state consent and the difficulties of obtaining consent in the former Yugoslavia see, respectively, David Wippman, *Military Intervention, Regional Organizations, and Host-State Consent*, 7 DUKE J. COMP. & INT'L L. 209 (1996) and Christine Gray, *Case Study: Host-State and United Nations Peacekeeping in Yugoslavia*, 7 DUKE J. COMP. & INT'L L. 241 (1996).

71. See Tharoor, *supra* note 31, at 56-57.

72. See Mats R. Berdal, *Disarmament and Demobilisation After Civil Wars*, 303 ADELPHI PAPER 5, 25-32 (1996).

73. *Supplement to an Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations*, U.N. SCOR, 50th Sess., para. 35, U.N. Doc. S/1995/1 (1995).

B. Continuing Political Support

The second condition is that of continuing political support and broad international consensus behind the decision to establish and sustain an operation. Such support comes from the Security Council and needs to be reaffirmed and transmitted to the field, both to the heads of the mission entrusted with implementation and to the parties on the ground. It was manifestly absent in the case of the former Yugoslavia. By contrast, the U.N. operation in Cambodia (UNTAC) between 1992 and 1993 benefited greatly from the broad international consensus behind the Paris Peace Accord, and the operation itself enjoyed solid support from key members of the Security Council.⁷⁴ Similarly, during the U.N. operation in Mozambique (ONUMOZ), the Special Representative of the Secretary-General (SRSG), Aldo Ajello, enjoyed continuous support from the Council, as well as from troop-contributing countries.⁷⁵ The political coalition built up in support of the peace process in Central America in the late 1980s and early 1990s was also sufficiently strong to "cushion" the effect of structural and operational weaknesses evident in the implementation phase.⁷⁶

C. Clarity of Mandate

The third condition is that of clarity of mandate and, equally important, a readiness to take account of the mandate's operational implications. Such "clarity" is needed in order to ensure that the various tasks given to complex missions are internally consistent and that political objectives are capable of translation into realizable goals on the ground. Clarity is also needed to ensure that relations, in terms of tasks, as well as command and control arrangements, between the United Nations and other organizations are properly spelled out. Beyond these vital requirements, however, for several reasons clarity

74. See Mats R. Berdal & Michael Leifer, *Cambodia, in THE NEW INTERVENTIONISM 1991-1994: UNITED NATIONS EXPERIENCE IN CAMBODIA, FORMER YUGOSLAVIA AND SOMALIA* 25, 32 (James Mayall ed., 1996).

75. Interview with Aldo Ajello, Special Representative of the Secretary-General, and ONUMOZ staff, in Maputo, Mozambique (February 1994); see also STIFTUNG WISSENSCHAFT UND POLITIK, *WINNING THE PEACE: CONCEPT AND LESSONS LEARNED OF POST-CONFLICT PEACEBUILDING* 13, 15 (1996) (providing a case study of the peacekeeping operation in Mozambique especially focusing on the role of Aldo Ajello, the former Secretary-General in Mozambique).

76. For this and other aspects of the Central American peace process, see Stephen Baranyi & Liisa North, *Stretching the Limits of the Possible: United Nations Peacekeeping in Central America*, AURORA PAPER No. 15 (1992).

cannot mean that the drafting process should remove *all* ambiguities. First, nearly all Security Council resolutions reflect a measure of political compromise which manifests itself in the way a mandate is drafted. If a requirement of complete clarity is demanded, very few resolutions are likely to pass. Second, and more importantly in this context, senior U.N. officials in the field have frequently stressed the value of operating with mandates that allow them to “flexibly interpret” conditions and requirements on the ground.⁷⁷ At times, this has led to controversy. For example, for the purposes of the peace process in Mozambique (specifically, the elections which ONUMOZ was charged with overseeing), Aldo Ajello was determined to turn RENAMO, which had fought a brutal guerrilla war against the government, into a viable political party. The amount of money and support given to RENAMO was criticised from various quarters, but was deemed by Ajello to be within the overall mandate of ONUMOZ and vital to the success of the operation.⁷⁸

D. Quality of Personnel

The quality of senior personnel in a U.N. mission, especially the Force Commander and the SRSG, can be critical to the outcome of an operation. In those operations where the United Nations can plausibly claim to have been successful, the role of leadership in the field (especially the ability to interpret mandates flexibly and use the available resources effectively) has indeed been vital. This was true, for example, in the U.N. operations in both Mozambique and Cambodia.

E. Adequate Financial and Military Resources

Finally, mandates cannot be implemented without adequate financial and military resources. When, for whatever reason, resources have not been forthcoming, tensions have invariably arisen between the United Nations’ declaratory commitments and realities on the ground. Margaret Anstee, SRSG in Angola, declared at the time of the elections in September 1992 that through ingenuity and good will UNAVEM II had been able to organize multiparty elections in a

77. Based on private interviews with and information obtained from United Nations officials that have been based in former Yugoslavia, Haiti, Cambodia and Mozambique. Further details can be obtained by contacting the author.

78. Interview with Aldo Ajello, Special Representative of the Secretary-General, in Maputo, Mozambique (Feb. 1994). Further details can be obtained by contacting the author.

country nearly two-thirds the size of Western Europe.⁷⁹ The subsequent relapse of Angola into civil war showed that ingenuity and good will, which Anstee undoubtedly displayed in rich measure, are not, by themselves, sufficient to guarantee a mission's success. The case of Angola from 1991 to 1992 is only the most glaring example of this. Since 1991, inadequate support, both financially and logistically, have resulted in a number of operations coming perilously close to collapse or serious derailment.⁸⁰

V. CONCLUSION

This Article has suggested that it would be wrong to view the United Nations' failure to satisfy the expectations placed on it in recent years simply as the fault of the organization itself. While the United Nations' record after the Cold War still leaves much to be desired, the difficulties encountered by the United Nations, in terms of substantive policy outcomes, clearly reflect an international system which continues to be divided by conflicts of interest and value, even though the workings of U.N. organs may no longer be paralyzed by the East-West rivalry. Indeed, as James Mayall points out, the host of organizational problems and challenges facing the United Nations "mask[s] a deeper uncertainty within the governments of major powers about the kind of international order they wish to support."⁸¹

There is a further issue, however, that needs to be considered in light of the above discussion. The U.N. Charter was drafted against the background of the experience of the Second World War and, as Rosalyn Higgins has observed,

[T]he Charter provisions dealing with the use of force . . . were formulated to address the problem of military hostilities between states. In the event, much of post Second World War military history has been about different uses of force—the employment or encouragement of irregulars by one state against another, guerrilla movements, national liberation movements, terrorism.⁸²

With the end of the Cold War, violence in the international system, especially after the collapse of multiethnic federal state struc-

79. See Berdal, *supra* note 17. For an excellent and personal account of the U.N. operation in Angola see MARGARET JOAN ANSTEE, *ORPHAN OF THE COLD WAR: THE INSIDE STORY OF THE COLLAPSE OF THE ANGOLAN PEACE PROCESS, 1992-93* (1996).

80. For further discussion, see Berdal, *supra* note 17, especially chapter two.

81. THE NEW INTERVENTIONISM 1991-94, *supra* note 1, at 21.

82. HIGGINS, *supra* note 10, at 239.

tures, has shifted more markedly towards the sub-state level.⁸³ While civil wars and ethno-nationalist violence were also widespread during the Cold War era, the "international community" has chosen, through a variety of means, to become much more directly involved in addressing the political and humanitarian consequences of such conflicts. Although this may only be a temporary phenomenon, the United Nations is at present structurally ill-equipped to address the problems generated by this shift. Moreover, member states have shied away from a more radical discussion of how the United Nations may effectively intervene in internal conflicts. This fact should come as no surprise. A majority of member states, above all those from the non-Western world, have tended to regard such discussions as potentially subversive to the fundamentally state-centric approach of the Charter, and, therefore, also as a threat to the notion of sovereign equality and the principle of non-intervention. Evidence of such concerns can be found in recent attempts by the non-aligned group to "work against the expansion of the Security Council's power" and to resist efforts of "the permanent members to enlarge the scope of the Security Council."⁸⁴ The recent record of U.N. involvement in internal conflict has, if anything, reinforced such concerns and prompted member states to reassert the importance of basing action firmly, as the *Agenda for Peace* puts it, "within the framework and provisions of the Charter."⁸⁵ Reconciling these tensions will continue to present the United Nations, the Security Council, and member states more generally, with major challenges in the post Cold War era.

83. For an overview of internal conflicts as of 1995, see Michael Brown, *Introduction, in THE INTERNATIONAL DIMENSIONS OF INTERNAL CONFLICT* 1, 4-7, (Michael Brown ed., 1996).

84. Morphet, *supra* note 21, at 445-56. This, it should be stressed, is different from the issue of reforming the present structure and workings of the Security Council, an aim which the non-aligned group have tended to support.

85. Boutros Boutros-Ghali, *AN AGENDA FOR PEACE: PREVENTIVE DIPLOMACY, PEACEMAKING AND PEACE-KEEPING: REPORT OF THE SECRETARY-GENERAL*, para. 1, U.N. Doc. A/47/277-S/24111 (June 17, 1992), U.N. Sales No. E.95.I.15 (1995). For further discussion, see Mats R. Berdal, *The United Nations in International Relations*, 22 REV. INT'L STUD. 95 (1996).

