

Making Peace Agreements Work: United Nations Experience in the Former Yugoslavia

Barry Ashton

Follow this and additional works at: <http://scholarship.law.cornell.edu/cilj>

 Part of the [Law Commons](#)

Recommended Citation

Ashton, Barry (1997) "Making Peace Agreements Work: United Nations Experience in the Former Yugoslavia," *Cornell International Law Journal*: Vol. 30: Iss. 3, Article 9.

Available at: <http://scholarship.law.cornell.edu/cilj/vol30/iss3/9>

This Article is brought to you for free and open access by Scholarship@Cornell Law: A Digital Repository. It has been accepted for inclusion in Cornell International Law Journal by an authorized administrator of Scholarship@Cornell Law: A Digital Repository. For more information, please contact jmp8@cornell.edu.

Making Peace Agreements Work: United Nations Experience in the Former Yugoslavia

Barry Ashton*

It might be said with only slight exaggeration that peacekeeping works only when it is not necessary—in other words, when enemies have more or less agreed to stop fighting. In such situations, Blue Helmets can provide the final impetus toward peace and supervise established arrangements. But it cannot work in a cockpit like Bosnia, as U.N. officials themselves warned three years ago. Nevertheless, the Security Council, with the support of the U.S., imposed a mission that mixed peacekeeping with humanitarian aid. It ensured the present debacle by sending in totally inadequate forces, with NATO in an absurd supporting role.¹

I do not believe that in its present phase this conflict is susceptible to UN peace-keeping treatment.²

Introduction

In April 1992, the Security Council authorized the deployment of a U.N. Protection Force (UNPROFOR) of 10,400 military and 2,740 support personnel.³ Committed initially to Croatia, UNPROFOR intervened in an unresolved conflict, where it was not clear that the parties were truly committed to a peaceful resolution of the dispute. With an initial mandate of a

* Graduate of the Canadian Land Forces Command and Staff College, Kingston, 1971-72; Collège militaire royal de Saint-Jean, 1978; Royal College of Defence Studies, London, 1988; CMA; MBA, Pacific Western University, 1990. Senior Directing Staff Member, Canadian Forces College, Toronto, developing the curriculum and assisting in the delivery of the Advanced Military Studies and National Security Studies courses for senior officers. Member, Canadian Forces, 1961-1996. C.D. Major General Ashton's assignments took him to every region of Canada and to many countries around the globe. He served on the International Military Staff at NATO Headquarters in Brussels (1989 to 1991), where he functioned as a Strategic Analyst for Arms Control and participated in the framing of the verification aspects of the Treaty on Conventional Armed Forces in Europe, as Commander of the 1st Canadian Brigade in Calgary (1991 to 1993), as Chief of Staff Joint Plans and Operations at Defence Headquarters in Ottawa (1993 to 1995), and from May 1995 until February 1996, in the rank of Major General, as the Deputy Commander of the United Nations Peace Forces in the former Yugoslavia. During his military service he completed five tours of United Nations service and three tours with NATO.

1. Henry Grunwald, *When Peacekeeping Doesn't Work*, TIME, June 26, 1995, at 82.

2. *Further Report of the Secretary-General Pursuant to Security Council Resolution 749* (1992), U.N. SCOR, 47th Sess., U.N. Doc. S/23900 (1992).

3. S.C. Res. 749, U.N. SCOR, 47th Sess., 3066th mtg. ¶ 2, U.N. Doc. S/RES/749 (1992).

twelve-month engagement, UNPROFOR was intended to create the necessary conditions for the pursuit of political negotiations which would lead to a peaceful settlement. The mission was founded on the premise that a peacekeeping force, established under Chapter VI of the U.N. Charter, could operate effectively in an area where there was no peace to keep. Yet, until the initialing of the Dayton Peace Accords on November 21, 1995, three and one-half years after the deployment of UNPROFOR, a comprehensive peace agreement for the former Yugoslavia did not exist and fighting continued. Moreover, operations were conducted in a complex mix of inter- and intra-state conflict in which some of the parties were non-sovereigns.

Over the period, 213 U.N. soldiers died and 1,751 were wounded or injured.⁴ Nonetheless, human suffering was eased, aid was delivered, fighting was sometimes reduced, face-to-face negotiations between the belligerents were facilitated, the conflict was contained within the borders of Croatia and Bosnia and Herzegovina, fighting was prevented in Macedonia, and lives were saved. Efforts to stabilize the situation were not solely the responsibility of the U.N. Throughout most of the period, U.N. forces operated alongside personnel from the European Community, NATO, the Organization for Security and Cooperation in Europe, the U.N. High Commission for Refugees, the International Committee of the Red Cross, and other international aid and human rights monitoring organizations. Additionally, as people from these organizations labored in the field, peacemakers from the International Committee on the Former Yugoslavia, the Contact Group and others tried to reach a peaceful solution to the conflicts.

Arguably, this U.N. mission was of greater scope and complexity than any U.N. mission ever undertaken. Over its course, the UNPROFOR mandate was extended to five of the six republics of the former Yugoslavia. By July 1992, U.N. troops had deployed to the Sarajevo area of Bosnia and Herzegovina to ensure the security and functioning of the airport and the delivery of humanitarian supplies.⁵ In December 1992, the presence of UNPROFOR was further extended to Macedonia.⁶ By August 1995, the Force reached a strength of more than 47,000 troops.⁷ The Security Council enacted more than 100 resolutions concerning the former Yugoslavia, no less than 40 (on average, nearly one per month) of which were mandate enhancements directly affecting the Force's strength, deployment, and tasks. Frequent changes made impossible demands on the Force and generated a view among many that the Security Council treated resolutions as though they were self-fulfilling. As the conflicts evolved, the U.N. mandate became increasingly irrelevant in the eyes of the parties and many in the

4. UNITED NATIONS, FORCE COMMANDER'S END OF MISSION REPORT 1 (1996).

5. A Security Council Resolution authorized this deployment. S.C. Res. 761, U.N. SCOR, 47th Sess., 3087th mtg., ¶ 1, U.N. Doc. S/RES/761 (1992).

6. S.C. Res. 795, U.N. SCOR, 47th Sess., 3147th mtg., U.N. Doc. S/RES/795 (1992).

7. UNITED NATIONS, *supra* note 4, at 1.

international community. There was little prospect for a military solution and, sometimes, an absence of political or diplomatic momentum that might lead to a peaceful settlement. Contributing nations and the international community at large found the situation increasingly intolerable. The parties to the conflicts refused to accept responsibility for the situation, choosing instead to blame the United Nations. U.N. credibility was in jeopardy.

When the balance sheet on the U.N. operation in the former Yugoslavia is finally tallied, it may be possible to determine whether that operation was a success or a failure. Pending a full accounting, lessons can be applied to the formulation and implementation of peace agreements and for the future of both U.N. and multilateral peacekeeping operations. This Article addresses aspects of the U.N. operation and describes the lessons that can be learned from that operation, particularly those lessons that apply at the politico-military level.

I. Conditions for Success in Peacekeeping Operations

Success in peacekeeping operations depends on many factors. In *An Agenda for Peace*, the then U.N. Secretary-General, Boutros Boutros-Ghali, set out five basic conditions for success:

The nature of peace-keeping operations has evolved rapidly in recent years. The established principles and practices of peace-keeping have responded flexibly to new demands of recent years, and the basic conditions for success remain unchanged: a clear and practicable mandate; the cooperation of the parties in implementing that mandate; the continuing support of the Security Council; the readiness of Member States to contribute the military, police and civilian personnel, including specialists, required; effective United Nations command at Headquarters and in the field; and adequate financial and logistic support.⁸

In the former Yugoslavia, each of these basic conditions for success was compromised in some fashion at one time or another. A case could be made that these conditions were never met in a manner which offered a reasonable prospect for success. Had these basic conditions been applied rigidly at the outset, the force might never have been deployed. In recommending the establishment of UNPROFOR, the Secretary-General stressed that the danger that a peacekeeping force would fail for lack of cooperation from the parties was less grievous than the danger that delay in its dispatch would lead to a breakdown of the cease-fire and to a new conflagration.⁹ UNPROFOR was established as the lesser of two evils.

Conditions for success are guidelines for action, not measures of success achieved. Ultimate success can be judged only by the extent to which the mandate of the force was implemented. However, an understanding of,

8. BOUTROS BOUTROS-GHALI, *AN AGENDA FOR PEACE* at 29, U.N. Sales No. DPI/1247 (1992).

9. *Further Report of the Secretary-General Pursuant to Security Council Resolution 721*, 47th Sess., U.N. SCOR, U.N. Doc. S/23592 (1992).

and respect for, these basic conditions for achieving peace is essential to framing and implementing Security Council resolutions and peace agreements. If the objective set out in Resolution 743, "an interim arrangement to create the conditions of peace and security required for the negotiation of an overall settlement of the Yugoslav crisis,"¹⁰ is the measure, then it might be argued that the U.N. mission was a success. On the other hand, the mission failed to create these conditions in the twelve-month period originally authorized. Moreover, the U.N. failed in a number of its mandated tasks. To examine the reasons for failure, certain aspects of the mission are set against the basic conditions for success.

II. Testing the Conditions for Success: An Analysis of the United Nations Experience in the Former Yugoslavia

A. A Clear and Practicable Mandate

The formulation of clear and achievable mandates for peacekeeping forces, especially pertaining to the precise relationship between political objectives and military means and resources, is a simple concept. In the former Yugoslavia, no such mandate evolved. From the outset, in the absence of a comprehensive peace agreement, U.N. forces found themselves in an ambiguous situation with difficult and complex, sometimes impossible, tasks. The absence of a clear and practicable mandate exacerbated the difficulty of their tasks as fighting continued and spread. Efforts at furthering the peace process were thwarted and the overall complexity of the situation increased. Ambiguity might have been eased if there had been direct military advice and involvement in both the initial and subsequent mandate formulation. Such involvement could have helped to ensure that Security Council resolutions provided clear military objectives which were consistent with the resources available, while establishing realistic milestones for the implementation of those objectives. With the exception of agreements made on the ground and subsequently recognized by the Security Council, there was seldom sound military advice available to the Security Council. When military advice was proffered, it was often ignored.

As with other recent peacekeeping operations, such as those in Somalia and Rwanda, the United Nations intervened in what was a complicated *mélange* of civil and international war. Not all of the parties had standing in the eyes of the international community. Within some of the parties, there were rogue or "uncontrollable" elements. UNPROFOR was confronted by a number of paramilitary groups, militias, and other elements operating independently from internationally recognized governments and negotiating authorities. In some cases, these groups had not been a party to mandate formulation, did not agree with aspects of the mandate, and actively opposed UNPROFOR efforts to implement its mandated tasks. Despite the fact that these groups lacked "official" standing, UNPROFOR had to deal with them. Some criticized senior UNPROFOR

10. S.C. Res. 743 U.N. SCOR, 47th Sess., 3055th mtg., ¶ 5, U.N. Doc. S/RES/743 (1992).

officials and commanders for meeting with political and military leaders indicted as "war criminals" by the international community. Attempts to implement the mandate dictated that communication be established and maintained with all of the parties, indicted war criminals or not. Senior UNPROFOR officials and commanders did not enjoy the luxury of choosing those individuals appointed to represent their interests.

Perhaps the best proof that the mandate was both unclear and unachievable, given the resources allocated to it, is the mandate for the "safe areas" in Bosnia and Herzegovina authorized under Security Council Resolutions 819,¹¹ 824,¹² 836¹³ and 844.¹⁴ The "safe areas" of Bihac, Gorazde, Sarajevo, Srebrenica, Tuzla, and Zepa were to be free from armed attacks and other hostile acts threatening damage to the well-being and safety of their inhabitants or impeding delivery of humanitarian assistance. Based on military advice from U.N. commanders, the Secretary-General estimated that approximately 34,000 additional troops would be required to ensure full respect for the "safe areas," three of which were enclaves on Bosnian Serb controlled territory in Eastern Bosnia.¹⁵ Taking into account the amount of troops and material resources likely to be made available to UNPROFOR, the Security Council, in Resolution 844, authorized a "light option" of about 7,600 troops.¹⁶ The "light option" would not guarantee the protection of the "safe areas," but it would provide a basic level of deterrence, assuming that the parties consented and cooperated. A year later, in 1994, the troop level in the "safe areas" still totaled less than the 7,600 troops authorized. Nations that contributed troops were unwilling to provide troops for this task. Moreover, the consent and cooperation of the parties assumed in Resolution 844 never existed.

The Bosnian army used the "safe areas" as the location for military headquarters and as a firm base to train, rehabilitate forces, and launch military operations. When a "safe area" has significance for military operations and its use as such threatens the security of another party, it may be unrealistic to expect that party to refrain from conducting military operations against the area. Agreement by the Bosnian Muslims to demilitarize Srebrenica was not extended to the other areas and was not even honored in Srebrenica. UNPROFOR efforts to protect the "safe areas" appeared to be aimed at obstructing only one of the parties. UNPROFOR lost its impartiality and became a party to the conflict, at least in the perception of the party being obstructed, the Bosnian Serbs.

11. S.C. Res. 819, U.N. SCOR, 48th Sess., 3199th mtg., ¶ 1, U.N. Doc. S/RES/819 (1993).

12. S.C. Res. 824, U.N. SCOR, 48th Sess., 3208th mtg., ¶¶ 3-4, U.N. Doc. S/RES/824 (1993).

13. S.C. Res. 836, U.N. SCOR, 48th Sess., 3228th mtg., ¶¶ 5-6, U.N. Doc. S/RES/836 (1993).

14. S.C. Res. 844, U.N. SCOR, 48th Sess., 3241th mtg., ¶ 2, U.N. Doc. S/RES/844 (1993).

15. *Report of the Secretary-General Pursuant to Security Council Resolution 836*, 48th Sess., U.N. SCOR, U.N. Doc. S/25939 (1993).

16. S.C. Res. 844, *supra* note 14, ¶ 2.

The decisions taken by NATO in response to a request from the U.N. Secretary-General were key to the "safe area" concept. NATO decided to extend the military exclusion zone it had established around Sarajevo to Gorazde and to do likewise for Bihac, Srebrenica, Tuzla, and Zepa if, in the "common judgment of the NATO Military Commanders and U.N. Military Commanders, there is a concentration or movement of heavy weapons within a radius of 20 kilometers of these areas."¹⁷ NATO decided to respond to violations of these exclusion zones with air attacks. Resolution 836, paragraph 10, authorized the use of "all necessary measures," a Chapter VII authority, by NATO.¹⁸ This permitted the use of force in cases other than self-defense, such as for peace enforcement. The mixing of peace enforcement with peacekeeping made the character of operations ambiguous, as the parties were unable or unwilling to distinguish between peace enforcement and peacekeeping.

In July 1995, the world watched as the Bosnian Serbs seized Srebrenica, then Zepa. These attacks were due, at least in part, to the military use of these areas by the Bosnian army. The Bosnian Serbs justified these attacks on the basis of self-defense. The Bosnian government exploited Bosnian Serb attacks to internationalize their plight. Bosnian military operations from Srebrenica and Zepa had been undertaken by their forces to elicit a response from the Bosnian Serbs. Bosnian Serb attacks were then used to accuse the international community of doing too little, too late. When the Bosnian Serbs attacked Srebrenica, approximately 8,000 to 12,000 Bosnian army troops withdrew with hardly a shot fired in defense.¹⁹ Then, the Bosnian government and many in the media accused approximately 400 Dutch U.N. troops of failing to "defend" the enclave.²⁰ Widespread condemnation of UNPROFOR for its lack of resolve to "defend" the "safe areas" demonstrates the problems that can arise when mandates are not formulated realistically nor resources allocated according to the military realities. If the "safe areas" mandate was formulated with the benefit of sound military advice or if the advice proffered after its formulation was followed, the situation might have been quite different. The Security Council assumption of cooperation by the parties had not existed elsewhere and it was clear early that it would not exist for the "safe areas." "Safe areas" which are not demilitarized and continue to have military significance for military operations are not truly safe. The well-being and safety of inhabitants cannot be protected when some of those inhabitants

17. *Decisions on the Protection of Safe Areas taken at the Meeting of the North Atlantic Council*, NATO/OTAN Press Release (94)32 (Brussels, Apr. 22, 1994).

18. S.C. Res. 836, *supra* note 13, ¶ 10. Paragraph 10 of this resolution uses the language "Member states, acting nationally or through regional organizations or arrangements." *Id.* This phrasing was understood to mean acting through NATO.

19. The figures used are estimates based upon several reports. See, e.g., Dutch Ministry of Defense, *Serious war crimes committed by Bosnian Serbs*, Press-Summary Debriefing Report, Oct. 30, 1995, at 1.

20. *Id.* at 1, 3. See also Bruce W. Nelan, *Bombs and Bluster*, TIME, July 31, 1995, at 14.

are engaged in military activity. Furthermore, in order to deter attacks, the safe areas must have a credible defensive capability.

Peacekeeping operations must be governed by a clear understanding of the political and military objectives, by the establishment of milestones for the implementation of these objectives, and by the provision of the means necessary to accomplish the assigned tasks. In the case of the "safe areas," the objectives were impeded by a failure to demilitarize the areas, because the resources allocated were inadequate for the task and because of the non-cooperation of the parties.

B. Consent: The Cooperation of the Parties

The fundamental weaknesses of U.N. peacekeeping²¹ were underscored by operations in the former Yugoslavia, where only partial or sporadic consent to intervention was ever granted by the parties to the conflicts. As demonstrated by the failure of the "safe area" mandate, the premise of consent was false. The general failure to obtain the consent of the parties raises the question of whether UNPROFOR should have been withdrawn or the mandate changed to accord with this reality. Withdrawal was an option, as demonstrated by NATO/U.N. withdrawal planning begun in 1993.²² However, withdrawal would have entailed many risks. Realizing this, many in the international community preferred to muddle-through rather than clearly admit failure and face these risks. In the view of the international community, the U.N. presence offered some hope for an eventual settlement, no matter how faint.

1. Croatia

The U.N. operation in Croatia was established as a traditional Chapter VI peacekeeping operation. The initial U.N.-negotiated peace plan²³ for Croatia charged peacekeepers with monitoring the demilitarization of irregular and paramilitary forces and the functioning of local police forces, as well as overseeing the withdrawal of Federal Yugoslav Army forces from the U.N. Protected Areas (UNPAs) in Eastern Slavonia, Western Slavonia and Krajina. However, it was not until approximately six months after the realization of the peace plan that U.N. forces were deployed and operational. In the interim, it was left to a handful of military observers to monitor the situation.

21. MATS R. BERDAL, *WHITHER U.N. PEACEKEEPING* 10 (1993) (Adelphi Paper 281 published by Int'l Institute for Strategic Studies, London) (promoting an insightful analysis of the fundamental weaknesses of U.N. peacekeeping).

22. Withdrawal planning was an extension of the planning begun in 1993 by NATO which indicated a willingness to undertake implementation of the Vance-Owen peace plan. The Vance-Owen plan was not accepted by the parties and planning for NATO support of a U.N. withdrawal began.

23. Negotiated by the Secretary-General's Personal Envoy, Cyrus Vance. Agreement to an immediate cease-fire and other issues was reached in Geneva on November 23, 1991. The Security Council approved the plan. S.C. Res. 724, U.N. SCOR, 46th Sess., 3023d mtg., ¶ 2, U.N. Doc. S/RES/724 (1991).

Demilitarization of the UNPAs required, for example, that specified weapons be placed in secure storage sites under a "double-key" system with U.N. guards manning these sites. Non-cooperation by Serb militias ensured that demilitarization was never fully effective. The Secretary-General observed that, for a political settlement to be reached, "not only a working cease-fire but also clear and unconditional acceptance of the plan by all concerned, with equally clear assurances of their readiness to cooperate in its implementation" was essential.²⁴ The assumption of consent proved flawed and the U.N. presence itself was passively and actively obstructed, undermined, and opposed. Croatia was able to re-arm and train a force which, by May and August 1995, was sufficient to seize control of the UNPAs in Western Slavonia and Krajina, in violation of the mandate and the March 29, 1994, cease-fire agreement. Hundreds of thousands of Serbs fled from Croatia. Croatia was able to achieve militarily what the peacemakers and peacekeepers themselves had failed to achieve.

2. Bosnia and Herzegovina

In Bosnia and Herzegovina, there were also repeated violations of agreements. For example, the initiative by President Carter in late-1994 led to an agreement for the cessation of hostilities beginning on January 1, 1995.²⁵ The agreement included provisions for a monitoring and supervisory regime, the exchange of liaison officers with UNPROFOR, the separation of forces, prohibitions on the use and location of munitions and weapons, the granting of full freedom of movement for UNPROFOR and other international agencies, and full respect for the safety and security of UNPROFOR and related personnel. The agreement also included provisions requiring respect for all existing agreements which included eight agreements dating back to the Sarajevo Airport Agreement of June 5, 1992, normalization of life, the early release of detained persons, and cooperation with UNPROFOR in monitoring the withdrawal of all foreign troops.²⁶ The agreement was made without prejudice to a final political or territorial solution. However, there is no evidence of a concentrated political or diplomatic effort to cement this agreement in a final solution. Within weeks, as a result of non-compliance and general non-cooperation by the parties, the agreement began to break down. The Secretary-General reported that while some progress was made in certain aspects of the agreement, little progress was achieved in January 1995 on provisions dealing with the separation of forces, inter-positioning of UNPROFOR troops, and the withdrawal of heavy weapons.²⁷ By April, the agreement had completely broken down and large-scale fighting had resumed.

24. *Further Report of the Secretary-General Pursuant to Security Council Resolution 721*, at 7, U.N. SCOR, 47th Sess., U.N. Doc. S/23592 (1992).

25. Agreement on the Complete Cessation of Hostilities, Dec. 31, 1994.

26. *Id.*

27. *Report of the Secretary-General Pursuant to Security Council Resolution 947* (1994), U.N. SCOR, 50th Sess., at 23, U.N. Doc. S/1995/222 (1995).

On May 9, 1995, Karadzic, the Bosnian-Serb leader, made it clear that in the event of NATO air action, the U.N. forces would be treated as enemies. He confirmed that the Bosnian Serb army had decided to put the United Nations under sanctions, blockading U.N. forces. This declaration was made in response to indications of an impending Bosnian army offensive to lift the siege of Sarajevo and as a result of Karadzic's determination to prevent the United Nations from helping them succeed. The Bosnians used Bosnian Serb intransigence over the lifting of the siege of Sarajevo, the U.N. failure to implement its mandate, and the removal of heavy weapons by the Serbs to justify its offensive.

Even the title "Protection Force" itself created, in the minds of many, false and often unrealistic expectations about the Force's true purpose. Major General Lewis MacKenzie, the first Chief of Staff of UNPROFOR and the first Commander of Sector Sarajevo in 1992, argued that the name "Protection Force" led civilians in Sarajevo to expect protection for themselves, not simply for the humanitarian aid workers and convoys.²⁸ MacKenzie further stated that the Bosnian presidency was perpetuating the idea that the United Nations should take the Bosnian side in the conflict.²⁹ Similarly, in Croatia, many among the Serb population in the UNPAs believed that the United Nations was there to protect them and felt betrayed by what they saw as UNPROFOR's failure to do so. Not only were the U.N. forces deployed in the UNPAs without the resources to provide protection, but they did not have the mandate, as examination of Resolution 981 reveals.³⁰ Mandated tasks included monitoring the March 29, 1994, cease-fire agreement between the Republic of Croatia and local Serb authorities, facilitating the implementation of the economic agreement, monitoring and reporting on military movement across the borders with Bosnia and Herzegovina and the Federal Republic of Yugoslavia, assisting in the delivery of humanitarian supplies to Bosnia and Herzegovina, and monitoring the demilitarization of the Prevlaka peninsula.³¹

In 1994 and 1995, it was clear that Croatian military personnel were operating in Bosnia and Herzegovina alongside Bosnian Croat forces, contrary to the agreement made to respect the sovereignty of Bosnia and Herzegovina. Croatia maintained that it had no formed units in Bosnia. Evidence showed otherwise, but UNPROFOR was unable to prove this conclusively due to its inability to move sufficient observers into key positions on the border and into Western Bosnia. Misunderstandings, misperceptions, and deceit increased the pressure on the United Nations and affected its credibility in the eyes of the parties to the conflict. When the mandate became impossible to implement, the parties tended to blame the United

28. LEWIS MACKENZIE, *PEACEKEEPER: THE ROAD TO SARAJEVO* 292 (1993).

29. *Id.*

30. S.C. Res. 981, U.N. SCOR, 50th Sess., 3512th mtg., U.N. Doc. S/RES/981 (1995). Resolution 981 was an updated version of a number of resolutions which had existed and modified the original mandate for the U.N. mission in Croatia.

31. *Id.*

Nations when, in fact, the parties themselves failed to honor commitments and actively resisted U.N. efforts to implement its mandated tasks.

C. Freedom of Movement

Freedom of movement, an aspect of consent and an achievable Chapter VI mandate, provides a peacekeeping force with an indispensable tool for carrying out its tasks. Freedom of movement is essential to policing cease-fires, delivering humanitarian supplies, monitoring the deployment of military forces, and supplying the peacekeeping force. In Croatia, most U.N. troops lived and operated from Serb-controlled territory. Thus, they depended upon the cooperation of the Serbs for movement within the UNPAs and to and from the zone of separation. When Serbian cooperation was withdrawn and UNPROFOR was unable to enforce compliance, the Croats believed that the force lacked impartiality.

In order to monitor Croat compliance with the cease-fire agreement, it was necessary to patrol on the Croat side of the zone of separation. Limited access across the zone, restrictions on the movement of military observers who operated on Croatian territory, and general non-cooperation on the part of the Croats made monitoring of the cease-fire agreement difficult. It became impossible in May and August of 1995 as Croats massed troops in preparation for their offensives. The offensive against the Krajina was facilitated by forces operating in Western Bosnia, which directly threatened Serbs in the Krajina and threatened to cut off links to Bosnian Serb controlled territory and escape routes out of Croatia.

In Bosnia and Herzegovina, freedom of movement was similarly restricted. By June 1995, Bosnian Serbs had restricted freedom of movement to the extent that UNPROFOR was unable to operate in Bosnian Serb controlled territory. As a result, the United Nations could not supply troops to the "safe area" enclaves of Gorazde, Srebrenica, and Zepa. Humanitarian supplies were blockaded and the force's attempts to monitor compliance with agreements were thwarted. The Bosnian Serbs restricted freedom of movement to control and punish UNPROFOR, to demonstrate sovereignty, to gain relief from sanctions, to control and punish "safe area" populations, and to increase their share of humanitarian aid. The Bosnian Government and the Federation denied freedom of movement to control UNPROFOR, to gain security for offensive actions, and to prevent UNPROFOR from manning observation posts near areas of operational activity.

These restrictions limited the vital flow of humanitarian aid and put the "safe area" mandate in the enclaves at risk. The restrictions also limited the UNPROFOR's ability to monitor compliance with agreements. Without freedom of movement, U.N. troops in the enclaves were, effectively, held hostage by the Bosnian Serbs who surrounded the enclaves. UNPROFOR lacked the means to guarantee freedom of movement or to control the escalation that almost certainly would have resulted had it imposed its will. Restrictions on freedom of movement were directed from the highest level of each of the parties. Declarations of "deep concern"

from New York³² did not change the situation on the ground. With neither freedom of movement nor the means to enforce it, U.N. troops were handcuffed in their efforts to carry out many of their tasks.

As the drift towards an aggravated form of peacekeeping continues, so too does the existence of consent come into question.³³ Meaningful consent was absent from U.N. operations in the former Yugoslavia. In the absence of this vital ingredient of a Chapter VI operation, the cornerstone of the mandate, some might question why the Security Council did not withdraw the force, adjust its mandate to reflect the reality, or provide the force with the means to enforce its mandate.

D. Continuing Support of the Security Council

The support of the Security Council, another condition for success, can be demonstrated in many ways. The Security Council's principle role in peacekeeping is the formulation of a vision and the provision of strategic direction for the operation. The Security Council manages peacekeeping operations through the Secretary-General and the U.N. Secretariat. The direction of the Security Council, implemented through its resolutions, must be backed by the resources necessary to achieve that direction. While the Security Council does not provide resources directly, it does have the responsibility to consult, directly or through the Secretariat, with those who do—the General Assembly for budgetary matters and the troop contributing nations for the provision of troops. Relating to the former Yugoslavia, consultation and management seemed inadequate because UNPROFOR often lacked the resources necessary to carry out its mandate effectively.

A number of UNPROFOR's failures and problems can be traced to the Security Council. Among these was a seeming unwillingness to recognize the reality that member states would not furnish additional troops to this ambiguous and risky operation. In terms of the quantity and quality of troops required to undertake the mandate, troop contributing nations were not forthcoming in meeting the needs. Second, financial limitations constrained the possibilities for fully implementing the mandate. Finally, as discussed in relation to the "safe areas," the Council did not seek or use military advice provided by the Secretary-General in the framing of its resolutions.

Advice offered on other matters by the Secretary-General, based on the advice of U.N. commanders, was also ignored. For example, by late May 1995, a deteriorating security situation, the failure of NATO air attacks of May 25 and May 26 to make a difference on the ground, the hundreds of U.N. troops held hostage by the Bosnian Serbs, and the widespread criti-

32. See, for example, *Statement by the President of the Security Council*, U.N. SCOR, 50th Sess., U.N. Doc. S/PRST/1995/31 (1995). The Statement was issued in response to the blockading of Ukrainian troops in Gorazde and Canadian troops in Visoko by Bosnian Muslim elements.

33. Richard Connaughton, *Time to Clear the Doctrine Dilemma*, JANE'S DEFENCE WKLY., Apr. 9, 1994, at 19.

cism of the U.N. provided the context for the Secretary-General to report to the Security Council.³⁴ He presented, in paragraph 72, four discrete options for the future of UNPROFOR in Bosnia and Herzegovina: a) withdrawal; b) continue on the same course (muddle through); c) change the mandate to permit greater use of force; or d) change the mandate to include only those tasks which a peacekeeping force realistically could be expected to perform.³⁵ These options were presented with the advice and backing of the Force Commander and the Commander of the Bosnia and Herzegovina Command.

The Secretary-General did not favor withdrawal except as an option of last resort because he considered it an abandonment of the Bosnian people, who had already endured enough suffering. Similarly, he did not favor muddling through. The greater use of force, he stated, would require replacing UNPROFOR with a multinational force. In paragraph 79, he identified a change of the mandate as the only realistic option for the United Nations. The Security Council ignored all of the options and attempted combining "muddling through" with a greater use of force by authorizing the creation of a rapid reaction force.³⁶ Though the Security Council faced a difficult decision, this response illustrated its lack of support for a mission it created.

E. Adequate and Effective Forces

1. Adequate Troop Strength

As with the "safe areas," advice on the number of troops required to undertake a mandated task was apparently ignored. Security Council authorized force levels that were either not fully achieved or achieved only after lengthy delays. This meant that new tasks were undertaken at reduced levels by troops already on the ground and at the expense of existing tasks, consequently diluting effectiveness. An inability to assume new tasks quickly with effective troops meant that operational momentum to follow up agreements or to seize opportunities was lost.

Not only is it important that sufficient troop strength exist to carry out the tasks assigned, but the timely arrival of these troops in a state capable of undertaking operations without undue delay is also critical to success. Peacekeeping troops must be combat capable, particularly for a theater such as the former Yugoslavia. These troops also must have specialized peacekeeping training and must be properly equipped. Many of UNPROFOR's contingents lacked the equipment necessary to operate effectively in a war zone like the former Yugoslavia. Inadequate armor protection and firepower led to situations where the troops were unable to carry out their tasks and were at unnecessary and unacceptable risk. As the

34. *Report of the Secretary-General Pursuant to Security Council Resolutions 982 (1995) and 987 (1995)*, U.N. SCOR, 50th Sess., ¶ 72, U.N. Doc. S/1995/444 (1995).

35. *Id.*

36. The Rapid Reaction Force was authorized under Security Council Resolution 998. S.C. Res 998, U.N. SCOR, 50th Sess., 3543d mtg., ¶ 10, U.N. Doc. S/RES/998 (1995).

United Nations required more and more troops to fill its peacekeeping mandates worldwide, it recruited troops from nations with little peacekeeping experience. In a number of cases, units received both their training and U.N.-provided equipment in-theater. Months might have passed after its arrival before a unit was judged minimally capable operationally. Food, accommodations, and maintenance cost the United Nations many millions of dollars without the benefit of any operational utility. The United Nations should accept only troops that are fully equipped, trained to U.N. readiness standards, and operationally capable on arrival. Such preparedness requires better troop stand-by arrangements between contributing nations and the U.N. in order to facilitate the rapid deployment of effective forces.

2. *Rules Of Engagement*

Rules of engagement (ROE), the means by which direction governing the use of force is provided to troops, are an important aspect of force effectiveness. Potentially, every use of force by a peacekeeping operation carries with it significant political implications. ROE are framed within the provisions of international and national law, including the mandates provided, and, in the case of U.N. or U.N. authorized operations, by Security Council resolutions. In Chapter VI operations, the use of force is limited to "the minimum extent necessary and normally only in self-defence."³⁷ Under this definition, self-defense includes resistance to attempts by forceful means to prevent a U.N.-authorized force from discharging its mandate. Given the situation throughout much of the UNPROFOR area of operations, resistance to forceful efforts preventing the discharge of its mandate would have required considerably heavier protection and armament and a greater number of troops. If soldiers are to believe they can survive in such a situation, their ROE and means for execution must be consistent.

Among the problems related to ROE was a lack of a common understanding of their meaning and, as a result, their inconsistent application. National training and varying levels of experience, law, and practice sometimes meant that the same rules were used differently by different contingents in a similar circumstance. A second difficulty was the question of the extent to which force could be used to protect non-U.N. personnel, including civilians in protected and safe areas. For example, Resolution 836 provided no additional authority for the use of force to protect civilian populations in the "safe areas."³⁸ It may be that a new category of the minimum use of force is emerging under Chapter VI peacekeeping in a semi- or non-permissive environment which goes beyond the classic interpretation limiting the use of force strictly to situations of self-defense. A third problem relates to the authority for the use of force to protect property. In aggravated peacekeeping operations, where banditry and hijacking

37. *Report of the Secretary-General Pursuant to Security Council Resolution 721 (1991)*, U.N. SCOR, 46th Sess., Annex III, para. 4., U.N. Doc. S/23280 (1991).

38. See generally S.C. Res. 836, *supra* note 13. Review of this resolution shows a lack of additional authority for peacekeepers, except some language in paragraph 9. *Id.*

are not uncommon and where normal means of law enforcement are non-existent or ineffective, it is necessary to have specific authority for using force to protect property. Without such authority, U.N. or other peacekeeping coalitions will face the prospect of continuous theft and destruction of equipment essential to the mission.

3. Reserves

Until the establishment of the Rapid Reaction Force, U.N. commanders did not have a dedicated reserve to deal with unforeseen events. Many commanders compensated for this by "dual hatting" units which had other responsibilities. While this provided a theoretical reserve, it reduced reaction times, put other tasks at risk when reserves were called upon, and meant that difficult compromises had to be made in decision-making. The maintenance of a dedicated reserve is a time-tested military imperative. In a dynamic, semi- or non-permissive environment, the existence of sector, command, and theater reserves from the outset of the operation would have provided commanders with the much needed flexibility to undertake mandated tasks and the capability to deal with unforeseen events.

When it became operationally ready in August 1995, the Rapid Reaction Force, consisting of 12,500 soldiers equipped with artillery, heavy mortars, tanks, and armed helicopters, provided the force commander with a potent capability to reinforce threatened U.N. forces.³⁹ The Rapid Reaction Force could have provided a substantial capability to cover the withdrawal of U.N. troops from Bosnia and Herzegovina had this become necessary. It also provided the means required to overcome resistance to the implementation of aspects of the mandate. This was demonstrated during "Operation Deliberate Force," the NATO-U.N. operation begun on August 30, 1995. This operation was undertaken following the shelling of the Sarajevo market on August 28. Its purpose was to force the Bosnian Serbs to withdraw heavy weapons from the Sarajevo exclusion zone. Rapid Reaction Force artillery and heavy mortars, closely coordinated with NATO air actions, engaged and, finally, brought about the removal of Bosnian Serb heavy weapons.⁴⁰ Had this kind of a reserve been available earlier in the mandate, as established military practice would dictate, the situation might have unfolded quite differently.

F. Demilitarized Zones

Some form of demilitarization was a part of nearly every agreement reached in the former Yugoslavia. Demilitarization had many variations. The "Protected Areas" and "Zone of Separation" in Croatia and the "safe areas" in Bosnia and Herzegovina were three variations on the concept of creating effective cease-fires. A fourth variation was the "exclusion zone" agreement for heavy weapons around Sarajevo on February 9, 1994. This agreement was struck in response to the large number of civilian casualties

39. *Ebbing Force*, *ECONOMIST*, July 8, 1995, at 44.

40. *Bosnia: An End in Sight, At Last*, *ECONOMIST*, Sept. 23, 1995, at 43.

caused by a mortar shell which had exploded in the main market in Sarajevo four days earlier. U.N. commanders insisted that the only realistic option for preventing shelling of the Sarajevo area was the complete withdrawal of all heavy weapons from areas within a twenty kilometer radius of the city.⁴¹ On February 20, the Security Council met in an informal session, at the request of the Russian Federation, and agreed that certain weapons not removed from the exclusion zone could be monitored, in place, by UNPROFOR. This compromise flawed the agreement, and, as subsequent events proved, it became ineffective when the parties refused to cooperate. Bosnian Muslim heavy weapons remained within Sarajevo. Due to the paucity of U.N. resources available to monitor and control the exclusion zone, the Bosnian Serbs could return unobserved the weapons they had removed earlier. Moreover, those weapons that remained, despite U.N. monitoring, were available for use when the parties chose to ignore the agreement.

The establishment of demilitarized and controlled zones or areas can best be undertaken effectively where the parties are willing to honor their agreements. In the absence of such will, the peacekeeping force's capability to adequately monitor and enforce the agreement becomes the indispensable element of force effectiveness.

G. Effective Command

For all of its peacekeeping experience, the United Nations remains an organization which patches together its missions on an ad hoc basis. While some effort has been undertaken since 1991 to increase the military staff of the Department of Peacekeeping Operations and the Field Administration and Logistics Department at U.N. headquarters, the United Nations still lacks a dedicated military planning and operations staff. Furthermore, UNPROFOR operations suffered from a complicated and sometimes ambiguous chain of command.

1. *Military Staff Committee*

Although the U.N. Charter sees the role of the Military Staff Committee only in the context of Chapter VII,⁴² the growing number and complexity of peacekeeping operations provide a case for a dedicated military planning staff at, or adjacent to, U.N. headquarters. Without such a staff, U.N. peacekeeping operations will likely continue to be ad hoc, and enacted resolutions will be ambiguous, bearing little meaning for forces on the

41. Other options considered could not guarantee that Sarajevo be free from shelling. For an account of the events surrounding the establishment of the Sarajevo Weapons Exclusion Zone, see UNITED NATIONS, *THE UNITED NATIONS AND THE SITUATION IN THE FORMER YUGOSLAVIA: REVOLUTIONS OF THE SECURITY COUNCIL AND STATEMENT BY ITS PRESIDENT*, 25 SEPTEMBER 1991–28 APRIL 1995, at 23-25 (1995).

42. In the context of Chapter VII, Article 46 of the U.N. Charter calls for the Security Council to develop plans for applying force with the assistance of the Military Staff Committee. U.N. CHARTER art. 46. Article 47 sets out the Committee's terms of reference, which include providing advice to the Council on readiness, planning and general matters of command, and strategic direction of forces. U.N. CHARTER art. 47.

ground. Without such a staff, U.N. credibility in aggravated peacekeeping operations will probably continue to suffer.

2. *A Single Command Authority*

UNPROFOR was a multifaceted operation requiring an integrated approach to strategic direction and to the planning and execution of operations. A structure permitting and facilitating this integration did not exist. There was never a single authority for operations in the former Yugoslavia. Although the Security Council arguably led the operation, the tasks it assigned NATO and the humanitarian tasks undertaken by a wide variety of international agencies complicated a coherent approach to the management of operations. Not only was an overall vision of what the international community wished to achieve absent, but there was also no single theater-level operational authority to coordinate and direct the achievement of that vision.

The role of the Security Council is to formulate and direct the vision. It cannot, and should not be expected to, plan and direct the execution of operations. A separate body with links to the Security Council needs to be established to undertake this role. It would function in a manner similar to the way NATO's Military Committee functions in formulating advice to, and interpreting the direction of, the North Atlantic Council and the Defense Planning Committee. The Military Staff Committee concept is sound, but it needs to be extended to all U.N. military operations, not just Chapter VII operations.

U.N. troop-contributing nations assign their troops to the operational control of U.N. commanders. This means that national forces are authorized by their government to carry out specific tasks as directed by U.N. commanders for a specified period of time, normally the mandate period. As the UNPROFOR mandate evolved, it became necessary to negotiate with troop-contributing nations the assignment of new tasks for troops on the ground. In some cases, these negotiations became protracted, without easy solution. The "safe areas" provide perhaps the best example of these complications. Months passed before the United Nations could find troops to replace Canadians in Srebrenica; they were stationed there temporarily in April 1993 and remained until March of 1994, when Dutch troops finally replaced them. As the operation became more complex and risks increased, nations became reluctant to allow U.N. commanders any freedom. The tendency for national governments to interfere or assume control for operational decisions increased, demonstrating a lack of confidence in the Security Council and the U.N. chain of command. In July 1995, for example, Dutch troops from Srebrenica were responding directly to the Hague, perhaps understandably given the inability of U.N. commanders to provide any assistance.

H. Intelligence

In a politically fluid and militarily complex peacekeeping operation, particularly in the absence of full consent by one or more of the parties, the

means for collecting, analyzing and securely distributing intelligence are vital to effective command. These means never reached a satisfactory level in UNPROFOR. Simple information on minefields, convoy routes, and the disposition of forces are vital to both effective decision-making and troop safety. Effective, secure communications, essential to the passage of timely information, were lacking. In aggravated peacekeeping operations, the provision of adequate and timely intelligence is essential. Mandates and resources allocated to peacekeeping operations in a semi- or non-permissive environment must reflect the need for intelligence. The idea which existed in traditional U.N. peacekeeping operations in largely permissive environments, that intelligence is inconsistent with peacekeeping, is not appropriate for aggravated peacekeeping operations such as those undertaken by UNPROFOR.

I. NATO

The authority granted to "member states, acting nationally or through regional organizations or arrangements," in Security Council resolutions gave NATO the authority to use "all necessary measures" to carry out specified operations alongside U.N. forces. Militarily, NATO has a well-tested and formidable capability, as well as an effective command and control apparatus. NATO is capable of undertaking a wide range of military operations over an expansive area. Early in the conflict, NATO units were employed in monitoring the airspace over Bosnia and Herzegovina and in conducting maritime operations in support of U.N. sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro). In 1993, NATO began the enforcement of the "no-fly zone"⁴³ over Bosnia and Herzegovina in response to Serb air strikes on civilian populations. Subsequently, NATO was authorized to use air power to support the "safe area" mandate, to protect the exclusion zones, and to provide close air support in defense of threatened U.N. forces. NATO also undertook contingency planning to implement the Vance-Owen Peace Plan and for operations in support of a possible withdrawal of U.N. forces.⁴⁴

NATO and U.N. commanders at the operational and tactical levels established effective methods for coordinating planning and operations. Similar coordination at the strategic level between Brussels and New York was not evident. Failure to exchange liaison staffs between the two headquarters before 1995 caused misunderstandings, confusion, and conflicting direction to troops on the ground. Much of the confusion and conflict stemmed from differing interpretations of the "air strike" authority given NATO for the "no-fly" zone, the "safe areas," and the exclusion zones. Many troop contributing nations, within and outside of NATO, believed that the exercise of this authority would place U.N. peacekeeping forces at

43. The "no-fly zone" was first authorized by Security Council Resolution 816. S.C. Res. 816, U.N. SCOR, 48th Sess., 3191st mtg., U.N. Doc. S/RES/816 (1993). Although the U.N. had authorized the deployment of airfield monitors in October 1992, these had proved ineffective in preventing air activity over Bosnia and Herzegovina.

44. UNITED NATIONS, *supra* note 41, at 30.

unacceptable risk. NATO commanders in the region understood this and consulted closely with U.N. commanders, reaching common understanding of what was, and what was not, possible. Similar understandings between Brussels and New York were not apparent. Nonetheless, the U.N. could learn much from NATO's process for political-military consultation, its integrated military structure, its well-developed common doctrine, and its staff training—all essential elements of a well functioning command and control system.

A clear and effective command structure and process is an essential component for peacekeeping. Without them, the kind of problems which beset U.N. operations in the former Yugoslavia and elsewhere will likely persist.

J. Financial and Logistic Support

According to one former U.N. force commander, "administration is the single most important determinant of success or failure for any peacekeeping force in the field."⁴⁵ While this might be arguable in the context of U.N. operations in the former Yugoslavia, the lack of financial and logistical support contributed to the mission's failure. Problems with financial and logistical support originated with the U.N. Secretariat and the pressures associated with U.N. financial difficulties, unwillingness and inability to delegate financial and logistical control, an inadequate logistical planning staff, and local and international contracting difficulties. This, combined with the lack of an integrated logistics and operations planning staff at headquarters in New York and in the field, produced a system which was often incapable of timely or adequate support to operations.

In order to sustain their operations, some UNPROFOR units had recourse to national logistical resources. Other units went lacking and their operational capability suffered. While some improvements were made at the theater level through the collocation of military and civilian logistical staffs, the system never responded adequately to operational needs. When the decisions were made in May and August of 1995, following Croatian seizures of Western Slavonia and the Krajina, to downsize the Croatian operation, the contracting of air transport remained centralized in New York. This resulted in long delays in the repatriation of troops and additional cost as troops continued to be maintained, fed and accommodated. Pleas to decentralize flight contracting went unheeded.

There was a chronic problem with the control of fuel and other commodities. Individuals from several contingents were implicated in black market dealings and fraud. In spite of efforts to improve control, the problem persisted. Efforts to improve the management of the financial and logistical aspects of U.N. peacekeeping will, ultimately, improve both the effectiveness and efficiency of U.N. peacekeeping operations.

45. EMMANUEL A. ERSKINE, *MISSION WITH UNIFIL: AN AFRICAN SOLDIER'S REFLECTIONS* 46-48 (1989).

Conclusion

It is perhaps ironic that after three and one-half years the U.N. mission in Bosnia and Herzegovina, which struggled without a peace to keep, was replaced by a NATO force more than twice its size with a clear and apparently achievable mandate. The international community may have gained insights from a less than satisfactory U.N. experience in the former Yugoslavia. While it may be some time before we will know with certainty whether the peoples of the former Yugoslavia will live in peace and security, the case for optimism is stronger today than at any time since 1991. Optimism results largely from the U.S.-led peace initiative begun in the summer of 1995 and the peace accord which resulted from the efforts of Richard Holbrooke and his team.⁴⁶ Nonetheless, serious challenges and ethnic division remain.

We will never know if the outcome in the former Yugoslavia might have been different had the international community acted differently from the outset. Those of us who served the international community in that war-torn land would like to believe, in spite of all the difficulties, that we helped create the necessary conditions for the political negotiations which led to a peace agreement. In order to achieve that agreement, it may have been necessary to endure three and one-half years of the U.N. experience. The U.N. presence, supported as it was by NATO and others, helped change the military balance, a factor which undoubtedly helped to achieve a peace agreement. The military capability of Croatia, the Bosnian Government, and the Federation were strengthened at the expense of the Serbs. UNPROFOR was deployed because it was the lesser of two evils and because it met the international community's demand for action. Yet, it became the scapegoat for many when the intractability of the situation increased.

Many of the difficulties faced by UNPROFOR might have been avoided if the basic conditions for success were respected at the outset and as the mandate evolved. The United Nations is not yet an effective body that can undertake peacekeeping operations in semi-permissive, intra-state conflicts and in situations where a peace agreement has not been achieved. If the United Nations is to become a body capable of doing so, it must be reformed and troops under its control must be provided with the tools essential for success. To do otherwise is irresponsible. Fully respecting the conditions for success, which the United Nations itself has identified, is a good starting point.

It is heartening to note that the lessons learned from the U.N. experience in the former Yugoslavia and elsewhere appear not to have been lost. On July 16, 1997, the U.N. Secretary-General, Kofi Annan, announced the most extensive and far-reaching reform of the United Nations since it was founded.⁴⁷ Many of these reforms relate to international peace and security. Some will address the problems identified in this Article. However,

46. Carl Mullins & Louise Branson, *A Fragile Peace*, MACLEANS, Dec. 4, 1995, at 46.

47. Press Release 56/SM/6285, U.N. Doc. SG/2037/ORG/1239 (1997).

those problems relating to the Security Council and to much needed changes in the U.N. Charter require the attention of member states. Without urgent attention to these recommendations for reform, U.N. peacekeeping efforts will continue to be severely limited. Attention to the conditions for success and improving the understanding of them and their application holds the promise of successful U.N. peacekeeping in aggravated intrastate conflicts in the future—a future in which meaningful peace agreements might be reached and the means necessary for their effective implementation will be available.