

Peace Operations and Humanitarian Interventions In a Time of Change

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INTRODUCTION

Given Canada's exemplary dedication to multinational peace operations under the flag of the United Nations, the Lester B. Pearson Canadian International Peacekeeping Training Centre has been for quite some time the most appropriate organisation to assemble practitioners of peace operations, civilian and military alike, scientists, diplomats, and humanitarians at this fine place in Nova Scotia.

Today the name of the second UN secretary general, Dag Hammarskjöld, who lost his life in the service of peace for the conflict ridden continent of Africa, may somewhat overshadow in the public eye the unparalleled merits of Lester B. Pearson, who is credited with the invention of peacekeeping during the Suez crisis of 1956. Together those two men have advanced the ideas and ideals of the maintenance and restoration of peace as laid down in the Charter of the United Nations as the core document of international law. Despite the tensions and obstacles created by the confrontational division of the world in the times of the Cold War, they succeeded in the implementation of peace operations.

Peace has for many centuries been considered as the natural opposite to war. It has been taken for granted, that those were the two states of aggregation of political reality in international relations. It took the development of a strategy of mutually assured destruction in the context of nuclear warfare to realise, that there had to be another chance for mankind. All of us have witnessed the consequent transition initiated by NATO's London summit of 1990, when the term "crisis" was introduced as a third state of international relations, somewhere between peace and war. Instead of an automatic process of continuously increasing tension escalating from peace to war, the possibility of de-escalation was identified as a highly desirable objective of political activity.

As an immediate result, NATO extended a hand of friendship towards their former adversaries, providing Soviet president Gorbachov with the necessary internal justification for his programme of "Perestroika." Since those days, crisis management has ruled international deliberations around the maintenance of international security.

In his "Agenda for Peace" UN Secretary General Boutros-Ghali recommended "Preventive Diplomacy" as one of the most promising tools to face developing crises. Whenever such prevention succeeded, little if anything received an echo in the media. Only failures make the headlines. Today UN Secretary General Kofi Annan sticks to his predecessor's idea, but has widened the meaning of such prevention to, what he calls "Preventive Action," because it comprises more than just diplomatic approaches.

The first and only ever preventive deployment of Blue Helmets in the form of UNPREDEP in Macedonia to monitor the borders of that newly created but extremely vulnerable country with neighbouring Kosovo and Albania was a complete success from 1992 until its abrupt end in February of 1999, caused by a Chinese veto against a continuation of that successful preventive action.

When our hosts of today, this centre of peace development in all its manifold aspects, issued the invitations for the first Cornwallis workshop in March 1996 peacekeeping operations were actually centre stage. That was due not only to the fact that more than 50.000 Blue Helmets were engaged simultaneously in seventeen peace missions world wide, but more still to the deplorable experiences with quite a number of such operations. The world organisation seemed in despair over the chances to successfully and jointly secure peace, contain conflicts, ensure stability and maintain international security. Too much had happened in recent months in various crisis areas to be confident, that the international community knew appropriate answers and found viable solutions to the political problems in the numerous trouble spots around the globe.

Let us briefly remember Rwanda, Somalia, and the Former Yugoslavia.

RWANDA

1994 saw the world organisation for collective international security, the United Nations, and especially its political directorate, the Security Council, at the lowest point of their prestige. That was truly deserved. Following the insistence of the Clinton administration, the Council not only turned a blind eye to the genocide in Rwanda, but also agreed even not to use the term "genocide" in its protocols. Instead they spoke only of "humanitarian atrocities" and a

“humanitarian catastrophe.” Thus all Council members avoided the necessary action which they would have been obliged to take under the provisions of the 1948 “UN Convention against the Crime of Genocide” to which most nations around the globe have been signatories.

Afterwards, the French “Opération Turquoise” as well as the American humanitarian help operation “Restore Hope” and other humanitarian support served as mere fig leaves to cover the inexcusable passivity of the Council in the case of this third genocide of the 20th. century. But these operations also proved, that the genocide could have been stopped, if proper action would have been taken in time.

Canada’s General Romeo Dallaire as the UN Force Commander in Kigali at that time has spoken up to the world on this failure, and one would hope, that from now on nobody could dare to repeat such deplorable inaction.

Chechnya with its second war in recent years apparently showed, that the political will to stand firm against massive human rights violations is not a built-in mechanism with the Security Council.

SOMALIA

Another operation in Africa had even more far reaching consequences, Somalia. After October 1993, when 18 US servicemen were killed and 78 wounded by Somali militias in a US lead operation, of which the United Nations had not even been informed, that peacekeeping mission came to symbolise failure. (By the way, as sad as those American losses were, the number of casualties from the test phase of the Osprey tilt-rotor plane for the US Marines amount to already 30 and Congress still seems to push for the production).

The fact, that the number of casualties among other Blue Helmet contingents in and around Mogadishu, and of Somali civilians caused by unilateral American activities manifold exceeded the American losses, was hardly noticed by international media.) Against all evidence the whole blame for Somalia was put upon the United Nations. The apparent success of the humanitarian support to overcome the devastating famine in that country, an operation which saved the lives of more than 2 million people, seems forgotten and is never mentioned in public.

The hasty withdrawal of the American military from that crisis area, followed by all of their Western allies, resulted not only in what has come to be known as the “Somalia Trauma”, but also in the highly debatable view, that the United States will not tolerate casualties in humanitarian operations.

The same administration, which had claimed to promote “assertive multilateralism” with the UN in the lead, did a 180-degree turn and declared the United Nations the scapegoat for actions which flowed from Security Council decisions, reached with US consent if not even at US request.

Clinton’s “Presidential Directive 25” unfortunately casts the wrong consequences of Somalia and Rwanda in concrete. It can only be hoped that the new administration in

Washington will reconsider the faulty assessment of its predecessors and realise, that when one decides to act, one must act with competence.

FORMER YUGOSLAVIA

When these two African crises were still vividly in the minds of political decision takers, the events in the former Yugoslavia had caught the headlines. The last aggressive communist regime in Europe had launched wars against those provinces of Tito's former state, the population of which seemed fed up with Serb dominance and decided to break away from Belgrade and establish their own independent states.

While Europe in the form of as well the European Union, as the Western European Union and even the much acclaimed Conference for Security and Co-operation in Europe, CSCE, (now the OSCE) proved unable to come to terms with the escalation of the situation into armed conflict, the United Nations were called upon to settle the issues.

That was the direct consequence of the declarations of independence of the former Yugoslav provinces, who had been quickly accepted as new members by the UN. Though this fact turned the one homogeneous crisis from an inner-Yugoslav conflict into a number of international affairs, the Security Council was reluctant to live up to its primary responsibility for the maintenance of peace and international security and to take the necessary actions.

The members of the Council may have hoped, that the rapid solution of Belgrade's conflict with independent Slovenia had set the scene for all other newly created states. When that assumption was proven wrong, the Council failed to act responsibly. Despite the busy production of resolutions — in the end there were up to 100 of them for the former Yugoslavia, resulting in contradictions and lack of clarity almost throughout — the resources indispensable for the implementation of the mandate were not provided.

To cut a very long story very short, the hostile attitude of especially the Bosnian Serbs *vis-à-vis* the UN Blue Helmets and their brutality in what has come to be known as "ethnic cleansing" led to severe losses among the civilian population, particularly the Muslims in Bosnia-Herzegovina.

In spite of such evidence the deliberations in the Council were governed by the idea of "Classical Peacekeeping." As a result, Blue Helmet contingents were deployed to former Yugoslavia in a traditional set-up, tailored after earlier missions, where the parties to the conflict had agreed to a peaceful settlement. Thus many of the contingents arrived there only poorly equipped and ill trained to meet the challenges of an environment less benign but increasingly hostile.

It turned out to be insufficient for those Blue Helmets to be present in relatively large numbers spread over the rugged terrain of the country, as long as they were there under the provisions of Chapter VI of the UN Charter, "Pacific Settlement of Disputes." Consequently their Rules of Engagement limited even the already very modest right of "self defence" for the Blue Helmets to mandated helplessness.

The obligation to demonstrate “impartiality” in the face of open hostility vis-à-vis the peacekeepers did not only de-motivate the Blue Helmets, but also lead to a visible decrease of public support for them.

The attempt to overcome such weaknesses by relying on NATO’s superior air power through their offer of “Close Air Support” failed after only marginal success in the beginning. It proved too much for the political decision takers both in NATO and in the Security Council to demonstrate determination against Yugoslavia’s dictator Milosevic, when he ordered more than 300 Blue Helmets to be taken hostage and chained to possible targets of NATO air strikes.

Meanwhile the Security Council had created six “Safe Areas” throughout Bosnia-Herzegovina, the definition of which was totally unclear, since that term does not even exist in international humanitarian law. It was assumed however that those “Safe Areas” would provide cover and protection for Muslim civilians who sought refuge in the face of brutality from the Bosnian Serbs.

UN Secretary General Boutros Boutros-Ghali very modestly requested some 34.000 additional Blue Helmets to ensure the minimal military protection for those six “Safe Areas” against hostile action. Without discussion the Council allowed him merely 7.000. Of those totally insufficient numbers fewer than 4.000 Blue Helmets did actually arrive in the theatre.

As a result only 400 soldiers of Dutchbat 3 under LTC Tom Karremans had to face more than 3.000 Bosnian Serbs attacking at Srebrenica. The resulting massacre of up to 8.000 Muslim men and boys by Bosnian Serbs under the orders of the Bosnian Serb commander Mladic was certainly the single most brutal war crime since World War II.

Of course, international media were quick to put most of the blame for that event upon the handful of Dutch soldiers. Hardly a political leader pointed to Milosevic, Karadzic and Mladic, those actors who had not only ordered the war but also in great detail planned the massacre.

When the “Lessons Learned Unit” of the UN Department of Peacekeeping Operations, DPKO, tried to investigate the reasons for Srebrenica two years later in 1997, the archives in some capitals remained tightly closed. It took some courage on the part of UN Secretary General Kofi Annan to order another independent investigation and to clearly establish the responsibility of the Security Council with its half-hearted and hesitating decisions and lack of political will to ensure that the mandates they had issued received the necessary resources to be properly implemented.

ROBUST PEACEKEEPING

It had gone almost unnoticed that one troop contributing country had acted independently from and even against the explicit will of the United Nations to provide at least physical protection for their peacekeepers. After demoralising experiences with the conditions of their Chapter VI-mandate, Denmark deployed one company of Leopard main battle tanks to reinforce the Danish battalion in Tuzla, northern Bosnia. When these tanks were greeted with

aggressive fire by Bosnian Serbs, they returned such fire, destroying a number of military targets.

After only some 200 successful Leopard rounds any aggression against the Danish contingent ceased. Whenever in future a humanitarian convoy was accompanied by Danish tanks it would reach its destination. At the same time this visible success was a great morale booster for many other Blue Helmet contingents, who had been severely suffering from their imposed passivity in the face of open aggression.

Apparently the aggressors had understood, that the political will to deliver humanitarian aid had been convincingly supported by the means to enforce such activity. The final result of that remarkable Danish action was the decision by the Dayton Peace Conference to introduce an "Implementation Force," (IFOR) of overwhelming military strength into the territory of Bosnia-Herzegovina.

Following Dayton, foreign policy experts began to refer to peacekeeping operations, where the international intervention demonstrated political will through military strength under the term of "Robust Peacekeeping."

LESSONS LEARNED ?

One ought to have assumed that the Security Council after its own failures in Rwanda, Somalia and Bosnia had learned the necessary lessons for future crises; unfortunately that seemed not to be the case.

Immediate proof of such a lack of will to avoid former mistakes was the Council's decision concerning the peacekeeping operation in the Danube provinces of Croatia. As the United States were unwilling to apply the rules and conditions of the Dayton agreement also to those parts of Croatia still occupied by Serb forces, namely Eastern Slavonia, Baranya and West Syrmium, and to include that territory into IFOR's area of responsibility the Security Council at US request, tasked UN Secretary General Boutros-Ghali to tackle the problem.

To determine the required strength of the peacekeeping force for Eastern Slavonia DPKO applied the same rules, which had lead to the deployment of the Implementation Force, IFOR 60,000 strong into Bosnia. Accepting our assessment as reasonable, the Secretary General requested 10,000 Blue Helmets for Eastern Slavonia. Without much discussion the Council authorised only 5,000 plus 100 unarmed Military Observers. The 8,000 dead Muslims from the Srebrenica massacre had apparently not been sufficient evidence to reach a responsible decision in the "World Peace Directorate".

Instead of following traditional patterns, which would have meant, sending straight legged riflemen transported by trucks against heavily armed and determined Serbs. DPKO translated the authorised numbers into a formidable fighting force of some mechanised infantry battalions, reinforced by tank units, combat helicopters, engineers and artillery. The Security Council was surprised to learn that the Blue Helmets of UNTAES were equipped with heavy weapons painted in UN white, but decided to let things go.

The impression which this brigade-sized formation conveyed to the Serbs was such, that these Blue Helmets were never challenged in the proper fulfilment of their duties. Throughout their two-year mission UNTAES never fired a round in anger. After the first year of that mandate the UN could even demonstrate de-escalation by replacing a Ukrainian tank battalion with foot infantry and Polish Special Police, who then arrested the first war criminal for the “International Criminal Tribunal for the Former Yugoslavia” in The Hague.

After two years, UNTAES’ mandate ended and responsibility for the Danube provinces was officially handed over to Croatia’s government, with only a small international police detachment remaining to ensure the proper treatment of the Serb minority there.

Robust peacekeeping i.e. peacekeeping through deterrence, had worked.

UNTAES has since served as a model for other similarly complex peace missions, particularly the United Nations Mission in Kosovo, UNMIK, and the United Nations Transitional Administration in East Timor, UNTAET.

CIVILIAN POLICE

While the Dayton Peace Conference discussed in detail and with impressive result the deployment of 60,000 military peacekeepers under the authority of NATO into the crisis area of Bosnia-Herzegovina, conference parties failed to tackle the civilian aspects of that peace mission with equal dedication. Coming to the end of the conference it dawned upon them, that they had not sufficiently dealt with such problems.

A team of US military officers was therefore sent to New York, to ask for advice on such matters from the United Nations. Despite the fact, that the UN had some 50,000 Blue Helmets on the ground in former Yugoslavia, the organisation had been banned from the peace conference altogether.

That most deplorable ban had been imposed upon the Secretary General by the United States, but met with no opposition on the part of the other participants to the conference. Nevertheless, during a lunch break DPKO offered the requested advice especially on civil police matters, and was most surprised to find their own recommendations as Annex 11 to the Dayton Peace Accord.

That Annex 11 demanded, that the Secretary General establish for the tasks laid down in that paper an “International Police Task Force,” (IPTF), 2,027 civilian police officers strong. Though there had been police detachments as parts of other peacekeeping operations as early as 1960 in the Congo, IPTF was actually breaking new ground in many aspects.

It was essential, that IPTF consisted only of police officers who were civilians as opposed to former missions, where one did not clearly distinguish between civilian and military policemen and therefore saw more of the latter deployed in the respective theatres. It turned out to be an extremely difficult task to just recruit sufficient numbers of qualified civilian police officers around the world.

Normally civilian police is mustered only for internal requirements in their respective countries. As a consequence, police officers are neither trained nor equipped to serve abroad. Since border-crossing police activities except for hot pursuit of perpetrators hardly ever occur, the knowledge of foreign languages, quite widely spread among many armed forces due to alliance obligations is not a feature of civilian police.

The most limiting fact around civilian police is certainly the almost complete lack of readily available officers for international missions. Usually there are no reserve formations of police, which a country can volunteer for a UN mission and rapidly deploy. Additionally many countries rely completely on the voluntary preparedness of their police officers to be sent abroad, whereas they are ready to just order their military into the same crisis areas.

To recruit more than 2,000 civilian police officers for continuous six-months periods in Bosnia turned out to be an enormous challenge for DPKO. In addition to the quantitative task of recruitment the UN had to ensure the qualitative standards required for such a demanding mission.

It is necessary that any one police officer, who is to monitor the indigenous police in societies torn by civil war and to advise that police on proper democratic standards for their behaviour vis-à-vis the civilian society not only understands such rules himself but also willingly lives up to them.

While some necessary qualifications of “UN CivPol” can be measured and tested like driving skills and proficiency in one of the UN languages, mostly English, and some conclusions on police experience can be drawn from the time in the service, democratic convictions and a thorough understanding of human rights do not offer themselves to such scrutiny.

On the other hand, some countries have just recently left the camp of totalitarianism; their police officers may therefore still develop their own learning curve on such matters and are hardly capable to already advise and monitor the police duties of a force that has been drilled under a totalitarian system and is now trying to live up to the democratic ideals of a citizen police.

As an additional problem, “UN CivPol” from African or Asian nations met with primitive racism in remote police stations, where people had never seen a person of a distinctly different skin colour.

As the Security Council, mandating the Secretary General with the establishment and control over the IPTF, did not include in the list of tasks for those police officers the responsibility to enforce law and order in Bosnia-Herzegovina, but left that to the police forces in the entities, which were structured along ethnic lines, there was no need to have the IPTF armed. Against extremely massive pressure from the United States troop contributing states, with Canada quite prominent among them, insisted that “UN CivPol” remain unarmed.

However, when and where the role of “UN CivPol” requires the enforcement of law and order in a crisis area, the situation demands a different approach. Both in Haiti and in the Kosovo, where no indigenous police force existed, side-arms had to be issued to “UN CivPol,” the use of which was laid down in the very explicit Rules of Engagement for the civilian police.

In Bosnia the situation is such, that the local police in the entities has to provide protection to “UN CivPol.” In theory that ought to have functioned, but in reality the IPTF had to arrange security with the armed forces of IFOR, which was renamed “Stabilisation Force,” (SFOR) after the first twelve months. Spread thinly throughout the whole country “UN CivPol” relied on IFOR/SFOR whenever a situation seemed to escalate out of control.

On the part of the leadership of IFOR/SFOR however such assistance to the civilian police was not popular. Though the mere roar of a tank engine can quickly pacify some critical situations and the noise and sight of an armed helicopter overhead can disperse a crowd, provisions have to be made to control crowds by civilian police means.

In the absence of such capabilities with the military and under conditions of an assumed unwillingness of indigenous police forces to control aggressive crowds, NATO was looking for “constabulary forces,” capable of riot control. Such elements of their national police forces can be found in only a few member states of the United Nations:

France has her “Gendarmerie Nationale”, Italy is proud of her “Carabinieri” as Spain is of her “Guardia Civil.” Other countries, who possess similar units include Argentina, whose special police did an excellent job with the UN mission in Haiti, India, with one of the largest police forces in the world, and Pakistan. When such riot control units cannot be made available by the international community, it is the military who will have to shoulder that task.

Security Council Resolution 1244 refers to the international armed forces in the Kosovo as “Military Security Presence,” to avoid an official reference to NATO, not to offend Russia and China, when they were asked to agree to the deployment of that force immediately after the end of NATO’s air strikes against Milosevic. That “Military Security Presence,” called “Kosovo Force,” (KFOR) was forced to implement police duties without any previous warning and hence without proper preparation in training and equipment.

Soldiers had to establish and run penitentiaries, control traffic, arrest criminals and monitor borders. Despite a few mistakes that happened during such activities, KFOR deserves great respect for the exemplary way in which they fulfilled those civilian police duties. On the other hand, the political leadership in many countries, most prominently in all of NATO’s capitals has to be blamed for the lack of preparedness and determination reflected in the extremely slow way in which they deployed their civilian police contingents into the Kosovo.

Of course, usually the police comes under the ministers of the interior or of justice and those ladies and gentlemen may not have been involved in the decision process around the engagement of their national air forces into the NATO operation “Allied Force”. But when the ministers of defence prepared their ground formations to enter into Kosovo without any delay once the last bomb had been dropped, their civilian police detachments ought to have been waiting alongside their military compatriots to take up their duties.

The deployment of IPTF in 1996 had been equally slow and the level of its performance rose only in a rather flat learning curve, but one would have expected, that member states had learned their lessons.

The United Nations Mission in Kosovo, UNMIK was set up three years later. If nations and institutions do not demonstrate progress from lessons learned in the wars of a distant past, one would at least hope that recent experience leads to the avoidance of recent mistakes.

MODESTY AS PRINCIPLE OF PEACEKEEPING?

Comparing headquarters of NATO-led operations with the headquarters which are to command and control UN mandated forces in crisis theatres in quite a number of war-torn countries will normally result in an attitude of pity for the UN force commanders.

Though the member states of the UN explicitly “confer on the Security Council the primary responsibility for the maintenance of international peace and security” they tend not to act accordingly. As mentioned before, the General Assembly seems to be governed by the idea, that peacekeepers ought to come and live self-sustained at no cost to the UN.

Little if any provisions are being authorised to maintain start-up kits for peacekeeping operations. Lengthy and exhaustive authorisation procedures have to be followed for the Secretary General and his staff to be able to provide the bare minimum to missions in the field. Not only do some representatives of member states whose assessed contributions to UN funds are minimal use their status of sovereign equality to act as if they were the paymasters, but also others create problems.

Especially the United States, who is to be the “No.1 Paymaster” has adopted an attitude which blocks proper funding for peace missions through slow but well established UN procedures. Normally authorisation of a “Peacekeeping Support Account” for any new mission results in obligatory assessed contributions of all member states and provides a reliable fundament for the establishment of a new mission within the tight limits of UN rules.

Unfortunately the United States have insisted repeatedly on the establishment of a voluntary trust fund to finance new UN Peace Operations. Washington does not always contribute itself to such a fund, and if it does, the amount is usually below the sum, which it would have owed the peacekeeping support account.

Legislation in many nations allows for the payment of duties according to international law, but does not allow voluntary payment at the expense of national taxpayers. As a consequence, only very few member states offer contributions to such a voluntary fund.

The case of the UN mission in East Timor may serve as an example: The lack of funds from the so-called “Voluntary Trust Fund” prevented some major regional neighbours from providing sizeable Blue Helmet formations for that mission as the UN could not guarantee, that those units would be reimbursed for their service along the provisions of UN regulations.

Lack of resources has also resulted in a deplorable staffing level in the Department of Peacekeeping Operations. Only 32 military officers are presently working there on more than a dozen operations world wide; nine civil police officers are to look after the many thousand civilian police officers from about 40 countries, who are to ensure democratic police standards in quite a number of crisis areas.

After the publication in 1992 of his *Agenda for Peace*, for which Secretary General Boutros-Ghali deservedly received much applause, little was done to implement his recommendations. Deficiencies that he had already identified remained untouched.

High level international task forces have repeatedly confirmed such weaknesses and come up with recommendations to strengthen the UN's enforcement capabilities. *Words to Deeds* was a report, which such a task force under the chairmanship of Lord Carrington submitted in 1997 and last year Lakhdar Brahimi presented the impressive report of his panel to the Secretary General.

Kofi Annan in turn in his millenium report to the general Assembly states that "While traditional peacekeeping had focused mainly on monitoring ceasefires, today's complex operations are very different." That requires also a determined, but different approach by member states. "Impartiality", for decades a fundamental prerequisite for the deployment of Blue Helmets into a crisis area can no longer be maintained as the bedrock of peacekeeping.

Brahimi in his report demands robust rules of engagement, against those who violate their own commitments to a peace accord or otherwise undermine consensual agreements by aggressive actions. Nevertheless the consent of the parties remains the *conditio sine qua non* for any deployment of ground forces into a crisis theatre.

And despite the examples of an ECOWAS intervention in Liberia without previous authorisation by the Security Council and of a NATO air war against the Milosevic-system in Belgrade without authorisation of that same body and, one could add, in spite of NATO's new strategic concept which might open the door to further action along the same path does the Council insist on its monopoly to authorise any international intervention beforehand.

It can only be hoped that the Council uses its power as the most prominent political decision body in the world to also promote the ideas how to strengthen the capabilities for international intervention by providing the necessary resources for such activities.

INTERNATIONAL LAW

The inactivity of the Security Council in the view of massive violations of human rights as demonstrated in Rwanda, Liberia, Bosnia and the Kosovo may have been caused by a self-inflicted paralysis due to the possibilities of the permanent members to use their veto against decisions which they consider unpleasant.

NATO's decision to act independently of such a situation as well as the earlier action by ECOWAS to intervene in their neighbourhood may lead to a development of international law, which puts more emphasis upon the implementation of human rights wherever they are being massively violated. Some experts in international law feel that such political reality has already resulted in major revisions in international law regarding national sovereignty.

Perhaps Kofi Annan is right, when he is repeatedly referring to "the peoples of the United Nations," because based upon such a democratic approach a world conscience may be developing against which the principle of state sovereignty will only play second fiddle.

One indicator, that such a development is actually under way was created by the Security Council itself. In the crises emanating from the break up of the former Yugoslavia the Council established the first international tribunal after the Nuremberg trials. The creation of that body, the “International Criminal Tribunal for the Former Yugoslavia,” (ICTY), has done much for one aspect of the UN intervention in that theatre, which was referred to as “post-conflict peacebuilding.”

The Council showed far reaching wisdom in avoiding, as suggested by some, to limit the geographical responsibility to just those parts of the former state, which were disputed when the tribunal was founded. Thus the same court sets the rules for war crimes in Croatia, Bosnia, Serbia inclusive of the Kosovo and even in Macedonia, which had looked so peaceful for many years.

No new tribunal must be considered for the accusations against Milosevic. All three public prosecutors, South Africa’s Judge Goldstone, the impressive Canadian Louise Arbour and the tough Swiss lady Carla Daponte convey the impression, that nobody will finally escape their call.

Governments in the region begin to realise, that co-operation with the tribunal is in their own interest, since the rulings of that international court will help overcome some of the most traumatic experiences throughout civil wars. As a possible result fundamental trust in the rule of law may for the first time in many years become the basic feeling of the people, who need such confidence as a prerequisite for the formation of stable social conditions.

Though the basic intention with the establishment of the Criminal Tribunal for Rwanda was similar, that court is in a very different situation. Genocide is not to be compared with any other crime. Genocide from one part of the indigenous population against another part of that same population is probably most difficult to assess. Rwanda therefore has difficulties to accept international jurisdiction over what many of the Rwandans consider their own internal affair.

The fact that the International Criminal Tribunal is situated in Tansania’s Arusha does not help to improve its acceptance by the people of Rwanda. It seems that only perpetrators hope to get justice from that court, as it does not have capital punishment in its rulebook and offers imprisonment in African countries other than Rwanda.

A problem which that Arusha tribunal has been facing is the unwillingness of nations and for some time even the UN to permit high ranking officials to testify in front of that tribunal. Without going into detail, one can state that the willingness of General Dallaire to go to Arusha and speak freely of his experience with the genocide was a huge step forward for the rule of law.

That rule of law as a universal principle saw another promising step, when on the last day of the year 2000 the signatures of the United States of America, of Egypt, of Israel, of Iran and a few more were placed under the Statute of the “International Criminal Court of Justice,” ICC.

The attempt by the Senator of the state of North Carolina, Jesse Helms, to have the presidential signature withdrawn by the new American president was unsuccessful. With now 129 signatures under the ICC-statute and 29 ratifications complete, that Court of Justice

will certainly over time achieve a situation when nobody on this planet can hope to get away with crimes against humanity, war crimes or massive violations of human rights.

Those persons who send their people into wars and slaughter thousands and more for their dirty purposes will have to face justice in the face of the world.

FOURTH GENERATION PEACE OPERATIONS

While such developments of international law fall clearly into what peacekeeping theorists have begun to call “Fourth Generation Peace Operations” there are other aspects of legal affairs which are more closely linked to activities of Blue Helmets on the ground. In some way already the UNTAC mission in Cambodia began, what was really a full scale new approach to post-conflict operations in UNTAES.

The United Nations mission was tasked to set up a temporary rule over a territory, which for that period of time became a “UN Protectorate,” where the Special Representative of the Secretary General, SRSG was the governing authority. In UNTAES, the SRSG, Ambassador/Major General Paul Jacques Klein dealt directly with heads of states and governments and with the ruling bodies of international organisations, such as NATO or the OSCE.

The mandate, issued by the Security Council, explicitly gave the SRSG executive power for all areas of public life, from the establishment and maintenance of law and order, through the collection of public income and the distribution of salaries, even the establishment of courts and prisons, the reconstruction of a legal system and of all elements required for a functioning public administration inclusive of the organisation of schools and hospitals.

As indicated before, the UN mission in East Timor, UNTAET is following almost exactly the same pattern for the time of transition into a functioning self-rule of that tiny island-state. The international community assumes temporary responsibility for entities and people, whose sufferings the international intervention sought to redress.

In the case of Bosnia-Herzegovina for example, where the political bodies do not function properly, it is the Office of the High Representative there, that actually developed into the *de facto*-executive body. His *de-facto* authority allows the High Representative for instance to decide on neutral license plates for vehicles, to avoid ethnic discrimination by the police, who until the introduction of the new plates had identified locals from their vehicle plates as members of a certain ethnicity. Passports after European standards are being issued for the same reasons and thus basic confidence in the legality of the democratic system is enhanced.

To enforce upon the indigenous police in the entities of Bosnia-Herzegovina a first idea of team-spirit across ethnic boundaries, many police officers had to be forced to wear the new uniforms, which do no longer allow to identify police officers along ethnic lines. To succeed with that move, the High Representative had to threaten to fire disobedient policemen or at least to withhold their salaries.

If these examples do not suffice to illustrate the real power, which an energetic High Representative can apply, one must add, that he also dismisses democratically elected mayors

and ministers, if they do not co-operate, and bans them from political life. It is such international authority, which permits him to set up the organisation for free and fair elections and to attentively control them too.

Let me mention one other example which most clearly demonstrates the degree of complexity involved in Fourth Generation Peace Operations; that is certainly UNMIK. In the total absence of any public order after the destruction of the autonomy of the Kosovo Albanians in 1989 by Milosevic and after the massive Serb suppression of all Albanian attempts to have their own institutions or at least a relative participation in public life, the UN Mission in the Kosovo, UNMIK, together with their military twin-brothers, KFOR started from scratch.

Kofi Annan tried to tie together as many international institutions to jointly shoulder the task of reconstruction of everything that a functioning society requires. Though he succeeded to muster many such institutions on headquarters level, it took quite a while until these interlocking institutions ceased to be “interlocking institutions” and came to function satisfactorily on the ground, where it matters.

People in the Kosovo as well as NGOs and other institutions trying to support reconstruction from the outside still find it difficult, to address issues properly. The most difficult single task seems to be an agreement on the political objective of the international involvement. While Kosovo Albanians strive for their independence from Serb domination, most political leaders in Belgrade consider the territorial integrity of Serbia as their most important goal, irrespective of a population census or the expressed political will of the Kosovo Albanians.

The UN will have to stay there for quite some time to ensure that no unforeseen development turns that powder keg into a renewed theatre of war. The one observation which the international community can confirm with complete conviction is, that there is no idea among the Kosovo Albanians to join the state of Albania proper for the purpose of creating one “Greater Albania”, possibly even including the Albanian minority from Macedonia. Such talk of “Greater Albania” has to a certain degree been an invention of Serb propaganda, quite efficient with credulous Westerners, who took the double-headed Albanian eagle on his red flag as the symbolic expression of such assumed political objectives.

Today, political leaders content with some democratic progress in Belgrade have started to draft their excuses for future inaction by explaining that there is no prospect for an independent Kosovo, as such a state would be too small to be independent. At the same time they are negotiating with Montenegro for the possible independence of that entity.

Processes of dissolution of failed states as well as disintegration of others really put the axe to the roots of the United Nations as an organisation of the governments of 189 member states. Despite the promising word of the preamble to the UN Charter. “We, the Peoples of the United Nations...,” self determination of peoples is not among the prominent aims of that organisation. Nevertheless, the idea of self-determination seems to be gaining ground.

The break-up of the Soviet empire with the resulting independence of 13 republics may have set a chain of precedents and therefore started a development, which has not come to an end yet. It was followed by the independence of all the former Yugoslav republics of Bosnia-Herzegovina, Croatia, Macedonia, and Slovenia.

The secession of Eritrea from Ethiopia can be seen as the explosion of a political bomb for the future of the political order in all of Africa. Even the former Portuguese colony of East Timor is to be added to that list. There are other minorities, who might take such developments as an encouragement for their own activities.

For the Security Council it will be an extremely difficult challenge to balance Article 2's principle of territorial integrity and state sovereignty against the increasing importance of the universal validity of human rights.

It must be feared that the Westphalian Order of 1648 with its predominance of government authority and the eternal character of territorial integrity over the basic rights of citizens will prevail once more.

Neither China, who is afraid that any weakening of that principle might question the Chinese treatment of Tibet, nor the Russian Federation, whose dealing with quite a number of small peoples in the Caucasus striving for autonomy, if not independence from Moscow is equally questionable, will support the universal rule of a Western understanding of human rights.

International humanitarian intervention may therefore see an uncertain future.