

Political Tasks of Peace-Maintenance

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International peace operations have evolved in three stages. The period from 1948 to 1989 was characterized by diplomatic peacekeeping between states.¹ Principally from 1989 to 1994, during the United Nations' (UN) "second generation," military peace-enforcement was attempted in internal conflicts where consent to intervention was more difficult to identify.² It has since become clear that social conflicts cannot be responded to only diplomatically or militarily; a unified concept of political peace-maintenance has been needed. As part of an overall transitional framework, the objectives of diplomatic activities, humanitarian assistance, military forces and civilian components can be not only coordinated but harmonized. Varying in the degree of its engagement between governorship, control, partnership or assistance, an interim authority, in conjunction with the local population, is able to administer directly the territorial area of its deployment. Peace-maintenance links the strategic and operational levels of command and control, and constitutes the exercise by the international community as a whole of political authority within nations.

In joint forms of civil administration, the powers of direct control or corrective action have to be underwritten by an independent capacity to exercise the UN's will. While this may be selectively applied, an operation will nevertheless need to have effective means of governance at its disposal. These include: UN civilian police forces; an independent means of criminal prosecution; and a criminal law developed for UN operations generally, that takes account of human rights issues. Fostering a rule of law may be possible only in the context of a secure environment provided by multinational military forces. Also, it needs to be combined with material and humanitarian assistance

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1 The conventional principles of peacekeeping were properly enunciated for the Second United Nations Emergency Force (UNEF II) in "Report of the Secretary-General on the Implementation of Security Council Resolution 340 (1973)," UN Doc. S/11052/Rev. 1 of 27 October 1973.

2 John Mackinlay and Jarat Chopra, *A Draft Concept of Second Generation Multinational Operations 1993* (Providence, RI: Thomas J. Watson Jr. Institute for International Studies, 1993).

- not only so that order guarantees justice, but for a real difference to be experienced by the population in daily life.

Peace-Maintenance Operations

A peace-maintenance operation may be deployed in one of several transitional scenarios. The UN might assume exclusive responsibility in an area and administer it as a governor-in-trust, or it may participate in some joint arrangement in which it assumes responsibilities of a transition phase but does not physically conduct all the tasks of governance. In this case, it exercises varying degrees of authority and either controls local authority, enters into a partnership with it or renders it assistance.

Governorship:

The UN assumes full responsibilities for conducting the affairs of government. This may occur when there is a total collapse of local state structures or where the state structures were imposed by a colonial or occupying power that is withdrawing. The UN may assume the tasks of governance itself and deploy a specific operation for the purpose or it may assume these responsibilities in name and appoint a single power or group of powers as agents to perform tasks on its behalf. This would require some mechanism of effective accountability that would ensure continued direction by the UN of the powers conducting the operation.

Control:

An operation deployed to the area in question may have been authorized under a mandate to exercise the powers of "direct control." In this event, the UN authority in the field deploys throughout the instruments of the state or administering authority - including ministries, the judicial system, and police and armed forces. Once deployed, UN officials observe the local authority conducting the affairs of state and in the event that it commits an infraction according to the terms of the overall mandate of the transition process, the UN has the overriding authority to "take corrective action" by dismissing personnel or redirecting a local policy decision.

Partnership:

It may be that the local authority is powerful and has adequate resources, either because it is a colonial power or another kind of occupying force withdrawing, or it may be a totalitarian regime submitting itself to a democratizing process. In this case, the UN authority-in-trust may behave more as a partner of the local authority, given the coherent structures of governance in place. Being at least an equal in the joint authority, the UN would have a veto power in decision-making and a final say in the transition period. With the robust support of the Security Council or committed engagement of outside powers, the UN may achieve a status of 'first among equals'.

Assistance:

It may be that the local administration is not in complete disarray and the trust authority provides some overall coherence and an international standard for the development of government structures. Local structures in place may have been mishandled or abused, spawned an opposition and constituted a source of conflict. The trust authority behaves as an independent advisor, identifying flaws in the local system and suggesting corrections.

In each case, the UN may intend to organize and conduct or supervise an election in order to transfer power from one authority to another. In the interim period, the UN may have assumed juridical authority over the area on paper, even if in the past it has rarely managed to do this physically. To be an authority in the area, a mission must accept the juridical implications of being in possession of power if it is to be in a position to transfer that power to a new authority. To do so, it must manage to physically wrest authority from an unaccountable regime or assume it and establish a centre of gravity in the midst of anarchical conditions.

Furthermore, a joint authority may have to decide whether, anthropologically, an election is the correct means of establishing or transferring authority. In Cambodia and Somalia, for instance, the UN perception that an election implied a winner, a loser and a transfer of power was not shared by factions; in both countries it was perceived as just one bargaining chip in a self-developing balance of power. The UN has treated elections more as an exit strategy for itself than have elections resulted in sustainable results. As such, they have been short-term responses to conditions requiring longer-term attention. Therefore, joint authority cannot be exclusively reliant on one-time votes as an end by themselves; they can be only one of a number of activities, all of which require each other as part of a single framework if order is to be sustainable.

Transitional Phases

Depending on the category of peace-maintenance, the broad tasks of a political authority might be categorized temporally, in immediate, medium and long terms. These lists of tasks are meant to be indicative and not exhaustive. The specifics of peace-maintenance will vary according to the degree of collapse in the target state.

Immediate Tasks of the Political Authority:

The immediate task of a peace-maintenance political authority should be to dispatch to the theatre of conflict a rapid reaction military and diplomatic unit, including an operational-level headquarters comprised of military and civilian personnel. With the aim of de-escalating the conflict and containing the crisis, it would utilize its diplomatic personnel to broker a ceasefire agreement between the warring parties, and monitor that ceasefire with the assistance of military forces. These could be configured as a preventive deployment or - if the local

atmosphere is relatively calm - as a more conventional peacekeeping force, or even an observer unit. Additionally, troops may need to: provide security for humanitarian convoys of UN agencies and non-governmental organizations (NGO), and for those displaced persons wishing to return to their homes; disarm warring factions and demobilize irregular troops; and clear land-mines.

The civilian authority needs to: set up an independent means of law enforcement and an independent prosecutorial office to investigate international criminal activity; dispatch human rights officers throughout the country to monitor and report on human rights violations; operate an office of legal experts to assist in constitutional interpretation, among other things; and, above all, establish a joint decision-making body comprised of individuals from the internationally-mandated political authority and those from local rival groups. At this stage, the purpose-of these tasks is preventive - to lower the level and intensity of the conflict and guarantee sufficiently the cessation of hostilities, so that negotiations can take place between the emerging local authorities and the peace-maintenance authority.

Medium-Term Tasks of the Political Authority:

Among the medium term tasks of the political authority should be: the administration of necessary and basic state services, ministries and agencies; the revivification of civil society and its institutions; the repatriation of refugees and displaced persons; the introduction of confidence building measures that stimulate rapprochement and encourage dialogue between belligerents; the initiation of transitional processes, such as the organization and preparation of elections; the consolidation of internal and external security by training and restructuring a local police force and a skeletal armed force; the drawing up of an electoral list and the training of returning officers; the administration and monitoring of the electoral process, ensuring that all factions that want to participate are represented; the rehabilitation of basic infrastructure (such as roads, bridges, health and education services, water and sanitation systems, irrigation systems, commercial outlets and telecommunication systems); the co-ordination of external aid, economic packages and technical assistance, as a means of promoting economic and social revitalization; the implementation of environmental protection plans (such as soil conservation, reforestation, flood control, wildlife management and pollution controls); the establishment of civilian control over the local military and police forces; and the establishment of national and provincial courts as part of an independent judiciary.

The main purpose of peace-maintenance tasks at this stage, once there is a period of sustained calm, is to facilitate a smooth transition from the international to the local control of political authority. After all, the purpose of the international political authority is not to become a neo-colonial power. A subsidiary goal of the medium-term tasks may be comparable to "peace-building." This should result not only in the re-establishment of the state apparatus but, more importantly, in the revivification of the civil society. It

takes a thriving civil society to produce a legitimate and democratic government.

Long-Term Tasks of the Political Authority:

The long-term tasks of the international political authority should be geared towards facilitating national reconciliation, establishing "truth commissions," empowering civil society and engaging in post-conflict institutional training and reform. It is at this point that most elements of governance should have been transferred to a legitimate local authority. The emphasis at this stage should be on a longer term strategy for ensuring the political and economic stability needed to avoid a descent back into violence. Tasks should be designed to consolidate the peace, and might include the development and implementation of a programme of human rights education and the oversight of human rights law implementation. Critical to the success of long-term goals is the investigation and understanding of the root causes of the conflict.

Law and Order

These phases indicate an emerging pattern of relative civil-military tasks, commencing with the military and gradually increasing the role of civilians as a crisis de-escalates. Within this longer list, there is a critical place for human rights lawyers and civilian police (CIVPOL) in all phases of peace-maintenance, and especially in the post-conflict stage of a crisis. Justice professionals in such contexts have three primary, parallel functions:

- (a) the detection, investigation and prosecution of war crimes and crimes of genocide;
- (b) human rights observance, education, and correction; and
- (c) the re-establishment of the rule of law.

All three tasks are challenging and ranked in ascending degree of complexity and difficulty. The first concerns prosecution in all geographic areas of the conflict. What is apparent from recent experience in peace operations is the increasing necessity for cooperation between international troops, lawyers and CIVPOL in the detection, investigation and prosecution of war crimes and crimes of genocide. A combined effort is required at all stages of the crisis and continues well after the transition to peace. The second task is required at all times in areas under UN control, and especially during the transition to peace, in order to engender a neutral political environment necessary for holding a free and fair election. The third task, the re-establishment of the rule of law, is reserved invariably for the post-conflict stage. But, as in all of the recent UN peace missions - in places like Cambodia, Bosnia, Angola and Western Sahara - the lines are blurred between when the war ends and the peace begins. It is inevitable that justice components will find themselves in a similarly grey area.

The experience of lawyers and CIVPOL in these three tasks are essentially of recent origin; particularly since the UN's 1989 deployment in Namibia. Perhaps

the only other historic parallels have been the war crimes trials and nation rebuilding in Europe and Asia following the Second World War, and the decolonisation process in Africa and generally. Nevertheless, despite the diversity of national origins and variety of jurisdictions of UN lawyers and CIVPOL, there is an uncanny unanimity in the professional standards, requirements and manner of undertaking these tasks.

The core objectives of a justice component are to: create a functioning criminal justice system; establish an independent, impartial and competent judiciary; appoint public prosecutors and defenders; train a responsible, respected police force with a strong sense of public service; build humane detention centres; and conduct legal education. Justice components are particularly applicable in the post-conflict stage of peace-maintenance. They are - designed to re-establish the operation of the rule of law in a country where it has collapsed or been so substantially eroded as not to function to meet the needs of the community.

For a justice component to succeed, the people must have confidence in the criminal justice system. This will require belief in the impartiality and professionalism of police to apprehend accused offenders. It requires public trust in an independent, fair and competent judiciary. And it requires the commitment of the local authorities, not only to enforce and observe the decisions of the judiciary, but also to be prepared to submit themselves to its judgment. Military, police and public officials accused of crimes must be surrendered to the will of the criminal justice system. This means that acquittals and convictions need to be accepted and prison sentences enforced. Also, judges themselves must have security or tenure and physical protection. The following matters should be agreed on prior to the deployment of a peace-maintenance operation.

A UN Criminal Law and Procedure:

A legal basis has to be provided for the creation of the criminal justice system during the immediate and subsequent transitional phases. There may have been a long established and respected body of law capable of being resurrected for this purpose. If the UN is to introduce its own laws and conduct its own prosecutions, then the laws and procedures must comply with the UN's own standards.

Where no law exists, a UN 'off the shelf' criminal law and procedure is essential in any peace-maintenance arsenal. In the first instance, such a law is necessary to deal with the most serious of violent criminal offences - such as murder, abduction, arson and assault. When the semblance of the rule of law is restored, more sophisticated prohibitions against corruption and discrimination can be introduced. Wherever existing, UN codifications, conventions and precedents will be drawn on for the proposed criminal law and procedure, such as: the 1948 Universal Declaration of Human Rights; the 1966 International Covenant on Civil and Political Rights; the Basic Principles on the Independence of the Judiciary; the Code of Conduct for Law Enforcement

Officials; the International Law Commission's Draft Statute for an International Criminal Court; and the Guidelines on the Role of Prosecutors. The basic law and procedure could be based upon the Draft Code of Crimes Against the Peace and Security of Mankind and would need to comply with existing UN standards for the administration of justice.

Panel of Distinguished International Jurists:

A panel of distinguished international jurists, either retired or serving judges, should be available and on call ready to preside or provide on-the-job training for locals. A hearing before UN judges will often constitute the only forum for the conduct of some trials, when either the local courts will not act or the accused, victims and witnesses are from different factions than the trial court. Another variation is to appoint a panel of trial judges and/or jurors from across the factions, with a distinguished international jurist in the chair. Where courts are created, it will also be necessary to create appeal courts.

UN Special Prosecution:

In the early stages of a peace-maintenance mission, no independent judiciary or effective police force may exist. The UN will be required to assume the tasks of arrest, prosecution and trial of serious offenders, when the local officials will not act or are in fact the criminal perpetrators. This will be essential where major human rights breaches are being committed by the leadership of the existing factions, which threaten the neutral political environment and imperil free and fair elections. The Special Prosecutor must be independent from the UN mission hierarchy, as was provided for the Yugoslav Tribunal prosecutors. A UN prosecution policy should be established to guide the prosecution criteria, and especially clarify how to decide when not to try a case. Political considerations and expediency cannot play part in this. The extraordinarily large numbers of offenders in a Rwanda type situation may require selectivity of prosecution; or the impossibility of prosecution, as in Somalia, may require resort to the inquiry mode with general findings, as set out below.

Specialized Resources:

Essential to any UN special prosecution are forensic science facilities, such as autopsies pathology. The UN has developed a model Autopsy Protocol, as well as a Post Mortem Torture Detection Procedure. Most missions simply have not had the resources to perform basic post mortems or ballistic work. These produce necessary forms of prosecutory evidence. Cross-cultural and religious views may require some variation of these procedures. Also, an underestimated resource-consuming need in UN missions is a proper witness protection programme, to ensure the safety of informants and their families in order to bring about successful prosecutions. This may require permanent relocation of victims and witnesses. In the apprehension of criminals, the use of rewards and indemnities are useful tools and should be considered. Again, definitive UN policies and criteria should be spelt out.

Commissions of Inquiry:

In addition to judges ready to preside over trials, others should be prepared to sit as commissions of inquiry, such as the Truth Commissions in El Salvador and South Africa. Such inquiries, given lesser standards of proof, may be used to stop human rights violators either by publishing their abuses as a deterrent or administratively disqualifying them from existing office or election to office. A prime purpose of such inquiries is to air public concern, bring transgressors to account and to embarrass wrongdoers without the need for trials. Further, the holding of such inquiries can be instrumental in initiating local reforms. The terms of reference, powers and procedures for such inquiries has to be settled by the UN.

Survey and Assessment of Existing Justice Assets:

An assessment of the existing justice assets should be made of the country that is likely to require peace-maintenance, since these will be built on, developed and improved. The survey needs to determine the state of the domestic law and the cost of capital works for gaols, court rooms, and training for judges, lawyers and police. Long-range forward survey work and scenario planning should precede any peace-maintenance mission. Some countries, as was the case with Cambodia before the Paris agreements, can be seen as likely candidates for UN intervention well in advance of the final formulation of a peace accord. Early exchange programmes for lawyers and police would assist them in getting to know the local personnel, so as to ease the facilitation of the justice package.

Selection of Acceptable Local Personnel:

Since the restoration of peace is about the 'civilianisation' of power, one way to transfer administrative decision-making is to harness the leadership assets of the generals by turning them into heads of civilian units of public administration. To re-empower the citizenry it may be necessary to 'civilianise' the military. Bridges have to be built between career paths to enable genuine leadership skills to be re-utilized. Ultimately, acceptance of the rule of law is about establishing public confidence in the courts. A social contract has evolved when the people agree to resolve their disputes through words rather than bullets. In this sense, there will be many existing personnel who will be entirely unacceptable because of their involvement in war crimes, human rights abuses and oppression.

Judicial Training:

Article 14(1) of the International Covenant on Civil and Political Rights provides that everyone shall be entitled to a fair and public hearing by a competent and impartial tribunal established by law. Article 10 of the UN Basic Principles on the Independence of the Judiciary provides that persons selected for judicial office shall be individuals of integrity and ability with appropriate

training or qualifications in law. To fulfil these provisions, a programme for judicial training needs to be devised as part of any justice package.

The overall objectives of such a programme would be to:

- (a) assist courts in implementing legislation in conformity with international human rights standards;
- (b) assist in improving coordination between courts, prison officials, the police, military and provincial administration;
- (c) assist judges in the day-to-day functioning of courts relating to their organisation, procedure and law; and
- (d) prepare an assessment for a long-term overhaul of the judicial system, and identify the policy and legal changes necessary to achieve such an overhaul.

Police Training:

A vital task for UN police will be the training of a local responsible constabulary in community policing. In Cambodia, the deficiencies of CIVPOL began with the selection of personnel by the UN. Many of the CIVPOL chosen were not police at all. What Cambodia required was, first, good community police and, second, trained investigators who understood the apprehension of offenders, the collection of evidence, and the preparation of prosecutions. There should be, for example, a form of UN accreditation to ensure that those selected are police trained to the requisite standard for a peace-maintenance mission. This includes a special emphasis on community policing, where the police have experience in mediation for the resolution of disputes.

The Independence of CIVPOL officers:

While the police may have the outward semblance of a military force, the command structure is, in an operational sense, reversed. Like the special prosecutor, the police require independence from the UN hierarchy. A constable is expected to exercise individually his or her arrest and prosecuting discretion. In the discharge of duties, when intervening in a dispute between offender and victim, a constable is not subject to the direction of an immediate superior. In the decision to arrest or not to arrest, to prosecute or not to prosecute, a constable is answerable only to the court. As the General Assembly observed when adopting the UN's Code of Conduct for Law Enforcement Officials, "there are additional important principles and prerequisites for the humane performance of law enforcement functions, namely:...That, like all agencies of the criminal justice system, every law enforcement agency should be representative of and responsive and accountable to the community as a whole." This accountability is to an independent judiciary, not up the chain of command. Police are trained to use minimum force in a conflict, whereas the military are usually trained to use maximum force. Justice systems are answerable to the people through courts, not through executive government. For these reasons, CIVPOL should not be integrated within a military component. While there should be closer coordination of and clearer definitions for

CrVPOL and better tools to do the job, CIVPOL should and must remain independent from the military.

Training of Prosecutors and Defenders:

Local prosecutors and defence counsel will require training. A prosecutor has a heavy duty to ensure that an accused person receives a fair trial. The UN and its trained personnel must be model litigants. The performance of a prosecutor's professional duties and obligations, in determining whether a prosecution is to be commenced, is independent of political considerations or directions from legislative and executive functionaries. The prosecutor is not a servant of government or individuals - he or she is a servant of justice. The prosecutor is answerable to the courts for any misconduct and not to an administrative hierarchy. As lawyers, prosecutors not only have a professional obligation, but also an ethical duty to see that the law is respected and upheld to the best of their capability, and to prevent and rigorously oppose any violation.

Detention Centres:

The construction of gaols and detention centres will be required, which are consistent with the UN Standard Minimum Rules for the Treatment of Prisoners and environmentally simpatico for inmates. At the same time as building such facilities, the essential requirements of prison custody diversion programmes, bail procedures, early release and alternatives to imprisonment must also be incorporated in any justice component in order to reduce prison populations where appropriate. A dilemma in the construction of detention centres where the minimum standards are applied is that prisoners, who are the outcasts of society, may be better housed and fed than near-by villagers, breeding resentment of the UN, or worse still, creating incentives to be taken into custody.

Alternatives to Imprisonment:

The mediation, dispute-resolution and reconciliation roles of CIVPOL can be alternatives to arrest, detention and prosecution. Without idealising forms of informal dispute-resolution (as there is no assessment of their effectiveness in achieving genuine reconciliation and consistency with international human rights standards), they do, however, offer ways to settle many quasi-criminal and criminal complaints by one person against another. This can be done without the intervention of the state, except to the extent necessary, when directed or mediated by the police or a village chief. So too, the UN must develop diversionary programmes as part of any penalties that a court may impose.

Physical Security for Justice Personnel:

Physical security for judges, prosecutors, defenders, police and gaolers, as well as witness protection, may be required. In Cambodia, the local courts refused to hear UN prosecutions for fear of retribution. The Phnom Penh government had instructed the judges not to consider UN cases. They obeyed that order in usurpation of their required independence because of fear of reprisals to their families and for their own personal safety. After the UN's departure, the failure of the courts'judicial independence was entirely subsumed in a more daunting reality of the physical vulnerability of officials who exercised their duties. Those courts which have been brave enough to uphold respect for the rule of law have encountered serious problems in enforcing their decisions against military officials. In many cases, the judges and court personnel have been subject to threats, attacks and attempted murder.

Anti-Corruption Measures:

A much neglected area of law enforcement that vexes the provision and distribution of resources, often of considerable sums much needed by the people, is the adoption of anti-corruption measures. This involves ethics training, financial and conflict of interest disclosure, development of codes of conduct and sophisticated fraud and audit detection mechanisms for public officials.

Adequate Legal Resources:

Many countries lack basic legal materials and texts. In Cambodia, the provision of even outdated and discarded text books proved invaluable to local jurists and law enforcement officials seeking solutions to domestic problems from the models and precedents of other jurisdictions. The scale of inadequate resources extends from the complete absence of any legal texts in some provincial courts, to less than subsistence salaries paid by the state to judges, right down to a shortage of clerical materials necessary for a functioning court, such as filing cabinets, desks, pens and paper. Many courts do not have copies of the existing laws that they are required to interpret and enforce. The courts need these basic provisions, as well as photocopiers and funds for clerical and investigative staff.

If a prison reconstruction project were to be considered, any cost surveys of provincial prisons should also include assessing the cost estimates of court repairs. The local court house should not only be a focal point for the administration of justice, but also a visible architectural symbol of the re-establishment of the rule of law.

The courts are assisted by clerks, whose standard of education is very basic. Most have grown up with little understanding about the proper role of courts in democratic society. Their files are a mess. In most court houses, documents

litter the floors. The clerks have no type writers or filing facilities. When supplying material to defence lawyers they usually part with the originals.

Adequate Financial Resources:

If there is to be a commitment to institution-building through the re-establishment of law and order, then there must be a diversion of funds to departments of justice, which are required to administer not only courts, but the police and prisons as well. Ultimately, an appropriate measure of budgetary independence must be provided for the judiciary if it is to be genuinely a separate organ of the state performing the functions required by a constitution. Accordingly, a key part of a UN justice component is to put in place proper budgetary measures and financial standards for justice.

Post-operational procedures for auditing the performance of local staff, following the transfer of functions to them from UN personnel, would also be a feature of the justice package. The use of a Special Rapporteur is a small part of such a programme. Continued funding after the peace-maintenance exercise may be used to ensure the continued observance of judicial decisions made by the international authority during the transitional period. Schemes for the post-peace-maintenance enforcement of judicial decisions have to be devised. An international justice fund contributed to by interested nations, various national legal professions and corporate entities could be used to pay for the justice package and on-going assistance. Secure salaries for the judges, prosecutors, defenders, police and gaolers are required. In Third World countries, this is comparatively inexpensive. The cost of an entire justice system under these circumstances is inexpensive and attainable. It is certainly cheaper than the extremely high cost of military hardware.

Military Security

Military commanders are unlikely to dominate in any form of peace-maintenance and subordination to a civil authority is likely to be the norm. In assistance, the role of military forces is likely to be low-key, in order to gently foster existing structures. Small military training teams might be deployed to help train, equip and organise the local armed forces, so that they become proficient and operate within the law. Such missions have been successfully accomplished in Uganda, Zimbabwe and South Africa. In partnership, the role of military forces is likely to be more subtle and might even involve the establishment of a staff college, so that senior officers and opinion-formers might be properly trained to run their own military forces. This has worked well in certain countries in the Middle East and a genuine partnership between armed forces has been achieved, as well as a unity of doctrine.

Both control and governorship infer surrender of a degree of national executive authority and therefore, in these categories, the provision of military security is likely to be much more comprehensive and, consequently, complicated. The operation is likely to resemble existing peace missions, in that

the force structures required will be generally similar. An independent military force, deployed in an expeditionary manner, will need to be self-sufficient and will be structured to include headquarters, manoeuvre units, transport and logistics. As in existing peace operations, engineers will continue to perform particularly important tasks, since not only can they support the force, but they can also be employed on projects associated with the improvement of the infrastructure of the country concerned - a form of peace-building that can affect the daily lives of the local population. The difference within these two categories of peace-maintenance should lie in the manner in which the forces are commanded and the coherence of the plan.

Both the United States (US) and United Kingdom (UK) armies differentiate between Operations, or warfighting, and Operations Other Than War (OOTW).³ Any peace-maintenance task is likely to fall within the OOTW category, with the implicit potential for the task to escalate into full military Operations. British doctrine acknowledges only three types of OOTW: Peace Support operations, Counter-Insurgency operations and Limited Intervention, such as a services' protected evacuation from an overseas territory. US doctrine, on the other hand, acknowledges thirteen separate types of operation within the OOTW category, and this distinction perhaps reflects the differences in culture and history of the two armies. In both cases, as with most armies, US peace or UK peace support operations lie within OOTW, and consequently peace-maintenance tasks are likely to be approached from the same doctrinal standpoint.

Having acknowledged that peace-maintenance tasks will not affect core structures, it is important to explain that commanders will approach such tasks just as they would in warfighting. They will expect there to be a cohesive campaign plan linked to strategic goals and unity of command regardless of the number of agencies. They will expect an exit strategy based on success and not time and, being historians, will know that any OOTW task can be measured in years and not months. They will be aware that successful joint operations with all agencies provide the key to success; they will have studied the failure of operations in which military contingents operated in a vacuum. They will also long for a well-defined chain of command, with timely decision-making taking place in the theatre of operations. They will have been schooled in the significance of the Operational Level of Command, a level which is rarely acknowledged by politicians, UN functionaries or academics. They will know that the success of the campaigns in Malaysia, Borneo, Oman and Rhodesia-Zimbabwe reflected vision and clarity at the operational level, in which military tasks were integrated with social, economic, cultural and even agricultural dimensions.

3 US Army Field Manual 100-5, *Operations* (Washington, DC: Headquarters, Department of the Army, 1993), ch. 13; and UK Army Doctrine Publication Volume 1, *Operations* (London: Headquarters, Doctrine and Training, Ministry of Defence, June 1994), ch. 7, which actually is entitled "Operations Short of War."

It is probably inappropriate for a military officer to be the true operational level commander in any peace-maintenance mission. The fusion of the many agencies concerned is unlikely to be accomplished by a soldier, though it has been achieved in some past counter-insurgency campaigns. Choice of the lead individual and agency will be dictated by their unifying capability and multifunctional knowledge and experience. Selection will also depend on the nature of the operational end-state and its relationship to the strategic end-state. In the US and UK armies, commanders are appointed on the basis of merit and would be prepared to lead in both war and on peace operations. Similarly, civilian leaders will need to be credible and capable of achieving the mission objectives. Politicization of posts dangerously threatens a successful outcome.

Whether in uniform or a safari-suit, the operational commander, properly advised by experts, is charged with designing a campaign within a delegated theatre of operations and for subsequently directing the major operations within that campaign. The commander has five main tasks: firstly, to decide what tactical objectives (civil as well as military) are necessary to achieve the campaign objectives; secondly, to decide the sequence of these activities; thirdly, to allocate the necessary resources to subordinate executives, so that the activities may be accomplished; fourthly, to identify priorities for logistic and administrative support; and finally, to direct all those activities not devolved to subordinate commanders.

Potentially the most significant ingredient for the successful use of military forces in peace-maintenance is a coherent campaign plan. US doctrine refers to these as Doctrinal Elements of Operational Art, whereas British doctrine describes them as Concepts of Operational Design.⁴ They are broadly the same and the key elements identical. They include such concepts as the end state, centre of gravity, decisive points, lines of operation, sequencing, contingency planning and tempo.

Peace-maintenance operations, of whichever category, will be a corporate effort geared, with luck, to a coherent campaign plan, and thus the manner in which military force and civil agencies inter-relate will be critical. The process is complicated and John McCuen, writing on counter-insurgency, addresses the problem:

Unified planning, centralised control, and a single point of responsibility are the very minimum requirements for a unity of effort which will offer success...Unity of effort, however, is extremely difficult to achieve because it represents the fusion of civil and military functions to fight battles which have primarily political objectives...All the political, economic, psychological, and military means must be marshalled as weapons under centralised co-ordination and direction. Unity of effort can be achieved by a

4 US Joint Publication 5-00.1, *Joint Tactics, Techniques, and Procedures for Campaign Planning* (Fort Monroe, VA: Joint Warfighting Center, 30 November 1985), p. III-3; and UK Army Doctrine Publication, *Operations*, p. 3-8, para. 0324.

single commander as the French advocate. Unity of effort can be achieved by a committee, under civilian leadership, as the British advocate.⁵

This committee system is deeply embedded in British doctrine and is reflected in how the civil and military forces relate in Northern Ireland. Frank Kitson has written extensively on the subject and describes it: "Under this system a committee would be formed at every level on which would sit the senior military officer and police officers for the area under the chairmanship of the head administrator. The committee might co-opt members representing other interests, and it would be served by officials...Decisions would be taken jointly and implemented by the members using the organisations or units under their command."⁶ A National Operations Committee was chaired by a Director of Operations, who was responsible for the overall campaign. All acknowledged, military and civilian, that there was only one individual responsible for the direction of operations and that a structure existed, as a series of subordinate operations committees, through which all civil and military activities could be planned, agreed and synchronised.

Local Acceptance

There are four important variables that influence the acceptance of UN authority by any given population. These are: self-interest; the responsible use of coercion; the legitimacy of authority; and tradition or socialization.

Self-interest:

Individuals respond to authority on the basis of self-interest. These interests may vary, but chief among them are security and economic improvement. Individuals consciously or unconsciously make socio-political and economic decisions based on varying calculations of their interests. In the highly stressful conditions of collapsed states, they are more likely to think rationally because their decisions are simply about life and death. It should be no surprise, therefore, that the young Somali would escort a UN or humanitarian convoy as well as a gang of looters in exchange for cash or commodity to enable him to reproduce himself and his family. In such circumstances, authority has no name, no face, no creed nor color; it is merely a function of rationality.

What this means is that a UN authority must be functionally relevant. To do so, it must strive to meet the material and social needs of the population under its control. This is the very essence of the "social contract," the violation of which led to the collapse of the previous political system and hence the intervention of the United Nations. Obviously, the issues here are institutional responsibility and accountability. The UN cannot remain aloof from its

5 John J. McCuen, *The Art of Counter-Revolutionary War* (London: Faber and Faber, 1966), pp. 72-73.

6 Frank Kitson, *Low-Intensity Operations* (London: Faber and Faber, 1971), p. 54.

relationship to territory and local population, over which it may have claimed jurisdiction, and therefore must recognize its role in the exercise of executive political authority.

There is some evidence that the UN is beginning to think seriously about these issues, at least conceptually. The idea of "positive inducements," which has been broached in the organization, is aimed at addressing the current gap between the physical presence of the United Nations in troubled countries and its reluctance to assume concomitant responsibility in the socio-economic realm. According to Secretary-General Kofi Annan, providing a "structure of rewards" in a mission area will involve

any variety of activities, ...including development assistance of various types, local infrastructure and water projects, the provision of access to small business loans, making available (or, better yet, training people to provide) basic medical care and veterinary services. To employ them effectively as tools of conflict resolution requires understanding people's problems in their complexity and being able to respond at several levels simultaneously and with a certain amount of flexibility.⁷

Populations will be more likely to accept UN authority if they see that the new dispensation offers them improved security and better access to economic opportunities. Conversely, when the UN's performance in these areas approximate the dismal record of the previous regime, then a local community will be more likely disposed to question and challenge its authority.

Responsible Use of Coercion:

The functional relevance of UN missions is only one aspect of the equation. The executive capability which is required by peace-maintenance also necessitates the development of a credible coercive capability. Law enforcement is an executive task par excellence, and it cannot be fulfilled without visible and credible coercion. To be effective, a political system must have the ability to reward populations, hence its social and economic functions. But it must also be able to punish those who disobey the law. The coercive instrument of a political system is therefore designed to punish as well as deter offenders.

Matching force to need is important, but even more important in the particular circumstances of peace operations is ensuring that coercion is employed responsibly and impartially. Efforts must be made to avoid the previous status quo from being repeated. In situations where anarchy has resulted from the abuse of power by the collapsed authority, nothing would better guarantee the revulsion of a population than a repeated pattern of abuse of power by UN forces. In Somalia, for instance, the acrimony that ensued because of the irresponsible use of force by elements of the Belgian and Canadian contingents,

7 Kofi A. Annan, "Peace Operations and the United Nations: Preparing for the Next Century," New York, United Nations Department of Peace-Keeping Operations, unpublished draft, 1996, p. 12.

as well as at times US forces, paralleled a chain of events that led ultimately to the failure of the Second United Nations Operation in Somalia (UNOSOM II). The historical lesson of the past century or so of human evolution is that arbitrary exercise of power turns an otherwise placid population against authority.

Legitimacy of Authority:

To argue that political authority has to be legitimate to ensure its acceptability by populations comes precariously close to pleonasm, for authority is a function of legitimacy *stricto sensu*. Yet, all too often regimes have been accorded international recognition and legitimacy by, among all other actors, the United Nations. The extent to which the UN has accorded *de facto* legitimacy to unconstitutional regimes in Africa and much of the developing world has yet to be seriously examined by the scholarly community. Authority is the product of a contract, albeit one which is not always visible, between rulers and the ruled. Many of the struggles leading to the collapse of states has been about controversies which center on the illegitimacy of regimes. Not surprisingly, some of the more successful instances of reversing state collapse have taken the form of "democratic transitions" - that is, an attempt, even if riddled with faults, to seek a popular basis of support for government.

Tradition or Socialization:

Tradition or socialization is also a determinant of the acceptability of UN authority. Human beings are an embodiment of history and experience. Indeed, an average individual is a walking library and art museum. Our behavior is influenced by what we learn and how we learn it, as well as our experiences and the timing of those experiences. Socialization - that is, the transmission of values from one generation of humans to another - is essentially a reproductive exercise on a societal scale. Much of the socialization in the world today occurs at the level of the nation-state, thereby assuring their reproduction. The concept of the "nation-state" itself conveys both authority as well as territoriality. In this sense, it draws our attention to the proximity of authority to territory, and hence the territorial character of socialization. Very few human populations, if any, are socialized to accept a distant authority. The objective of nationalism is to assure that this does not happen.

The essence of peace-maintenance is to bring people back as rapidly as possible into any enduring framework for conflict resolution. For too long, people have been neglected in the peace calculus by the United Nations and its state-sponsors. One of the most serious flaws of politics in this century is the extraordinary amount of intellectual and material resources devoted to states rather than people. The theory of peace-maintenance departs significantly from this trend and focuses on people rather than states. It is therefore an effort to return the United Nations back to the preamble of its Charter: "We the peoples of the United Nations...." In this regard, the theory assumes that the world has become interdependent and sovereignty is no longer absolute or exclusive.