

# “SOLDIERING ON IN HOPE”: UNITED NATIONS PEACEKEEPING IN CIVIL WARS

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## I. INTRODUCTION

On March 16, 1994, the U.N. Secretary-General, faced with the choice of withdrawing the U.N. Protection Force (UNPROFOR) that had been unable to complete its mandate in Croatia, or leaving it in a situation for which its size was inadequate, remarked that “the choice in Croatia is between continuing a mission that is clearly unable to fulfil [sic] its original mandate in full or withdrawing and risking a renewed war that would probably result in appeals for UNPROFOR to return to restore peace. Given such a choice, soldiering on in hope seems preferable to withdrawing in abdication.”<sup>1</sup> The remark exemplifies the choice facing the Security Council in a number of post-Cold War civil war situations. Doing nothing would have been seen as an “abdication” of responsibility, especially where the United Nations was the only organization available to act, and yet, for certain robust operations, the number of troops offered by Member States would clearly be unequal to the required tasks. Nevertheless, in the face of warning signs regarding the unlikelihood of Member States contributing troops or of the parties in conflict cooperating, the Security Council authorized U.N. operations, *faute de mieux*, in the hope that something would be better than nothing. In the light of a series of operations in which something was arguably not better than nothing, it is necessary to examine other ways in which the Security Council might meet its responsibility for the maintenance of international peace and security.

This Note will examine the consequences of the Security Council’s decisions to deploy under-resourced operations to

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1. *Report of the Secretary-General Pursuant to Resolution 871 (1993)*, U.N. SCOR, ¶ 45, U.N. Doc. S/1994/300 (1994).

civil war situations and various proposed means by which the Security Council might more effectively fulfill its responsibilities. Part II will look at a number of post-Cold War U.N. operations in civil wars—UNPROFOR in Croatia and Bosnia, United Nations Operation in Somalia I (UNOSOM I), United Nations Assistance Mission for Rwanda II (UNAMIR II), and United Nations Mission in Sierra Leone (UNAMSIL)—and show how, at least partly because of the Security Council's failure to ensure that the operations it authorized were provided with sufficient numbers of adequately equipped troops,<sup>2</sup> significant mandate elements could not be achieved. Part III will argue that decisions to authorize an inadequate number of troops and supplies (in Croatia, Somalia, Bosnia, and Sierra Leone), or to authorize troops whose rapid deployment was unlikely (in Rwanda and Bosnia), were taken in the face of clear indications of the likely obstacles to success, thus suggesting that the cause of failure was not lack of information, unexpected events on the ground, or unexpected failures to commit troops. What is required is not an improvement in, for example, the U.N.'s intelligence capability, but, rather, structural change to the peacekeeping system. Part IV will examine various proposed changes to the system of U.N. peacekeeping that aim to avoid this phenomenon of under-resourcing, and will argue that none of them offers a politically achievable way of remedying these flaws. Part V will argue that, since a blanket decision by the Security Council to avoid involvement in any situation where these "warning signs" exist would represent an abdication of its responsibility for the maintenance of international peace and security, efforts at innovation should be focused not on overhauling the system of U.N. peacekeeping, but on improving means of U.N. involvement with other force providers—regional and multinational—whereby the strengths of each can be used to improve, and guard against the failings of, the other.

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2. Naturally, the number of troops is only one of the salient factors that might be addressed. Level of authorized force is another obvious example, since none of these operations had an unqualified Chapter VII authorization to use "all necessary means." See *infra* Parts II.A.2, II.B.2, II.C.2, II.D.2, and II.E.2.

## II. THE OPERATIONS

### A. UNPROFOR (Croatia)

#### 1. Introduction

In 1991, Croatia, one of the six republics of the Socialist Federal Republic of Yugoslavia, declared itself independent. The federal government, through the Yugoslav National Army (JNA), intervened in opposition.<sup>3</sup> On January 2, 1992, representatives of Croatia and the JNA signed an Implementing Accord on a cease-fire.<sup>4</sup> At the end of January, the U.N. adopted the "Vance Plan," which called for the creation of "U.N. Protected Areas" (UNPAs), overlapping with the areas which had contained a substantial proportion of Serbs before the war.<sup>5</sup> Once the agreement of Serbia, Croatia and the Croatian Serbs had, at least nominally, been obtained, the Security Council passed Resolution 743, establishing a United Nations Protection Force (UNPROFOR) for the UNPAs.<sup>6</sup>

#### 2. Mandate & Means

Among the tasks of UNPROFOR as envisaged in the Secretary-General's Report of December 11, 1991, was to ensure that the UNPAs "remained demilitarized and that all persons residing in them were protected from fear of armed attack."<sup>7</sup> 14,000 peacekeepers were authorized for the UNPAs,<sup>8</sup> but de-

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3. See T. Modibo Ocran, *How Blessed Were the UN Peacekeepers in Former Yugoslavia? The Involvement of UNPROFOR and Other UN Bodies in Humanitarian Activities and Human Rights Issues in Croatia, 1992-1996*, 18 WIS. INT'L L.J. 193, 193 (2000).

4. See S.C. Res. 727, U.N. SCOR, 47th Sess., ¶ 2, U.N. Doc. S/INF/46 (1992).

5. MARCUS TANNER, *CROATIA: A NATION FORGED IN WAR* 279 (1997). The UNPAs were to cover one-quarter of Croatian territory. *Id.*

6. See S.C. Res. 743, U.N. SCOR, 47th Sess., 3055th mtg. ¶ 2, U.N. Doc. S/RES/743 (1992).

7. *Report of the Secretary-General Pursuant to Security Council Resolution 721 (1991)*, U.N. SCOR, ¶ 12, U.N. Doc. S/23280 (1991). Resolution 743 approved this mandate element. S.C. Res. 743, *supra* note 6, ¶ 1.

8. *Cf. id.* ¶ 2.

ployment was slow.<sup>9</sup> It was not fully achieved until February 1993, one year after authorization.<sup>10</sup>

### 3. *Failure to Implement*

UNPROFOR failed to ensure that the UNPAs were demilitarized or that all UNPA residents were protected from armed attacks. With respect to demilitarization, UNPROFOR did succeed in ensuring the complete withdrawal of the JNA from the territory of Croatia.<sup>11</sup> However, paramilitary forces were created in the UNPAs in violation of the U.N. peacekeeping plan, and the number of armed Serbs in the UNPAs, rather than decreasing, significantly *increased*.<sup>12</sup> As for fear of armed attack, “the peacekeepers were largely ignored in Croatia as the violence”—and *de facto* Serb control<sup>13</sup>—“continued around them.”<sup>14</sup> Attacks from outside the UNPAs included incursions by the Croatian government in January and September of 1993. As for attacks from within, the period of UNPROFOR’s deployment saw coercion of residents of all of the UNPAs<sup>15</sup> and on both sides of the conflict.<sup>16</sup>

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9. Wolfgang Biermann & Martin Vadset, *From UNPF to IFOR: Windows of Opportunity 1991 to 1996*, in *UN PEACEKEEPING IN TROUBLE: LESSONS LEARNED FROM THE FORMER YUGOSLAVIA* 63, 69 (Wolfgang Biermann & Martin Vadset eds., 1998).

10. *See id.*

11. *Report of the Secretary-General Pursuant to Resolution 871 (1993)*, *supra* note 1, ¶ 8.

12. *See* Elgin Clemons, Note, *No Peace to Keep: Six and Three-Quarters Peacekeepers*, 26 N.Y.U. J. INT’L L. & POL. 107, 126–27 (1993) (“However, the number of armed Serbs in the UNPA’s grew to the size of an army.”); Joanna Spear, *Arms Limitations, Confidence-Building Measures, and Internal Conflict*, in *THE INTERNATIONAL DIMENSIONS OF INTERNAL CONFLICT* 377, 408 (Michael E. Brown ed., 1996) (explaining that “[w]hen the JNA withdrew and the TDFs [Territorial Defense Forces] were demobilized, strengthened police and military organizations emerged in their place”).

13. *See* RICHARD HOLBROOKE, *TO END A WAR* 32–33 (1998).

14. Clemons, *supra* note 12, at 127.

15. *See Report of the Secretary-General Pursuant to Security Council Resolution 762 (1992)*, U.N. SCOR, ¶¶ 14–18, U.N. Doc. S/24353 (1992).

16. *See Report of the Secretary-General Pursuant to Security Council Resolution 743 (1992)*, U.N. SCOR, ¶ 7, U.N. Doc. S/23777 (1992). UNPROFOR faced a situation where the remaining Croats in the UNPAs had “in many cases been relentlessly persecuted, suffering murder, assault, threats, armed thefts and arson.” *Report of the Secretary-General Pursuant to Security Council Resolution 815 (1993)*, U.N. SCOR, ¶ 9, U.N. Doc. S/25777 (1993). Across the confron-

#### 4. *Assessment*

The chances that UNPROFOR would succeed were lessened by the initial failure to achieve rapid deployment.<sup>17</sup> With ethnic cleansing continuing almost unopposed,<sup>18</sup> most non-Serbs had been expelled from the UNPAs by the time that UNPROFOR was operational.<sup>19</sup> Yet it was unrealistic to hope that even the full authorized force of 14,000 lightly armed peacekeepers could ensure the freedom from fear of all inhabitants of the protected areas: The force was far too small to complete its mandate without meaningful cooperation from the parties in conflict.<sup>20</sup>

### B. *UNOSOM I*<sup>21</sup>

#### 1. *Introduction*

In January 1991, President Siad Barre fled Somalia when his army was routed by an alliance of opposition forces.<sup>22</sup> However, the alliance soon splintered into competing groups. The United Somali Congress, which controlled Mogadishu, split into two factions under the leadership of Ali Mahdi and Mohamed Farah Aidid, respectively.<sup>23</sup> Mahdi had been named interim President,<sup>24</sup> but the country lacked a central

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tation line, Serbs suffered similar atrocities. *See Report of the Secretary-General Pursuant to Security Council Resolution 743 (1992)*, *supra* ¶ 16.

17. *See* David J. Scheffer, *United Nations Peace Operations and Prospects for a Standby Force*, 28 CORNELL INT'L L.J. 649, 652 (1995) ("Delayed deployment of UNPROFOR infantry components posed a significant risk to the cease-fire in Croatia in early 1992.").

18. OLIVER RAMSBOTHAM & TOM WOODHOUSE, *ENCYCLOPEDIA OF INTERNATIONAL PEACEKEEPING OPERATIONS* 279 (1999).

19. *Id.*

20. JOHN HILLEN, *BLUE HELMETS: THE STRATEGY OF UN MILITARY OPERATIONS* 175 (2d ed. 2000).

21. This analysis will focus on the security personnel authorized by the Security Council as part of United Nations Operation in Somalia I (UNOSOM I), prior to the deployment of the Unified Task Force (UNITAF).

22. Clement E. Adibe, *Learning from Failure of Disarmament and Conflict Resolution in Somalia*, in *A FUTURE FOR PEACEKEEPING?* 118, 120 (Edward Moxon-Browne ed., 1998).

23. *Id.*

24. MICHAEL WESLEY, *CASUALTIES OF THE NEW WORLD ORDER* 68 (1997).

government.<sup>25</sup> “From November 1991, there was heavy fighting in Mogadishu” between these two, and other, factions.<sup>26</sup> On March 3, 1992, the two main parties signed cease-fire agreements, including provisions for the implementation of measures aimed at stabilizing the cease-fire through the deployment of U.N. monitors.<sup>27</sup> Aidid and Mahdi signed agreements on March 27th and 28th respectively,<sup>28</sup> specifying that the United Nations would deploy 50 observers to monitor the cease-fire, as well as “adequate” security personnel for humanitarian relief operations.<sup>29</sup>

## 2. *Mandate & Means*

UNOSOM I was created by Resolution 751 of April 24, 1992, in which the Security Council requested the Secretary-General to deploy 50 military observers immediately<sup>30</sup> and, “in principle,” a security force of 500 “as soon as possible.”<sup>31</sup> The security force was to be lightly armed; to provide security for relief personnel, equipment and supplies at Mogadishu’s port and airport; and to escort convoys of relief supplies.<sup>32</sup>

## 3. *Failure to Implement*

Not until August 12, 1992 did Aidid and Mahdi agree to the deployment of the 500-strong security force envisaged in the Resolution of April 24,<sup>33</sup> and the troops did not arrive until October.<sup>34</sup> Once in Mogadishu, they were met by forces of vastly superior size and weaponry<sup>35</sup> who prevented them from

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25. See THE BLUE HELMETS: A REVIEW OF UNITED NATIONS PEACE-KEEPING at 287, U.N. Sales No. E.96.I.14 (1996).

26. *Id.*

27. See generally S.C. Res. 746, U.N. SCOR, 3060th mtg., U.N. Doc. S/RES/746 (1992).

28. Boutros Boutros-Ghali, *Introduction to THE UNITED NATIONS, THE UNITED NATIONS AND SOMALIA: 1992–1996*, 19 (1996).

29. *Id.*

30. S.C. Res. 751, U.N. SCOR, 3069th mtg., at 3, U.N. Doc. S/RES/751 (1992).

31. *Id.* at 4.

32. See *The Situation in Somalia: Report of the Secretary-General*, U.N. SCOR, 47th Sess., ¶ 27, U.N. Doc. S/23829 (1992).

33. Boutros-Ghali, *supra* note 28, at 26.

34. JANE BOULDEN, PEACE ENFORCEMENT: THE UNITED NATIONS EXPERIENCE IN CONGO, SOMALIA, AND BOSNIA 56 (2001).

35. See *id.*

leaving the airport, let alone carrying out their mandate.<sup>36</sup> On December 3, 1992, the Security Council approved the U.S. offer to, in the words of Resolution 794, "establish[ ] a secure environment for humanitarian relief operations,"<sup>37</sup> since UNOSOM's existing course would be an inadequate response to the situation.<sup>38</sup> The requirement of consent was abandoned; the multinational force, UNITAF, was given Chapter VII authorization to use all necessary means to fulfill its mandate.

#### 4. *Assessment*

The Force Commander, Imtiaz Shaheen, has stated that while he was "very satisfied with the rules of engagement,"<sup>39</sup> the force "was simply too small to be effective."<sup>40</sup> Even before the deployment of the 500 troops began, it was clear to the Secretary-General that there were far too few peacekeepers<sup>41</sup> given the "lawlessness and violence in Mogadishu."<sup>42</sup> 37,000 troops were subsequently used in the U.S.-led UNITAF. As Katherine Cox argues, it had become apparent that UNOSOM I was "essentially a traditional peacekeeping operation that failed primarily because the situation into which it went was not conducive to peacekeeping."<sup>43</sup>

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36. WILLIAM SHAWCROSS, *DELIVER US FROM EVIL: PEACEKEEPERS, WARLORDS AND A WORLD OF ENDLESS CONFLICT* 87 (2000).

37. S.C. Res. 794, U.N. SCOR, 3145th mtg., at 7, U.N. Doc. S/RES/794 (1992).

38. *Id.*

39. Keith B. Richburg, *Top U.N. Officer in Somalia Says Tactics Were Apt*, WASH. POST, Jan. 23, 1993, at A12.

40. *Id.*

41. See Boutros-Ghali, *supra* note 28, at 26. Jeffrey Clark describes the number as "minuscule." Jeffrey Clark, *Debate in Somalia: Failure of the Collective Response*, in ENFORCING RESTRAINT 205, 221 (Lori Fisler Damrosch ed., 1993).

42. Boutros-Ghali, *supra* note 28, at 26.

43. Katherine E. Cox, *Beyond Self-Defense: United Nations Peacekeeping Operations and the Use of Force*, 27 DENV. J. INT'L L. & POL'Y 239, 259 (1999).

### C. UNPROFOR (*Bosnia*)

#### 1. *Introduction*

On March 3, 1992, the Bosnian government declared the country's independence.<sup>44</sup> Within a month, conflict broke out between Bosnian Muslims and Bosnian Serbs<sup>45</sup> who hoped to create a "greater Serbia" from the former Yugoslavia's constituent republics.<sup>46</sup> By the end of 1992, the Serbs controlled 70 percent of Bosnian territory. After fighting intensified in eastern Bosnia in March 1993, with Bosnian Serb paramilitaries attacking several cities, including Srebrenica, the Security Council adopted Resolution 819, which demanded that all parties treat Srebrenica and its surroundings as a "safe area" free from any hostile act.<sup>47</sup> In Resolution 824 of May 6, five more towns—Tuzla, Zepa, Gorazde, Bihac, and Sarajevo—were declared "safe areas,"<sup>48</sup> and a month later the Security Council mandated a role for UNPROFOR within them<sup>49</sup> in order "to ensure full respect for the safe areas."<sup>50</sup>

#### 2. *Mandate & Means*

Resolution 836 of June 4, 1993, extended UNPROFOR's mandate in order to enable it "to deter attacks against the safe areas, to monitor the cease-fire, to promote the withdrawal of military or paramilitary units other than those of the Government of the Republic of Bosnia and Herzegovina and to occupy some key points on the ground."<sup>51</sup> It authorized UNPROFOR, "in carrying out [this] mandate . . . , acting in self-

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44. See Ved P. Nanda et al., *Tragedies in Somalia, Yugoslavia, Haiti, Rwanda and Liberia—Revisiting the Validity of Humanitarian Intervention under International Law—Part II*, 26 DENV. J. INT'L L. & POL'Y 827, 839 (1998).

45. *Id.* at 839–40.

46. WESLEY, *supra* note 24, at 31.

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

48. S.C. Res. 824, U.N. SCOR, 3208th mtg., U.N. Doc. S/RES/824 (1993). This resolution was described by Madeleine Albright, who voted for it, as "a palliative." U.N. SCOR, 3208th mtg., at 12, U.N. Doc. S/PV.3208 (1993).

49. *Id.* UNPROFOR had been established on February 21, 1992, with its initial deployment limited to Croatia. See S. C. Res. 743, *supra* note 6, ¶ 2.

50. S.C. Res. 836, U.N. SCOR, 48th Sess., at 14, U.N. Doc. S/INF/49 (1994).

51. *Id.*

defence, to take the necessary measures, including the use of force, in reply to bombardments against the safe areas by any of the parties or to armed incursion into them."<sup>52</sup>

Resolution 844 of June 18, 1993, authorized the deployment of 7,600 troops to the "safe areas,"<sup>53</sup> yet it took a year for them to arrive and be deployed.<sup>54</sup> Fewer than 3,000 had arrived by January 7, 1994,<sup>55</sup> and only 5,200 by March 11, 1994.<sup>56</sup> In 1995, when the "safe areas" came under sustained attack by Bosnian Serb forces, full deployment had not been achieved.<sup>57</sup>

### 3. *Failure to Implement*

Up to 20,000 people were killed in and around the "safe areas."<sup>58</sup> In none of the areas did UNPROFOR successfully implement its mandate to deter attacks. The most shocking demonstration of the United Nations' inadequacy came at Srebrenica, where, in July 1995, the Serbs, having captured the "safe area," murdered some 7,414 men and boys.<sup>59</sup> Serb bombardments caused numerous civilian casualties in Tuzla and Gorazde.<sup>60</sup> In November 1994, air attacks were mounted by

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52. *Id.* It also decided that "Member States, acting nationally or through regional organizations or arrangements, may take . . . all necessary measures, through the use of air power, in and around the safe areas in Bosnia and Herzegovina, to support the Force in the performance of its mandate . . ." *Id.*

53. See S.C. Res. 844, U.N. SCOR, 48th Sess., at 15, U.N. Doc. S/INF/49 (1994).

54. *Report of the Secretary-General Pursuant to Security Council Resolution 959 (1994)*, U.N. SCOR, ¶ 54, U.N. Doc. S/1994/1389 (1994). "UNPROFOR troop deployments in Bosnia never reached authorized levels." Ivo H. Daalder, *Fear and Loathing in the Former Yugoslavia*, in THE INTERNATIONAL DIMENSIONS OF INTERNAL CONFLICT 35, 55 (Michael E. Brown ed., 1996).

55. See *The Situation in Bosnia and Herzegovina: Report of the Secretary-General Submitted Pursuant to Paragraph 29 of General Assembly Resolution 48/88*, U.N. GAOR, 48th Sess., Agenda Item 42, ¶ 9, U.N. Doc. A/48/847 (1994).

56. *Report of the Secretary-General Pursuant to Security Council Resolution 900 (1994)*, U.N. SCOR, ¶ 9, U.N. Doc. S/1994/291 (1994).

57. See Mats R. Berdal, *The Security Council, Peacekeeping, and Internal Conflict After the Cold War*, 7 DUKE J. COMP. & INT'L L. 71, 83 (1996).

58. *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35: The Fall of Srebrenica*, U.N. GAOR, 54th Sess., Agenda Item 42, ¶ 3, U.N. Doc. A/54/549 (1999) [hereinafter *Srebrenica Report*]. They were "overwhelmingly from the Bosnian Muslim community." *Id.*

59. SHAWCROSS, *supra* note 36, at 176.

60. On May 25, 1995, the crowded downtown area of Tuzla was subjected to a massive bombardment, leaving an estimated 70 people dead and almost

the “Krajina Serbs” into the Bihac pocket in support of Bosnian Serb forces advancing toward the “safe area.”<sup>61</sup> In Sarajevo, the launching of Serb shells into the “safe areas,” often with civilian rather than military targets, began in April 1992, and continued, off and on, until August 1995.

#### 4. *Assessment*

According to Karsten Prager, the “spate of resolutions”<sup>62</sup> designating the “safe areas” was “[o]ne of the most poignant examples of Security Council overreach.”<sup>63</sup> Fulfilling the mandate of deterring attacks in “safe areas” would have required a larger number of troops than was ever supplied.<sup>64</sup> The Serb advance in November 1994 towards the town of Bihac, in an enclave inhabited by 170,000 people,<sup>65</sup> was not halted by the presence of a company-strength unit.<sup>66</sup> Nor were the Serb forces deterred from their offensive on Gorazde, an enclave with an estimated population of 65,000,<sup>67</sup> by the presence of

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130 injured. See *Report of the Secretary-General Pursuant to Security Council Resolutions 982 (1995) and 987 (1995)*, U.N. SCOR, 50th Sess., ¶ 12, U.N. Doc. S/1995/444 (1995). A Serb bombardment of Gorazde at the end of March, 1994, claimed the lives of 30 people and wounded 132. *US Accuses Serbs of Atrocities*, FIN. TIMES (LONDON), Apr. 2/Apr. 3, 1994, at 2.

61. See *Report of the Secretary-General Pursuant to Security Council Resolution 959 (1994)*, *supra* note 54, ¶ 16.

62. Karsten Prager, *The Limits of Peacekeeping*, TIME, Oct. 23, 1995, available at <http://www.time.com/international/1995/951023/cover2.html>.

63. *Id.*

64. Interview with a staff member at the Executive Office of the Secretary-General, in New York, NY (Dec. 3, 2001). According to Jane Boulden, media coverage “contributed to a general public misunderstanding of the mission and pressure for increased use of force rather than highlighting the need for greater resources.” BOULDEN, *supra* note 34, at 113 (“Even when the mandate and the ROE [Rules of Engagement] gave UN troops the ability to use force, they could not be expected to use force to attempt to fulfill the mission mandate when they were out-numbered and out-gunned by the parties to the conflict.”).

65. See *Bosnia-Herzegovina: Serb Counterattack on Bihac*, KEESING’S REC. OF WORLD EVENTS (Nov. 1994) (“[I]n the Bihac enclave was a force of 1,300 lightly armed Bangladeshi UNPROFOR . . . soldiers.”).

66. See *Report of the Secretary-General Pursuant to Security Council Resolution 959 (1994)*, *supra* note 54, ¶ 27.

67. See *Bosnia-Herzegovina: UN Debacle in Gorazde*, KEESING’S REC. OF WORLD EVENTS (Apr. 1994).

eight military observers from the United Nations.<sup>68</sup> At the time of the fall of Srebrenica, with its 40,000 Muslim inhabitants, some 600 U.N. personnel were deployed in the "safe area," but only 300 were infantry soldiers; the remainder served in various support capacities.<sup>69</sup> The U.N. presence in Zepa, with its 16,000 residents,<sup>70</sup> comprised, at the time of its fall, a single battalion of Ukrainian troops<sup>71</sup> who, in the assessment of the Srebrenica Report, were "clearly incapable of resisting a concerted Serb attack."<sup>72</sup>

The force level had indeed been envisaged, in the Secretary-General's Report of June 14, 1993, as insufficient "to resist a concentrated assault."<sup>73</sup> Advice from the Force Commander had indicated that 34,000 troops would be needed in order to provide effective deterrence, but the Security Council voted for the "light option" of 7,600. Since this option could not completely guarantee defense of the "safe areas,"<sup>74</sup> it relied on the threat of NATO airpower.<sup>75</sup> NATO, however, was not only an insufficient deterrent,<sup>76</sup> but also a problematic partner.<sup>77</sup>

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68. See *Report of the Secretary-General Pursuant to Security Council Resolution 900 (1994)*, *supra* note 56, ¶ 16.

69. *Srebrenica Report*, *supra* note 58, ¶ 226.

70. SAMANTHA POWER, "A PROBLEM FROM HELL": AMERICA AND THE AGE OF GENOCIDE 417 (2002).

71. *Srebrenica Report*, *supra* note 58, ¶ 395.

72. *Id.* See also *id.* ¶ 318 (quoting a report by the Special Representative of the Secretary-General, immediately following the fall of Srebrenica, which stated that if Zepa were to be attacked the Ukrainian forces would "not be able to mount much of a defence.").

73. *Report of the Secretary-General Pursuant to Security Council Resolution 836 (1993)*, U.N. SCOR, ¶ 4, U.N. Doc. S/25939 (1993).

74. *Id.* ¶ 5.

75. *Id.* See also *id.* ¶ 4 ("Since it is assumed that UNPROFOR ground troops will not be sufficient to resist a concentrated assault on any of the safe areas, particular emphasis must be placed on the availability of a credible air-strike capability provided by Member States.").

76. See Michael Stopford, *Peace-Keeping or Peace-Enforcement: Stark Choices for Grey Areas*, 73 U. DET. MERCY L. REV. 499, 510 (1996). The Secretary-General admitted that "the threat of air power is, at best, of very limited utility in compelling the Bosnian Serbs to respect the safe areas." *Report of the Secretary-General Pursuant to Security Council Resolution 959 (1994)*, *supra* note 54, ¶ 41. See also *Report of the Secretary-General Pursuant to Resolution 844 (1993)*, U.N. SCOR, ¶ 13, U.N. Doc. S/1994/555 (1994) (UNPROFOR "never had sufficient resources, even with air support, to defend the safe areas against a deliberate attack or to hold ground.").

Obvious drawbacks included the kidnappings,<sup>78</sup> bombardments,<sup>79</sup> and obstruction of UNPROFOR's primary humanitarian mission,<sup>80</sup> as well as perceptions of U.N. partiality,<sup>81</sup> that followed NATO action. Another was that U.N. troops took on, in addition to their mandated duties, the task of patrolling the exclusion zones declared by NATO, even though the high levels of manpower required put a further strain on the resources allocated to the "safe areas."<sup>82</sup> In Bihac,<sup>83</sup> Srebren-

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77. See *Report of the Secretary-General Pursuant to Security Council Resolutions 982 (1995) and 987 (1995)*, *supra* note 60, ¶ 6.

78. "Being widely dispersed," UNPROFOR personnel were "extremely vulnerable to obstruction, detention and other forms of harassment." Ian Johnstone, Remarks at International Law Odyssey 2001: Beyond the Limits, International Law Weekend 2001 of the American Branch of the International Law Association (Oct. 27, 2001) [hereinafter International Law Weekend]. Because of this, according to Johnstone, "the threat of strikes was not real." *Id.*

79. On May 25, 1995, after NATO strikes on an ammunition dump near the Bosnian Serb stronghold of Pale, the Bosnian Serbs retaliated against every safe area except Zepa. See *Report of the Secretary-General Pursuant to Security Council Resolutions 982 (1995) and 987 (1995)*, *supra* note 60, ¶ 12. The crowded downtown area of Tuzla was subjected to a massive bombardment, in which some 70 civilians were killed and over 130 injured. See *id.*

80. See *Report of the Secretary-General Pursuant to Security Council Resolution 959 (1994)*, *supra* note 54, ¶ 41. A staff member at the Executive Office of the Secretary-General describes the Secretariat as having faced a "moral dilemma" over what was "more important—humanitarian assistance to millions of people in central Bosnia, or some 20,000 people in Srebrenica." Interview, *supra* note 64. The UNPROFOR Commander in Bosnia and Herzegovina has stated, "In determining the goals to be pursued and the level of force, I could not, as a commander, ignore the primary humanitarian aspects of the mission, or ever forget that 2.7 million people were still dependent on United Nations aid for their survival. Every time I called for NATO air strikes the movement across Serb-held territory was halted and people died." *Srebrenica Report*, *supra* note 58, ¶ 162 (internal quotations omitted).

81. One reason the Secretary-General has given for the reluctance to use air power against the Serbs is the belief that "we would be perceived as having entered the war against them, something not authorized by the Security Council and potentially fatal for a peacekeeping operation." *Srebrenica Report*, *supra* note 58, ¶ 482. With respect to the Mission's attempts at peace-making, after every hostage-taking "negotiations were brought to an abrupt halt, except for the lengthy negotiations required to secure release of the hostages." *Report of the Secretary-General Pursuant to Security Council Resolutions 982 (1995) and 987 (1995)*, *supra* note 60, ¶ 69.

82. See *Report of the Secretary-General Pursuant to Resolution 908 (1994)*, U.N. SCOR, ¶ 41, U.N. Doc. S/1994/1067 (1994). U.N. military commanders "argued that UNPROFOR troops already operating at well below desirable

ica,<sup>84</sup> and Gorazde,<sup>85</sup> the threat of air action failed to keep the Serbs away from the "safe areas," and in Srebrenica<sup>86</sup> and Gorazde<sup>87</sup> the use of air action was avoided because of fears for the safety of U.N. hostages. Even before the fall of Zepa and Srebrenica, the Secretary-General had concluded that NATO's support was insufficient to make the "safe areas" concept viable: He stated on December 1, 1994, that "[t]he experiences at Gorazde and Bihac provide stark evidence that in the absence of consent and cooperation, the 'light option,' adopted as an initial measure and supported by air power alone, cannot be expected to be effective in protecting the safe areas."<sup>88</sup> The consent and cooperation on which the "light option" relied<sup>89</sup> were never forthcoming.

#### D. UNAMIR II<sup>90</sup>

##### 1. Introduction

Fighting broke out between the Rwandan Patriotic Front (RPF) and the government of President Habyarimana after an attack across the Ugandan border in October 1990 by the RPF,

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numbers could be put to better use in other locations rather than taking over the Bosnian Serb positions outside Sarajevo." BOULDEN, *supra* note 34, at 102.

83. See *Report of the Secretary-General Pursuant to Resolution 959 (1994)*, *supra* note 54, ¶ 16.

84. See *Srebrenica Report*, *supra* note 58, ¶ 468 (stating that "the Bosnian Serb forces ignored the Security Council, pushed aside the UNPROFOR troops, and assessed correctly that air power would not be used to stop them").

85. See Yasushi Akashi, *The Use of Force in a United Nations Peace-Keeping Operation: Lessons Learnt from the Safe Areas Mandate*, 19 *FORDHAM INT'L L. J.* 312, 319 (1995).

86. See *Srebrenica Report*, *supra* note 58, ¶ 482.

87. See BOULDEN, *supra* note 34, at 105.

88. *Report of the Secretary-General Pursuant to Security Council Resolution 959 (1994)*, *supra* note 54, ¶ 27.

89. See *id.* ¶ 55 ("[O]nly the consent and cooperation of the parties can guarantee the protection of the safe areas with a minimal UNPROFOR troop presence.").

90. This analysis will focus on attempts to create a strengthened version of the United Nations Assistance Mission for Rwanda I (UNAMIR I) force, from the authorization of UNAMIR II on May 17, 1994, until the decision to authorize the deployment of the French-led "Opération Turquoise." During this period, even after its deployment had been authorized, UNAMIR II remained a force only on paper, though it was subsequently deployed.

a force consisting mainly of Tutsi refugees living in Uganda.<sup>91</sup> On August 4, 1993, the Government and the RPF signed the Arusha Peace Agreement, which envisaged a role for the United Nations in the supervision of its implementation.<sup>92</sup> In October, UNAMIR was established, with an authorized troop level of 2,500.<sup>93</sup> On April 6, 1994, an aircraft carrying the presidents of Rwanda and Burundi crashed in Kigali, killing everyone on board.<sup>94</sup> In Christine Gray's words, the country "sank into conflict,"<sup>95</sup> with "terrible massacres of Tutsis and moderate Hutus by supporters of the Rwandan government."<sup>96</sup> On April 21, the Security Council reduced UNAMIR to some 270 personnel.<sup>97</sup> At the end of April, however, the Secretary-General recommended a reversal of the reduction,<sup>98</sup> and on May 17, 1994, after six weeks of killing and the death of 300,000 Rwandans,<sup>99</sup> the Security Council authorized an expansion of the U.N.'s mandate and size to form a new operation, UNAMIR II.<sup>100</sup>

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91. See United Nations, *Rwanda—UNAMIR*, Background, at [http://www.un.org/Depts/dpko/dpko/co\\_mission/unamirFT.htm#HISTORICAL](http://www.un.org/Depts/dpko/dpko/co_mission/unamirFT.htm#HISTORICAL) (last visited Feb. 2, 2003).

92. *Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda*, U.N. SCOR, 54th Sess., Enclosure, at 6, U.N. Doc. S/1999/1257 (1999), available at <http://www.un.org/Docs/letters/1999/1257e.pdf> [hereinafter *Independent Inquiry*]; Peace Agreement between the Government of the Republic of Rwanda and the Rwandese Patriotic Front (Aug. 4, 1993), available at <http://129.194.252.80/catfiles/2403.pdf>.

93. See S.C. Res. 872, U.N. SCOR, 48th Sess., at 102–103, U.N. Doc. S/INF/49 (1994). In addition to monitoring the cease-fire, its mandate included contributing to the security of Kigali. *Id.* at 102.

94. See *Rwanda—UNAMIR*, *supra* note 91, at [http://www.un.org/depts/dpko/dpko/co\\_mission/unamirFT.htm#APRIL](http://www.un.org/depts/dpko/dpko/co_mission/unamirFT.htm#APRIL).

95. CHRISTINE GRAY, INTERNATIONAL LAW AND THE USE OF FORCE 175 (2000). "[B]etween 500,000 and a million people were killed in three months." *Id.*

96. *Id.*

97. See S.C. Res. 912, U.N. SCOR, 49th Sess., at 4–5, U.N. Doc. S/INF/50 (1996). According to an adjusted mandate, UNAMIR would "act as an intermediary between the parties . . . ; . . . assist in the resumption of humanitarian relief operations to the extent feasible; . . . [and] monitor . . . developments." *Id.* at 4.

98. *Independent Inquiry*, *supra* note 92, at 22.

99. ELIZABETH NEUFFER, THE KEY TO MY NEIGHBOR'S HOUSE 126 (2001).

100. See S.C. Res. 918, U.N. SCOR, 49th Sess., 3377th mtg. ¶ 3, U.N. Doc. S/RES/918 (1994).

## 2. *Mandate & Means*

The mandated tasks of UNAMIR II included "within the limits of the resources available to it":

(a) To contribute to the security and protection of displaced persons, refugees, and civilians at risk in Rwanda, including through the establishment and maintenance, where feasible, of secure humanitarian areas; and

(b) To provide security and support for the distribution of relief supplies and humanitarian relief operations.<sup>101</sup>

Resolution 918 authorized a force of 5,500, but its deployment was to be phased. The first phase would include 150 unarmed observers and a battalion of 800 men to secure the airport.<sup>102</sup> Authorization for the subsequent phase was dependent on a report detailing the cooperation of the parties, the duration of the mandate, and the availability of peacekeepers.<sup>103</sup>

## 3. *Failure to Implement*

By June 20, 1994, no deployment of the additional authorized troops had occurred.<sup>104</sup> In light of his assessment that the lack of troops and equipment might leave UNAMIR unable to undertake fully the new tasks entrusted to it for another three months,<sup>105</sup> and with growing evidence of the scale of the disas-

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101. *Id.*

102. *Id.* ¶ 5 (authorizing a force of 5,500); Turid Laegreid, *U.N. Peacekeeping in Rwanda*, in *THE PATH OF A GENOCIDE: THE RWANDA CRISIS FROM UGANDA TO ZAIRE* 231, 245 (Howard Adelman & Astri Suhrke eds., 1999) (noting that the first phase would include 150 observers and an 800-man battalion).

103. *Cf. id.* ¶ 7.

104. RAMSBOTHAM & WOODHOUSE, *supra* note 18, at 215. In the words of one Security Council representative, the Secretary-General had made "agonized efforts . . . to find these 5,500 troops, to agree on their arms and equipment, and to work out logistics, transportation and the manner of their deployment once on the scene." U.N. SCOR, 49th Sess., 3392d mtg. at 3, U.N. Doc. S/PV.3392 (1994) (statement of Mr. Olhaye, Djibouti).

105. The Secretary-General had received troop offers from 9 African countries, totaling 5 battalions and 4 companies, and equipment offers from 5 Western countries, totaling 2 aircraft, 50 trucks, and 50 APCs. See *Letter Dated 19 June 1994 from the Secretary-General Addressed to the President of the Security Council*, U.N. SCOR, ¶ 6, U.N. Doc. S/1994/728 (1994).

ter,<sup>106</sup> the Secretary-General suggested that the Security Council consider France's offer to lead a multinational operation under Chapter VII.<sup>107</sup> Despite grave concerns about the impartiality of the French forces,<sup>108</sup> and the strong opposition of the RPF,<sup>109</sup> this authorization was given on June 22, 1994.<sup>110</sup>

#### 4. *Assessment*

There are indications that with the number of troops authorized, much could have been done to provide security and protection. Adelman and Suhrke state that "[i]t is reasonable to assume that UNAMIR II, if quickly and effectively deployed, could have had a significant impact in terms of saving lives,"<sup>111</sup> noting that even modest efforts had proven significant deterrents, including the protection of several thousand persons inside a Kigali stadium by twelve lightly armed U.N. peacekeepers and barbed wire.<sup>112</sup> General Dallaire, Commander of UNAMIR, estimated that the U.N. force had saved about 25,000 lives in Kigali,<sup>113</sup> and his success there convinced him that the same could have been done throughout Rwanda if an international force of sufficient size and mobility had

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106. See Fernando R. Tesón, *Collective Humanitarian Intervention*, 17 MICH. J. INT'L L. 323, 364-65 (1996).

107. *Letter Dated 19 June 1994 from the Secretary-General Addressed to the President of the Security Council*, *supra* note 105, ¶ 12.

108. Stephen T. Ostrowski, *Preventive Deployment of Troops as Preventive Measures: Macedonia and Beyond*, 30 N.Y.U. J. INT'L L. & POL. 793, 872 (1998). The Council authorized French intervention "despite grave misgivings about French neutrality" because it was "the only offer on the table." Julia Preston, *U.N. Supports France on Force for Rwanda*, WASH. POST, June 23, 1994, at A24.

109. The RPF "was suspicious of French motives in acting, given the long history of support provided by France to the Rwandan government." Ostrowski, *supra* note 108, at 872 n.310.

110. See S.C. Res. 929, U.N. SCOR, 49th Sess., at 10-11, U.N. Doc. S/INF/50 (1996).

111. Howard Adelman & Astri Suhrke, *Study Two: Early Warning and Conflict Management*, in THE INTERNATIONAL RESPONSE TO CONFLICT AND GENOCIDE: LESSONS FROM THE RWANDA EXPERIENCE, Ch. 5 (Steering Committee of the Joint Evaluation of Emergency Assistance to Rwanda 1996), available at <http://www.reliefweb.int/library/nordic/book2/pb021.html>.

112. *Id.*

113. J. Matthew Vaccaro, *The Politics of Genocide: Peacekeeping and Rwanda*, in UN PEACEKEEPING, AMERICAN POLITICS, AND THE UNCIVIL WARS OF THE 1990s 367, 384 (William J. Durch ed., 1996) [hereinafter UN PEACEKEEPING].

been available.<sup>114</sup> Others note the fact that the killings were primarily committed with low-technology weapons,<sup>115</sup> and that "[s]ince the civilians mostly were not threatened by organized, well-equipped army units (as in Bosnia), but mainly by paramilitary gangs and mobs, a relatively modest force could have [had] a significant deterrent effect."<sup>116</sup>

However, the necessary conditions mentioned by Adelman and Suhrke—quick and effective deployment—could not be met.<sup>117</sup> By largely refusing to commit troops themselves, and turning exclusively to Africa for contributions,<sup>118</sup> the Security Council members made quick and effective deployment highly unlikely, since poorly equipped troops required not just equipment<sup>119</sup> but also training in how to use it.<sup>120</sup> Ironically,

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114. *Id.* at 397.

115. PHILIP GOUREVITCH, *WE WISH TO INFORM YOU THAT TOMORROW WE WILL BE KILLED WITH OUR FAMILIES: STORIES FROM RWANDA* 3 (1998) ("the killing was low-tech—performed largely by machete").

116. J. TEBBS, *RWANDA, WAR AND PEACE?!* 138 (1999). *See also* Charles Petrie, *The Role of the International Community, in GENOCIDE IN RWANDA: A COLLECTIVE MEMORY* 149, 151 (John A. Berry & Carol Pott Berry eds., 1999) ("It would have been very easy to intervene, but no one did so until it was too late.").

117. The necessity for rapid deployment was also stated in the Secretary-General's plan for the mission. *See Report of the Secretary-General on the Situation in Rwanda*, U.N. SCOR, ¶ 32, U.N. Doc. S/1994/565 (13 May 1994) ("[I]n order for UNAMIR II to attain its objective, there can be no delay in its deployment.").

118. On April 30, 1994, following consultations among Council members, the Security Council President made a statement requesting "the Secretary-General, in consultation with the Secretary-General of the OAU and countries of the region, to take appropriate measures to ensure that international efforts to assist the situation in Rwanda are carried out in an effective and coordinated manner." *Statement by the President of the Security Council*, U.N. SCOR, U.N. Doc. S/PRST/1994/21, at 2 (1994).

119. HILLEN, *supra* note 20, at 155 ("reliable logistics, medical, engineer, communications, transportation, and aviation units are largely restricted to First World countries"). The Secretary-General, in his report of May 31, 1994, expressed his gratitude to Ethiopia, Ghana, Nigeria, Senegal, and Zimbabwe, for their offers of troops but stated that they "cannot be dispatched until the proper equipment is provided by other Governments." *Report of the Secretary-General on the Situation in Rwanda*, U.N. SCOR, ¶ 40, U.N. Doc. S/1994/640 (31 May 1994). "[T]he Department of Peace-keeping Operations was required to identify sources of equipment and to arrange for its transport to Rwanda—a cumbersome process that significantly delayed deployment." UNITED NATIONS, *THE UNITED NATIONS AND RWANDA: 1993–1996* 50–51 (1996).

the resolution that called on Member States to contribute troops<sup>121</sup> simultaneously deterred them from doing so by phasing deployment. At the insistence of the United States, Resolution 918 envisaged phased deployment.<sup>122</sup> The proposed separation of phases 1 and 2 later became moot when the Security Council followed the Secretary-General's recommendation that "[b]ecause of the projected long delay in deploying the troops and equipment for phase 1, phase 2 should be initiated immediately, in close synchronization with phase 1."<sup>123</sup> One Security Council Representative believes that the abandonment of full deployment in favor of phases discouraged potential troop contributors: "[T]he tentativeness displayed by the Council in adopting resolution 918 sent a very confused signal, both to potential troop-contributing countries and others, about the Council's commitment to the idea of an expanded UNAMIR."<sup>124</sup> This signal delayed and deterred countries' participation.<sup>125</sup>

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120. See Ruth Wedgwood, *United Nations Peacekeeping Operations and the Use of Force*, 5 WASH. U. J.L. & POL'Y 69, 81 (2001) ("Even if equipment had been immediately supplied, unfamiliar troops still needed to be trained in its operation.").

121. Resolution 918 "[i]nvites Member States to respond promptly to the Secretary-General's request for the resources required." S.C. Res. 918, *supra* note 100, ¶ 9.

122. See Laegreid, *supra* note 102, at 245.

123. *Report of the Secretary-General on the Situation in Rwanda* (31 May 1994), *supra* note 119, ¶ 23. Resolution 925 of June 8, 1994, endorsed the Secretary-General's proposals for "[t]he immediate initiation of the deployment of the two additional battalions in phase 2 in close synchronization with phase 1" and "[t]he continuation of urgent preparations for the deployment of the two battalions envisaged for phase 3." S.C. Res. 925, U.N. SCOR, 49th Sess., at 8-9, U.N. Doc. S/INF/50 (1996).

124. U.N. SCOR, 49th Sess., 3388th mtg. at 10, U.N. Doc. S/PV.3388 (statement of Mr. Keating, New Zealand) (referring to the "orange light" that this resolution gave to potential troop contributors).

125. *Id.*

E. UNAMSIL<sup>126</sup>1. *Introduction*

Fighters of the Revolutionary United Front (RUF) invaded Sierra Leone in March 1991.<sup>127</sup> Sierra Leone's army initially tried to defend the government, but in April 1992 the army itself overthrew the government.<sup>128</sup> Elections were held in February 1996, and the army relinquished power to the winner, Alhaji Ahmad Tejan Kabbah.<sup>129</sup> In November 1996, Kabbah and Foday Sankoh, the RUF leader, signed the Abidjan Accord, but the peace agreement was derailed by another coup d'état in May 1997.<sup>130</sup> Major Johnny Paul Koroma assumed power as chairman of the Armed Forces Revolutionary Council (AFRC), and Kabbah fled to Guinea.<sup>131</sup> On June 1, Koroma invited the RUF to join the junta, and formed the AFRC ruling council.<sup>132</sup> In February 1998, the Economic Community of West African States Monitoring Group (ECOMOG), launched an attack that led to the collapse of the junta, and in March, Kabbah was returned to office.<sup>133</sup> On July 13, the United Nations Observer Mission in Sierra Leone (UNOMSIL) was established, with an authorized strength of 70 military observers.<sup>134</sup>

Fighting continued, and in January 1999, the rebel alliance entered and overran most of Freetown.<sup>135</sup> Later the same month, ECOMOG troops retook the capital and reinstal-

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126. This analysis will focus on the "crisis" that faced the United Nations Mission in Sierra Leone (UNAMSIL) in the period beginning May 1, 2000.

127. JOHN L. HIRSCH, *SIERRA LEONE: DIAMONDS AND THE STRUGGLE FOR DEMOCRACY* 114 (2001).

128. *See id.* at 115.

129. *See id.* at 42–46, 117.

130. *See id.* at 51–54, 56–58.

131. *See id.* at 57–58.

132. *See id.* at 57–61.

133. *See id.* at 65, 71.

134. S.C. Res. 1181, U.N. SCOR, 3902d mtg. ¶ 6, U.N. Doc. S/RES/1181 (1998). The force was mandated to monitor the military and security situation, disarmament and demobilization, and respect for international humanitarian law. *Id.*

135. United Nations, *Sierra Leone—UNAMSIL—Background*, at <http://www.un.org/Depts/dpko/missions/unamsil/background.html> (last visited Feb. 6, 2003); *see also* HIRSCH, *supra* note 127, at 125.

led the civilian government.<sup>136</sup> On July 7, Kabbah and Sankoh signed the Lomé Peace Agreement, providing for an end to hostilities, the formation of a government of national unity, and requiring that the rebels disarm and demobilize.<sup>137</sup> The agreement called for a “neutral peacekeeping force comprising UNOMSIL and ECOMOG,”<sup>138</sup> and requested that the Security Council amend UNOMSIL’s mandate to accommodate its new responsibilities.<sup>139</sup> Accordingly, on October 22, 1999, the Security Council authorized UNAMSIL, a mission with a maximum of 6,000 military personnel, to assist in the implementation of the agreement.<sup>140</sup>

## 2. *Mandate & Means*

At its establishment, UNAMSIL’s tasks included:

- “[t]o assist the Government . . . in the implementation of the disarmament, demobilization and reintegration plan;
- [t]o that end, to establish a presence at key locations throughout the [country], including at disarmament/reception centres and demobilization centres;
- [t]o ensure the security and freedom of movement of United Nations personnel.”<sup>141</sup>

In Resolution 1289 of February 7, 2000, following the announcement that ECOMOG, which had previously provided security in Freetown and Lungi, was losing its Nigerian, Guinean and Ghanaian contingents, the Security Council expanded the force to 11,100 military personnel and, acting under Chapter VII, included within its mandate various additional tasks, including the provision of security at all sites of

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136. *Id.* “The number of E.C.O.M.O.G. forces at the end of 1999 stood between 10,000 and 15,000.” Babafemi Akinrinade, *International Humanitarian Law and the Conflict in Sierra Leone*, 15 NOTRE DAME J.L. ETHICS & PUB. POL’Y 391, 405 (2001).

137. *Sierra Leone—UNAMSIL—Background*, *supra* note 135; Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, July 7, 1999, at <http://www.sierra-leone.org/lomeaccord.html> (last visited Feb. 5, 2003).

138. *See id.* art. XVI.

139. *See id.* art. XIV.

140. *See* S.C. Res. 1270, U.N. SCOR, 4054th mtg. ¶¶ 8–9, U.N. Doc. S/RES/1270 (1999).

141. *Id.* ¶ 8. The force was authorized, under Chapter VII of the U.N. Charter, to “take the necessary action to ensure the security and freedom of movement of its personnel.” *Id.* ¶ 14.

the disarmament, demobilization, and reintegration program.<sup>142</sup>

### 3. *Failure to Implement*

UNAMSIL's period of crisis began on May 1, 2000, at the disarmament, demobilization, and reintegration reception center at Makeni, where RUF combatants detained three U.N. military observers and four U.N. peacekeepers before proceeding to destroy part of the camp. The U.N. compound in nearby Magburaka was also attacked by the RUF.<sup>143</sup> On May 4, 2000, 208 troops sent to relieve Kenyan peacekeepers in Makeni were captured, and on May 6 another contingent of 226 Zambians surrendered, taking the total number of hostages held by the RUF to some 500.<sup>144</sup>

The events of May 2000 demonstrated UNAMSIL's inability to succeed in its tasks of providing security at all sites of the disarmament, demobilization, and reintegration program, and ensuring the security and freedom of movement of U.N. personnel. They also resulted in further failures to implement the mandate, since the May hostilities caused the disarmament process, which, in the words of the Secretary-General, had been making "slow but steady progress,"<sup>145</sup> to come to a halt.<sup>146</sup>

### 4. *Assessment*

For the majority of UNAMSIL's deployment, the number of troops on the ground lagged behind the number authorized. Indeed, the gap between authorized and deployed troop levels was greatest in the period just prior to the RUF attacks,

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142. See S.C. Res. 1289, U.N. SCOR, 4099th mtg. ¶¶ 9–10, U.N. Doc. S/RES/1289 (2000). UNAMSIL was authorized, again under Chapter VII, to take "the necessary action" to fulfill its tasks. *Id.* ¶ 10.

143. *Sierra Leone: Breakdown of Peace Agreement*, KEESING'S REC. OF WORLD EVENTS (May 2000).

144. *Id.*

145. *Fourth Report of the Secretary-General on the United Nations Mission in Sierra Leone*, U.N. SCOR, 55th Sess., ¶ 26, U.N. Doc. S/2000/455 (2000). The RUF had destroyed two demobilization centers and operations were suspended at four others. See *Fifth Report of the Secretary-General on the United Nations Mission in Sierra Leone*, U.N. SCOR, 55th Sess., ¶ 32, U.N. Doc. S/2000/751 (2000).

146. See *id.*

with an authorization of 11,100 on February 7, 2000, but only 7,391 deployed by March 1, 2000.<sup>147</sup> Yet the Secretary-General's response to the attacks suggests a belief that the authorized number of troops, even if fully deployed, would have been insufficient. The weaknesses revealed by the hostage crisis led him to request that the number and mandate of the peacekeeping troops be increased and expanded.<sup>148</sup> On May 19, he told the Security Council that, in response to the attacks, it seemed necessary not only to accelerate deployment in order to reach the authorized level of 11,100, but also to exceed the authorized level.<sup>149</sup> Such was the urgency of the need for additional troops that he proceeded with deployment that would increase the number of UNAMSIL military personnel to 13,000.<sup>150</sup> He expected that UNAMSIL's authorized strength would be exceeded within a few days<sup>151</sup> and therefore stated that the Security Council might "wish to consider taking appropriate steps to authorize the interim expansion" of the U.N. force.<sup>152</sup> The Council complied with the suggestion two days later, expanding UNAMSIL's authorized troop level to 13,000.<sup>153</sup> It was not until the authorized strength of UNAMSIL had been further increased to 17,500 that the Security Council approved a resumption of the provision of security by UNAMSIL at disarmament, demobilization, and reintegration

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147. See S.C. Res. 1289, *supra* note 142, ¶ 9 (expanding UNAMSIL to 11,100 military personnel); *Third Report of the Secretary-General on the United Nations Mission in Sierra Leone*, U.N. SCOR, 55th Sess., 16, U.N. Doc. S/2000/186 (2000) (noting that 7,391 troops comprised the military component of UNAMSIL as of March 1, 2000).

148. Laura Forest, Note, *Sierra Leone and Conflict Diamonds: Establishing a Legal Diamond Trade and Ending Rebel Control over the Country's Diamond Resources*, 11 IND. INT'L & COMP. L. REV. 633, 644 (2001).

149. See *Letter Dated 17 May 2000 from the Secretary-General Addressed to the President of the Security Council*, U.N. SCOR, 55th Sess., U.N. Doc. S/2000/446 (2000).

150. See *id.*

151. *Id.*

152. *Id.*

153. S.C. Res. 1299, U.N. SCOR, 4145th mtg. ¶ 1, U.N. Doc. S/RES/1299 (2000). It gave the justification that "the deterioration in security conditions on the ground necessitates the rapid reinforcement of the military component" in order "to provide the mission with additional resources to fulfil [sic] its mandate." *Id.* para. 4.

sites,<sup>154</sup> a duty that, after the kidnappings, had been omitted from the revised list of UNAMSIL's "priority tasks."<sup>155</sup>

### III. WARNING SIGNS DISREGARDED?

In each of these operations, warning signs indicated either that the consent and cooperation on which the authorization of small numbers of troops was based would not be forthcoming or that the authorized number of troops was not likely to be provided with any speed. It is not just hindsight that leads to the conclusion that the Security Council's decisions were taken in the face of, rather than in ignorance of, these warnings.

#### A. Croatia

The Security Council was prompted to authorize the establishment of UNPROFOR in Croatia by a Secretary-General's Report outlining a plan that relied on the cooperation of the parties,<sup>156</sup> despite the fact that the report also referred to "a number of unanswered questions" about the level of cooperation that UNPROFOR would actually enjoy.<sup>157</sup> The answers were obvious after the deployment of the force,<sup>158</sup> which according to Barry Ashton was "passively and actively obstructed, undermined, and opposed,"<sup>159</sup> but they should have

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154. See S.C. Res. 1346, U.N. SCOR, 4306th mtg. ¶¶ 1-2, 12 (Mar. 30, 2001), U.N. Doc. S/RES/1346 (2001).

155. See S.C. Res. 1313, U.N. SCOR, ¶ 3, U.N. Doc. S/RES/1313 (2000). Instead, the role envisaged for UNAMSIL in this area was one that did not require the use or threat of force, namely "[t]o assist in the promotion of the political process leading, *inter alia*, to a renewed disarmament, demobilization and reintegration programme, where possible." *Id.* ¶ 3(e).

156. The UNPA idea required "clear and unconditional acceptance of the plan by all concerned, with equally clear assurances of their readiness to cooperate in its implementation." *Further Report of the Secretary-General Pursuant to Security Council Resolution 721 (1991)*, U.N. SCOR, ¶ 28, U.N. Doc. S/23592 (1992).

157. *Id.*

158. Indeed, in his report of May 15, 1993, the Secretary-General, referring to his earlier comment, stated that "[d]evelopments since then have done little to alleviate my original apprehension." *Report of the Secretary-General Pursuant to Security Council Resolution 815 (1993)*, *supra* note 16, ¶ 18.

159. Barry Ashton, *Making Peace Agreements Work: United Nations Experience in the Former Yugoslavia*, 30 CORNELL INT'L L.J. 769, 776 (1997). Clemons concludes that "to say that when UNPROFOR troops were finally deployed it was

been apparent prior to the authorization. While UNPROFOR was being planned, Croatian President Tudjman was raising questions, several of which were substantive and fundamentally inconsistent with the plan.<sup>160</sup> Meanwhile, Milan Babic, the leader of one of the UNPAs, was objecting to the substitution of UNPROFOR for the Serb-controlled Yugoslav army,<sup>161</sup> convinced that this would lead to the restoration of Croat control.<sup>162</sup> Though the Secretary-General recognized that the plan was endangered by these unresolved concerns,<sup>163</sup> he decided to accept Tudjman's positive assurances in good faith<sup>164</sup> and recommend the operation despite Babic's objections.<sup>165</sup> The Security Council adopted the unrealistic notion that the United Nations could provide protection in the midst of continuing conflict<sup>166</sup> and authorized 14,000 troops despite the recommendation that 40,000 would be required to implement the Vance plan.<sup>167</sup>

## B. *Somalia*

In Somalia, the Security Council authorized a security force of 500 peacekeepers despite the fact that the Secretary-General's Report outlining the concept portrayed an environment that was far from cooperative. Given the report's refer-

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with the consent and cooperation of the parties would be a vast overstatement." Clemons, *supra* note 12, at 126. See also Christine Gray, *Host-State Consent and United Nations Peacekeeping in Yugoslavia*, 7 DUKE J. COMP. & INT'L L. 241, 270 (1996) (stating that the initial consent to the establishment of UNPROFOR was "grudgingly given," and "[t]he early problems in securing the consent of 'the concerned parties' to the deployment of UNPROFOR in Yugoslavia were ominous, and the Secretary-General's fears that the force would not be able to operate effectively without the cooperation of all those involved proved prophetic").

160. *Further Report of the Secretary-General Pursuant to Security Council Resolution 721 (1991)*, *supra* note 156, ¶ 6.

161. Clemons, *supra* note 12, at 125-26.

162. TANNER, *supra* note 5, at 280.

163. See *Further Report of the Secretary-General Pursuant to Security Council Resolution 721 (1991)*, *supra* note 156, ¶¶ 6, 8.

164. *Id.* ¶ 6.

165. *Id.* ¶ 8.

166. See William J. Durch & James A. Schear, *Faultlines: UN Operations in the Former Yugoslavia*, in UN PEACEKEEPING, *supra* note 113, at 193, 211.

167. Interview with a staff member at the Executive Office of the Secretary-General, *supra* note 64.

ences to widespread banditry,<sup>168</sup> Thomas Mockaitis queries how the Secretary-General could have believed that 500 lightly armed peacekeepers would be able to ensure the mission's safety and prevent the looting of relief supplies, which "inevitably occurred,"<sup>169</sup> and states that the report should have raised "serious questions" about how such a small force could fulfill its mandate.<sup>170</sup> The report, while outlining the force's planned areas of operation—the port and airports in Mogadishu—noted that activities at the port and elsewhere were under threat from armed elements, many of which were under the command of neither main faction.<sup>171</sup> Indeed, while a ceasefire agreement providing for a U.N. monitoring role had been signed on March 3, 1992, it involved only the two main parties in Mogadishu, whereas there were more than a dozen factional leaders involved in the conflict.<sup>172</sup> Despite all this, the Security Council, in the words of one representative, felt "confident that it was possible to act in a conventional manner;"<sup>173</sup> as Christine Gray puts it, the peacekeepers were deployed "even though there was no peace to keep."<sup>174</sup>

### C. *Bosnia*

In the words of Michael Scharf, the Security Council "irresponsibly chose a light option" for Bosnia.<sup>175</sup> The "light option" relied on the cooperation of the parties, despite indica-

168. See, e.g., *The Situation in Somalia*, *supra* note 32, ¶ 56.

169. THOMAS R. MOCKAITIS, *PEACE OPERATIONS AND INTRASTATE CONFLICT: THE SWORD OR THE OLIVE BRANCH?* 53 (1999).

170. *Id.*, at 52–53. See Clark, *supra* note 41, at 222 ("Exactly what the Security Council imagined 500 peacekeepers with a vague but limited mandate would be able to accomplish in the midst of the violence then wracking Somalia remains unclear.").

171. See *The Situation in Somalia*, *supra* note 32, ¶ 28.

172. Boutros-Ghali, *supra* note 28, at 25. "The Security Council authorized the deployment of troops to secure delivery of humanitarian assistance, not only without consent of any government entity, but also without the consent of the fighting factions." *Effects of the New World Order on the Third World*, 87 AM. SOC'Y INT'L L. PROC. 37, 40 (1993) (remarks by Gay McDougal).

173. U.N. SCOR, 47th Sess., 3145th mtg. at 41, U.N. Doc. S/PV.3145 (statement of Mr. Arria, Venezuela) (adding "This has not been the case . . .").

174. GRAY, *supra* note 95, at 169.

175. Remarks by Michael P. Scharf, in *Protecting Minorities: Lessons of International Peacekeeping*, 91 AM. SOC'Y INT'L L. PROC. 429, 440 (1997).

tions from the Bosnian Serbs' past behavior and from military opinions that this approach would be ineffective. According to Barry Ashton, such cooperation "had not existed elsewhere and it was clear early that it would not exist for the 'safe areas.'"<sup>176</sup> In Srebrenica, for example, the Security Council's earlier resolution,<sup>177</sup> which invoked Chapter VII to demand that all parties should create and respect a "safe area," had achieved little more than a temporary break from the shelling while the Serbs turned to other targets.<sup>178</sup> The subsequent drafting of Resolution 836 led one Security Council Representative to state that "in this conflict there has not been the firm determination to face reality."<sup>179</sup> The Secretary-General has described this flight from reality: "[W]e tried to keep the peace and apply the rules of peacekeeping when there was no peace to keep . . . . [W]e tried to create—or *imagine*—an environment in which the tenets of peacekeeping—agreement between the parties, deployment by consent, and impartiality—could be upheld."<sup>180</sup> The Security Council ignored warnings that the authorized number of troops would be insufficient,<sup>181</sup> and according to Jane Boulden, the difference between the authorized 7,600 and the recommended 34,000 suggests that the fall of the "safe areas" was "entirely predictable."<sup>182</sup> In the

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176. Ashton, *supra* note 159, at 774. See *Srebrenica Report*, *supra* note 58, ¶ 499 (stating that "[t]he safe areas were established by the Security Council without the consent of the parties . . ."). One Security Council representative voiced his doubts in a statement following the adoption of Resolution 844, stating that "the effective implementation of the provisions of the resolution just adopted [would] depend upon the consent and cooperation of the parties—an element that remains less than certain . . ." U.N. SCOR, 48th Sess., 3241st mtg. at 14–15, U.N. Doc. S/PV.3241 (1993) (statement of Mr. de Araujo Castro, Brazil) (emphasis added).

177. S.C. Res. 819, *supra* note 47, ¶ 1 (demanding that "all parties and others concerned treat Srebrenica and its surroundings as a safe area which should be free from any armed attack or any other hostile act").

178. BOULDEN, *supra* note 34, at 93.

179. U.N. SCOR, 48th Sess., 3228th mtg. at 20, U.N. Doc. S/PV.3228 (1993) (statement of Mr. Arria, Venezuela).

180. *Srebrenica Report*, *supra* note 58, ¶ 488 (emphasis added).

181. See Ashton, *supra* note 159, at 780.

182. BOULDEN, *supra* note 34, at 113. One UNPROFOR Force Commander believes that the "responsibility [for Srebrenica] . . . lies in the Security Council's decision not to accept the military evaluation which stated that some 35,000 soldiers would be needed to implement the new mission to establish Safe Areas." Bertrand de Lapresle, *Principles to be Observed for the Use*

words of the U.N. deputy force commander in Zagreb, "There was no doubt from the beginning that the safe area concept was unworkable, and that the UN Security Council knew it."<sup>183</sup>

The "safe area" policy involved a second flight from reality: The Security Council exhibited an apparent unwillingness to acknowledge that Member States would not supply additional troops to carry out this dangerous mandate.<sup>184</sup> Two countries abstained from the vote approving Resolution 836, including Venezuela, whose representative criticized the draft because "it could not be implemented without substantial resources which might not be forthcoming."<sup>185</sup> He stated that he had asked the resolution's proponents to wait for a report by the Secretary-General "on the means he has and, above all, the means he would need to implement the resolution on safe

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*of Military Forces Aimed at De-escalation and Resolution of Conflict, in UN PEACEKEEPING IN TROUBLE, supra note 9, at 137, 148-49. Further indications that substantial numbers of troops would be necessary were given by the Secretary-General's Special Political Adviser during Security Council consultations of May 5. In response to the draft version of what was to become Resolution 824, he stated that "UNPROFOR could not be expected to take on this additional responsibility within its existing resources and that it would need at least one brigade in each town declared a safe area. Quite simply, he concluded, the Secretary-General did not have the means to implement the draft resolution." Srebrenica Report, supra note 58, ¶ 66. See also Prager, supra note 62 ("Even in purely military terms, the safe-haven resolutions demanded the impossible. MacKenzie [a Canadian commander of UN's Sarajevo Sector] thought the task would require 100,000 soldiers. His successor, the French General Philippe Morillon, suggested that 75,000 might suffice. Boutros-Ghali eventually asked the Security Council for 34,000. It authorized 7,600 . . .").*

183. NEUFFER, *supra* note 99, at 134 (quoting John MacInnis). Similarly, the U.N. Force Commander stated that "under pressure of a political imperative to be seen to 'do something,' the Security Council entrusted UNPROFOR with a mandate that it knew, or should have known, was not only unrealistic, but impossible to implement." Akashi, *supra* note 85, at 315. At the Security Council meeting at which resolution 836 was approved, the representative of Bosnia and Herzegovina "noted that the informal working paper presented by the Secretariat had characterized the implementation of the safe area policy as 'not realistically possible.' He stated that the resolution appeared to be 'diplomatic cover for some of its co-sponsors to mitigate the need and responsibility for more resolute and comprehensive measures.'" *Srebrenica Report, supra* note 58, ¶ 81.

184. See Ashton, *supra* note 159, at 779 (stating that this is one of "[a] number of UNPROFOR's failures and problems [that] can be traced to the Security Council").

185. *Srebrenica Report, supra* note 58, ¶ 83.

areas,”<sup>186</sup> but that they had “decided to ignore the request on which our vote now depends.”<sup>187</sup> The sponsors, aware that they would not provide troops for the operation that they were mandating,<sup>188</sup> cherished an unrealistic hope that others would.<sup>189</sup>

#### D. *Rwanda*

In the case of Rwanda, the Security Council authorized the force described in a Secretary-General’s Report as one whose deployment would “have to be carried out rapidly,”<sup>190</sup> despite the fact that there were clear indications that its rapid deployment would be impossible. According to Michael Barnett, “this was a document that looked good on paper but never had much of chance of being implemented . . . . Member states weren’t going to provide the resources to carry out that plan.”<sup>191</sup> The Security Council voted to increase the troop level to 5,500 but had obtained no commitments from member states to provide these soldiers.<sup>192</sup> Arthur Klinghoffer’s suggestion that “Resolution 918 was largely a delaying tac-

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186. U.N. SCOR, 48th Sess., 3228th mtg., *supra* note 179, at 15.

187. *Id.* at 16.

188. *See* Berdal, *supra* note 57, at 82–83; SHAWCROSS, *supra* note 36, at 110 (“In terms of the Bosnian safe areas it was . . . extraordinary that for many members of the Security Council adoption of the resolution was enough. Implementation was a detail with which they seemed less concerned.”).

189. Boulden notes the two ways in which Security Council actions appear to have been unrealistic. The “safe area” policy was “dependent on the compliance of the warring parties and the willingness of the international community to provide sufficient troops and resources for implementation. Neither condition was forthcoming, nor, it could be argued, was there a reasonable expectation of either condition being met at the time the mandates were passed.” BOULDEN, *supra* note 34, at 115.

190. *Report of the Secretary-General on the Situation in Rwanda* (13 May 1994), *supra* note 117, ¶ 23.

191. Organization of African Unity, *International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events*, at 15.25 (July 7, 2000), available at <http://www.oau-oua.org/Document/ipep/ipep.htm> [hereinafter “OAU Report”] (quoting Michael Barnett). Indeed, in calling for “forceful action” the Secretary-General acknowledged the requirement of a “commitment of human and material resources on a scale which Member States have so far proved reluctant to contemplate.” *Letter Dated 29 April 1994 from the Secretary-General Addressed to the President of the Security Council*, U.N. SCOR, at 2, U.N. Doc. S/1994/518 (1994).

192. Tesón, *supra* note 106, at 363.

tic, encouraged by the US, to deflect criticisms regarding UN inaction,"<sup>193</sup> rather than a plan that had any realistic chance of being implemented, is echoed in the OAU's claim that "the members of the Security Council consciously chose to abdicate their responsibility for Rwanda."<sup>194</sup> If rapid deployment was to have been a realistic prospect, self-sufficient units that did not require the time-consuming provision of equipment and training would have been necessary. Yet according to J. Tebbs, the unwillingness of the major powers to contribute troops to an expanded U.N. force had been "clear in the decision to scale down UNAMIR I and was reiterated in early May when UNAMIR II was planned."<sup>195</sup> Similarly, U.S. participation would be vital,<sup>196</sup> but in the words of Elizabeth Neuffer, the United States "made it clear it was determined not to intervene."<sup>197</sup> The genocide began shortly after the U.S.' bitter experience in Somalia, and during the last phase of the drafting of Presidential Decision Directive 25 (PDD 25), which strictly limited U.S. support for U.N. peacekeeping,<sup>198</sup> with, as Philip

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193. ARTHUR JAY KLINGHOFFER, *THE INTERNATIONAL DIMENSION OF GENOCIDE IN RWANDA* 52 (1998).

194. OAU Report, *supra* note 191, at 13.1.

195. TEBBS, *supra* note 116, at 135 (adding that the resultant need to establish the force on a "mix-and-match basis" was "extremely time-consuming even under the best of circumstances"). See also KLINGHOFFER, *supra* note 193, at 51 ("It was evident that European states were . . . not prepared to commit troops to Rwanda.").

196. See Scott Feil, *Preventing Genocide: How the Early Use of Force Might Have Succeeded in Rwanda, A Report to the Carnegie Commission on Preventing Deadly Conflict*, ¶ 60 (April 1998), at <http://wwics.si.edu/subsites/ccpdc/pubs/rwanda/rwanda.htm> (last visited Jan. 29, 2003) ("[A]ny peacekeeping force would have to depend on sophisticated transportation and logistics capabilities, which are maintained by few nations in the world. For this operation, conference panelists observed, the participation of the United States would be crucial.").

197. NEUFFER, *supra* note 99, at 123.

198. See TEBBS, *supra* note 116, at 135–36 ("To support UN peacekeeping in Rwanda, the Administration would have to determine that peace in this remote Central African country was critical to US national interests. In conventional strategic terms, this would be difficult, and the Administration did not try."). Though Boutros-Ghali referred to genocide, his words "fell on the deaf ears [sic] of Albright's crew, which had been [sic] stuffed with PDD 25 lest they succumb to the siren song of assertive multilateralism." Ian Williams, *Boutros-Ghali Bites Back: A Review of Unvanquished: A US-UN Saga*, THE NATION, June 14, 1999, at <http://www.globalpolicy.org/secgen/pastsg/bg99-1.htm> (last visited Feb. 5, 2003).

Gourevitch puts it, “what Washington policymakers call ‘language’ urging that the United States should persuade others not to undertake the missions that it wished to avoid.”<sup>199</sup> UNAMIR’s proposed expansion became an opportunity to apply this doctrine for the first time.<sup>200</sup> The indications of United States opposition should have been particularly ominous, given the United States’ dominant role in the Security Council.<sup>201</sup>

### E. *Sierra Leone*

In Sierra Leone, according to John Hirsch, “[p]lanning in the UN Secretariat was based on the flawed assumption, despite numerous indications to the contrary, that the RUF intended to cooperate in carrying out the Lomé peace agreement’s disarmament and demobilisation provisions.”<sup>202</sup> Paul Richards believes that the RUF’s past behavior should have exposed this error: “[I]ts history and mentality are different, and strongly sectarian. Like so many sectarian movements, it wants either the moon, or martyrdom.”<sup>203</sup> The RUF had a history of signing agreements that it subsequently violated,<sup>204</sup> including the Abidjan agreement, whose terms were very similar to those of Lomé and which rapidly collapsed.<sup>205</sup> Despite early indications that the RUF would not voluntarily disarm and demobilize, a feeble and inadequately equipped group of soldiers from the developing world was deployed.<sup>206</sup> In Sierra Leone, according to Ralph Peters, we “pa[id] the price for our prefer-

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199. GOUREVITCH, *supra* note 115, at 150.

200. Laegreid, *supra* note 102, at 245 (“The U.S. conditionality, which dominated the whole process of establishing the expanded operation, was a direct consequence” of PDD 25.).

201. See NEUFFER, *supra* note 99, at 123.

202. John L. Hirsch, *War in Sierra Leone*, SURVIVAL, Autumn 2001, at 145, 157.

203. Paul Richards, *War and Peace in Sierra Leone*, 25.2 FLETCHER F. OF WORLD AFF. 41, 47 (2001).

204. See Stephen Ellis, *War in West Africa*, in FLETCHER F. OF WORLD AFF. *supra* note 203, at 33, 37.

205. See Richards, *supra* note 203, at 45. “The Lomé agreement was less than a year old when, like the Abidjan peace, it broke down in renewed fighting.” *Id.* at 46.

206. See James Traub, *The Worst Place on Earth*, N.Y. REV. OF BOOKS (June 29, 2000), available at <http://www.nybooks.com/articles/43> (“India was the only country with a genuinely professional army that was willing to send

ence for a comforting fantasy of mankind's nobility over brute human reality."<sup>207</sup>

Warning signs existed not only with respect to the lack of agreement between the parties, but also with respect to the level of consent towards the United Nations. In mid-January 2000, the RUF had ambushed a U.N. convoy of Guinean soldiers and two detachments of Kenyans.<sup>208</sup> And yet, as the Secretary-General admits, the Security Council's actions seemed suited to a different reality, since the troop level authorized by Resolution 1289, less than a month after the January ambush, was "predicated on the cooperation of the parties and a generally permissive environment."<sup>209</sup> Sankoh began to test the peacekeepers shortly after their arrival,<sup>210</sup> and troop levels were not increased sufficiently in response. According to John Hirsch, it took the crisis of May 2000 to bring "to the fore all the doubts and forebodings about the RUF's intentions."<sup>211</sup>

Thus, Security Council decisions did not respond to the unlikelihood that the RUF would cooperate with the government or with the United Nations: In the view of James Traub, it was "at least as absurd to believe that Sankoh would be satisfied by power-sharing as to believe that the RUF could be conquered by a campaign of friendly persuasion, or that the rebels

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troops. The others were drawn from the ECOMOG forces already on the ground – Nigeria, Ghana, Guinea – as well as Kenya.").

207. Ralph Peters, *Sierra Leone's Blood is on America's Hands*, WALL ST. J., May 11, 2000, at A26.

208. Traub, *supra* note 206. On February 23, 2000, a convoy of the Indian battalion was blocked from traveling from Kenema to Daru by hundreds of well-armed RUF fighters. "In retrospect, it is now obvious that the roadblock . . . was part of a larger pattern of testing and prodding, and that Foday Sankoh had learned what he needed to know: that the peacekeepers, unlike the ECOMOG forces, would not shoot back if provoked." *Id.*

209. *Fourth Report of the Secretary General on the United Nations Mission in Sierra Leone*, *supra* note 145, ¶ 83 (acknowledging that "this crucial condition . . . is . . . lacking"); *see also* Interview with John L. Hirsch, Senior Fellow, International Peace Academy, in New York (Nov. 12, 2001) (The Security Council set up UNAMSIL "on the assumption that it would not face much resistance.").

210. *See* Traub, *supra* note 206.

211. HIRSCH, *supra* note 127, at 87.

would be intimidated by the peacekeepers' modest show of force."<sup>212</sup>

#### IV. CHANGE WITHIN THE U.N. SYSTEM

Given that these operations were authorized in the face of clear warnings that their allocated troop levels would be inadequate, or would not be made rapidly available, it appears that a lack of information is not the most pressing problem facing U.N. peacekeeping. Rather, it seems that the system needs to be altered so as to avoid resolutions that make unrealistic demands or promises. Part A will examine various changes that have been suggested to ensure that mandates receive the authorized number of troops; Part B will examine those that have been suggested to ensure that resolutions authorize a sufficient number of troops.

##### A. *Avoiding unrealistic demands*

Operations would be less likely to falter because of a gap between the number of troops authorized by a Security Council resolution and the number of troops made available if the Security Council could pass resolutions with the knowledge that there existed a guaranteed source of troops. Such a source might be a U.N. force, "on call" for deployment to any peacekeeping operation; Member States who had pledged troops to the operation; Security Council members themselves; or even private military companies. This section will examine each of those sources.

##### 1. *Help "on call"*

Under the original scheme envisaged by the U.N. Charter, the Security Council could have authorized operations with confidence that the authorized number of troops would be provided, since Article 43 was designed to create an obligation on the part of Member States to contribute armed forces to the United Nations. However, according to David Scheffer,

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212. Traub, *supra* note 206 ("The UN mission in Sierra Leone now looks like a ludicrous attempt to apply the loftiest set of moral principles in a sadistic and predatory world. It is another case of precisely the kind of ruinous naiveté that the UN has been accused of suffering from in Bosnia and Rwanda.").

the idea of Article 43 agreements was "stillborn."<sup>213</sup> Mandate failures such as those outlined above have led some to call for the creation of an alternative, whether in the form of earmarked troops that would remain in their home countries or a standing army of volunteers training in one location.<sup>214</sup> Rwanda is cited as a prime example of an operation where the speed to be gained by a force able to deploy immediately, without delay caused by negotiations over troop reimbursements<sup>215</sup> or by the need to find adequate equipment and transportation, would have been invaluable.<sup>216</sup> Rapid deployment capability would help to protect cease-fires,<sup>217</sup> and for this reason would have been welcome in Somalia<sup>218</sup> and Croatia.<sup>219</sup> However, according to David Malone, the chances of such a force being created in the foreseeable future are "zero,"<sup>220</sup> since powerful Member States have made their opposition clear.<sup>221</sup>

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213. Scheffer, *supra* note 17, at 650.

214. See Brian Urquhart, *The Case for Rapid Response*, in Brian Urquhart and Francois Heisbourg, *Prospects for a Rapid Response Capability: A Dialogue*, in PEACEMAKING AND PEACEKEEPING FOR THE NEW CENTURY 189, 194 (Olara A. Otunnu & Michael W. Doyle eds., 1998).

215. "The need to negotiate rates of reimbursement with troop contributing countries contributes to the time lag of up to three months until deployment can occur. In addition, some other country may be needed to transport the troops." Adriaan Verheul, Remarks at International Law Weekend, *supra* note 78.

216. See Nanda, *supra* note 44, at 851 ("The Rwandan tragedy . . . makes a powerful case for the creation of a standing U.N. quick-reaction voluntary force.").

217. See *Implementation of the Recommendations of the Special Committee on Peacekeeping Operations and the Panel on United Nations Peace Operations: Report of the Secretary General*, U.N. GAOR, 55th Sess., Annex, Agenda Item 86, ¶ 312, U.N. Doc. A/55/977 (2001). ("Enhanced rapid deployment capacities are essential to ensure that peacekeeping operations are on the ground and able to carry out their mandates before the parties' commitment to a peace process wanes, so that opportunities are not lost from the beginning.").

218. See Scheffer, *supra* note 17, at 652 ("In Somalia, the delayed deployment of UNOSOM I (authorized in August of 1992 for full deployment by October of that year) handicapped U.N. efforts to prevent deterioration of the security situation.").

219. See *id.* ("Delayed deployment of UNPROFOR infantry components posed a significant risk to the cease-fire in Croatia in early 1992.").

220. Interview with David Malone, President, International Peace Academy, in New York. (Mar. 13, 2002).

221. Joe Byrnes Sills, *United Nations Peacekeeping: The Years Past, The Years Ahead*, 24 DENV. J. INT'L L. & POL'Y 451, 458 (1996).

One argument used by critics of the notion of a standing force is that the United Nations Standby Arrangements System (UNSAS) is “the closest we can get to a standing army, and even that doesn’t work.”<sup>222</sup> UNSAS may take us one step nearer to a rapid reaction capability,<sup>223</sup> but it is not yet a dependable resource.<sup>224</sup> The system was launched in the mid-1990s in order to enhance the U.N.’s rapid deployment capabilities and is, according to the Brahimi Report on United Nations Peace Operations, “a database of military, civilian police and civilian assets and expertise indicated by Governments to be available, in theory, for deployment to United Nations peacekeeping operations . . . .”<sup>225</sup> The important phrase is “in theory,” since for those seeking a mechanism that will allow the Security Council to be confident of troop supplies, the crucial drawback of this system is that it still allows countries to say “no” to any individual operation.<sup>226</sup> Furthermore, “Member States are saying ‘no’ to deploying . . . military units to U.N. peacekeeping operations far more often than they are saying ‘yes.’”<sup>227</sup> Indeed, none of the nineteen countries that had entered into peacekeeping standby agreements prior to the summer of 1994 was willing to offer troops to meet Rwanda’s urgent need.<sup>228</sup> Rather than guaranteeing troop provision, the

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222. Verheul, *supra* note 215.

223. See *Progress Report of the Secretary-General on Standby Arrangements for Peacekeeping*, U.N. SCOR, U.N. Doc. S/1999/361, ¶ 19 (1999).

224. *Report of the Panel on United Nations Peace Operations*, U.N. GAOR, 55th Sess., ¶ 84, U.N. Doc. A/55/305 (2000) [hereinafter *Brahimi Report*]. Indeed, the Secretary-General would find it “preferable to have a much smaller number of assets listed in the system that are actually available, rather than having a large figure that is unrealistic or bears little resemblance to what contributions may actually be made.” *Report of the Secretary-General on the Implementation of the Report of the Panel on United Nations Peace Operations*, U.N. SCOR, U.N. Doc. S/2000/1081, ¶ 79 (2000).

225. *Brahimi Report*, *supra* note 224, ¶ 102.

226. The Memorandum of Understanding between the U.N. and participating governments specifies that “the final decision whether to actually deploy the resources . . . remains a national decision.” United Nations, *Memorandum of Understanding*, at <http://www.un.org/Depts/dpko/rapid/69MOU Document.html>.

227. *Brahimi Report*, *supra* note 224, ¶ 103. The Independent Inquiry into Rwanda notes that the standby system is “equally dependent on the will of Member States to commit troops and other personnel in a particular instance.” *Independent Inquiry*, *supra* note 92, at 44.

228. Urquhart, *supra* note 214, at 191.

system has the potential only to play a more limited role, namely preventing the Security Council from authorizing an operation or troop level that is clearly impossible.<sup>229</sup>

Even a recent innovation touted as a welcome improvement on the standby system remains subject to failures of political will. The Multinational Stand-By High Readiness Brigade for United Nations Operations (SHIRBRIG) operates in service of the United Nations and aims to address the fact that the United Nations has no rapid deployment capability. Fourteen countries are participants, and when fully deployed the brigade comprises 4,000 to 5,000 troops.<sup>230</sup> Again, however, deployment requires a national decision by each country in each case,<sup>231</sup> and the answer was negative when, for example, SHIRBRIG's help was sought for Sierra Leone.<sup>232</sup>

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229. So far, ninety-one Member States have officially expressed their willingness to participate; sixty-eight of these have provided a list of capabilities specifying the resources they will make available, providing a total of some 148,000 personnel. United Nations, *United Nations and Peacekeeping "In the Service of Peace": Annual Update on the United Nations Standby Arrangements System*, ¶¶ 14–15 (Nov 22, 2000), available at <http://www.un.org/Depts/dpko/rapid/anb.html> (last visited Feb. 6, 2003). If the list of those specifying the resources they will make available could be expanded to include all potential troop contributors, it would be possible for those planning an operation not only "to obtain negative answers more rapidly than in the past," Shashi Tharoor, *The Changing Face of Peace-Keeping and Peace-Enforcement*, 19 *FORDHAM INT'L L.J.* 408, 423 (1995), but also to avoid unrealistic mandates, since UNSAS "enables departmental planners to tailor realistic tasks for resources provided by the governments according to their capabilities." RAMSBOTHAM & WOODHOUSE, *supra* note 18, at 288.

230. Its only deployment so far has been to the United Nations Mission to Eritrea and Ethiopia, which involved "classic peacekeeping" carried out with the "full consent of the parties, two organized governments, and disciplined armies," a kind of operation which these days is "the exception." International Peace Academy Conference, SHIRBRIG Deployment in UNMEE: Lessons Learned (Mar. 15, 2002). Yet while its original concept of operation involves deployment for only six months, and with Chapter VI authorization only, its leaders have suggested that there may be a need to lengthen deployment time to a year, and that, if troop contributors are amenable, there may be the possibility of Chapter VII deployment. *Id.*

231. "[E]ach participating country will decide on a case-by-case basis whether they will take part in any given SHIRBRIG mission. Their national decision making procedures (and thereby their national sovereignty) is in no way affected by participation in SHIRBRIG." SHIRBRIG STEERING COMMITTEE, SHIRBRIG: MULTINATIONAL STAND-BY HIGH READINESS BRIGADE FOR UNITED NATIONS OPERATIONS 4.

232. See International Peace Academy Conference, *supra* note 230.

## 2. Consultation

Consultation with potential troop contributors prior to the passing of a resolution authorizing troop deployment is one means of increasing the confidence with which the Security Council can call for such troops. The Brahimi Report emphasizes its importance,<sup>233</sup> and its use has increased.<sup>234</sup> The danger of authorizing operations without such assurances of support is shown by the situation in Rwanda, where the Secretary-General obtained no commitments from Member States that they would supply the authorized number of troops.<sup>235</sup> The Brahimi Report's proposal that the Secretary-General should have the authority to canvass formally members of the standby system prior to the authorizing of an operation attempts to avoid such a situation.<sup>236</sup> Yet consultations are no guarantee against unilateral withdrawal of contingents, which remains, as the Secretary-General noted during the Bosnian conflict, the "sovereign right" of states.<sup>237</sup> Nor is the Brahimi Report's further proposal—that resolutions contemplating sizeable force levels for new operations should remain in draft form until the necessary troop commitments have been received<sup>238</sup>—acceptable to those who believe that a Security Council Resolution is necessary in order to be able to solicit troops. According to one staff member at the Secretary-General's Executive Office, "You can't get troops on the vague possibility that the Council *might decide* to authorize a force."<sup>239</sup>

## 3. Mandatory Commitments

Another suggestion regarding how resolutions could be adopted with confidence that the authorized troop numbers would be supplied involves guarantees that the Security Council members will themselves provide troops. Shashi Tharoor

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233. See *Brahimi Report*, *supra* note 224, ¶ 61.

234. Hans Correll notes that "there has been closer contact between the Security Council and troop contributors." Hans Correll, Remarks at International Law Weekend, *supra* note 78.

235. See Tesón, *supra* note 106, at 363.

236. *Brahimi Report*, *supra* note 224, Annex III, Recommendation 9(b).

237. See *Report of the Secretary-General Pursuant to Resolution 908 (1994)*, *supra* note 82, ¶ 44.

238. *Brahimi Report*, *supra* note 224, ¶ 60.

239. Interview with staff member at the Executive Office of the Secretary-General, *supra* note 64.



bers has fallen dramatically.<sup>245</sup> (It is not true, however, that they commit no troops at all; according to the last available monthly report, China and the United States had each contributed one soldier in the service of U.N. peacekeeping.)<sup>246</sup> No Permanent Member offered troops to UNAMIR II; nor had they deployed troops to UNAMSIL prior to the hostage-takings,<sup>247</sup> a crisis for which, according to John Hirsch, “[r]esponsibility clearly fell in the first instance”<sup>248</sup> on the Permanent Five. The fact that France, the United States, and the United Kingdom possess the capabilities, and the political will, to deploy rapidly and effectively when their national interests are at stake was demonstrated by the swift evacuation from Rwanda of French<sup>249</sup> and American<sup>250</sup> nationals and the deployment of British troops in Sierra Leone to evacuate nationals in the wake of a hostage-crisis.<sup>251</sup> Necessarily, no member of the Permanent Five has voted against any authorized operation. Furthermore, the Permanent Five were given the veto in

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245. See *Brahimi Report*, *supra* note 224, ¶ 103–04. “The P-5 are just not willing to make any major commitments on troop contributions,” says one Third World diplomat. They don’t want to hear it. ‘Spilling Third World blood is okay. Spilling P-5 blood is a No-No,’ he adds.” *Spilling P-5 Blood Is a No-No*, TERRA VIVA, Nov. 6, 2000, at 1, available at <http://www.undp.org/dpa/frontpagearchive/november00/6nov00/tv110600.pdf>.

246. United Nations, *Monthly Summary of Contributors (Military Observers, Civilian Police, Troops) as of 31 March 2002*, at <http://www.un.org/Depts/dpko/dpko/contributors/mar02.htm> (last visited Feb. 6, 2003). France had contributed 241 troops, the United Kingdom 424, and the Russian Federation 113. *Id.*

247. As of May 19, 2000, the UNAMSIL troops were provided by Ghana, Guinea, India, Jordan, Kenya, Nigeria, and Zambia. *Fourth Report of the Secretary-General on the United Nations Mission in Sierra Leone*, *supra* note 145, at 18.

248. HIRSCH, *supra* note 127, at 88.

249. “France dispatched its planes to Kigali within 2 days of the plane going down.” OAU Report, *supra* note 191, at 13.5.

250. “When disorder became rampant on April 7, the US quickly intervened to evacuate its citizens by land via Burundi.” KLINGHOFFER, *supra* note 193, at 91.

251. The U.K. government, along with other members of the Security Council, turned down the Secretary-General’s request for a Rapid Reaction Force to help UNAMSIL, but in the wake of the kidnapping it deployed 700 combat troops to Freetown in May 2000, outside U.N. operational control, with the objective of accomplishing “the safe evacuation of nationals of the United Kingdom and others for whom it was responsible.” *Fourth Report of the Secretary-General on the United Nations Mission in Sierra Leone*, *supra* note 145, ¶ 69.

exchange for providing the bulk of the forces.<sup>252</sup> They no longer provide the bulk of the forces, but they retain veto power. The argument has been made that since the Permanent Five pay a larger percentage of the peacekeeping bill than their regular budget share,<sup>253</sup> they are not obliged to provide troops.<sup>254</sup> Yet this notion rests on the assumption of prompt payment, which has historically not been a given. U.N. members, especially the United States, have fallen far behind in their financial contributions to the peacekeeping operations that they authorize.<sup>255</sup>

Bangladesh has proposed that each Permanent Member should have to provide 5 percent of the troops for any U.N. peacekeeping operation.<sup>256</sup> Unsurprisingly, the Permanent Members acted quickly to paralyze the proposal.<sup>257</sup> The major powers are unwilling to participate in robust U.N. peacekeeping operations under the command of the Secretary-General: Leading Western militaries have, over the last five or six years, lost confidence in the U.N.'s capacity to command and control peacekeeping operations effectively in high risk situations.<sup>258</sup> It was for this reason that the U.K. troops in Sierra Leone remained under national command,<sup>259</sup> and partly for this reason that the idea of a Secretary-General-led peacekeeping force in

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252. BOULDEN, *supra* note 34, at 11.

253. See G.A. Res. 235, U.N. GAOR, 55th Sess., Agenda Item 169, ¶ 5, U.N. Doc. A/RES/55/235 (deciding that with respect to the peacekeeping budget, "the permanent members of the Security Council should form a separate level and that, consistent with their special responsibilities for the maintenance of peace and security, they should be assessed at a higher rate than for the regular budget.").

254. Adriaan Verheul, noting that it is "often overlooked that the US pays a large part . . . of the peacekeeping bill," argues that "if the US pays the bill, they don't have to commit troops." Verhuel, *supra* note 215.

255. *Horror in Rwanda, Shame in the U.N.*, N.Y. TIMES, May 3, 1994, at A22.

256. *Spilling P-5 Blood Is a No-No*, *supra* note 245, at 1 ("This will, of course, be in keeping with their responsibilities as permanent members.").

257. Interview with a Member State's Ambassador to the United Nations, in New York (Apr. 15, 2002).

258. Interview with David Malone, *supra* note 220. See also NEUFFER, *supra* note 99, at 126 ("Tired of being asked to send their soldiers abroad to missions that were often ill-conceived and poorly planned, no country wanted to donate troops, not even by the end of May, when nearly half a million Rwandans lay dead and international observers returned from the country with tales of carnage and bloodlust.").

259. Interview with David Malone, *supra* note 220.

Afghanistan was rejected in favor of a multinational operation.<sup>260</sup> The head of the Department of Peacekeeping Operations is systematically addressing the issues that led to the U.N.'s damaged credibility,<sup>261</sup> and David Malone believes that the damage "is remediable, over time,"<sup>262</sup> but Western militaries have become used to the idea of Coalitions of the Willing, in which they operate under fewer constraints, budgetary and otherwise, than in U.N. operations.<sup>263</sup> Even if the major powers were willing to serve under U.N. command, it has been argued that they are unsuitable participants: In the words of Paul Szasz, forces provided by the Permanent Members "are likely to follow the commands of their capitals rather than the U.N."<sup>264</sup> Thus, like the proposals of mandatory contributions from those who sit on the Security Council, or propose or vote for a resolution, this suggestion risks acting only as a deterrent, possibly resulting in far less U.N. peacekeeping.<sup>265</sup>

#### 4. *Professional Help*

Another proposal is for the United Nations to combat the problems of slow deployment and insufficient troops through the use of mercenaries. This might offer greater reliability than the U.N. system, where Member States may withdraw their contingents at any time without adverse consequences. It might also be more cost-effective, since troop provision could be determined by what was contracted for, rather than what happened to be available.<sup>266</sup> In the words of David Malone,

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260. *Id.* ("There was discussion early on about a UN-commanded force in Afghanistan, but that didn't proceed very far down the track . . . . There was no sense of enthusiasm from leading Western countries to serve in Afghanistan in a UN-commanded force. There was greater comfort with the idea of a Coalition of the Willing.").

261. *Id.*

262. *Id.*

263. *Id.* See also Telephone Interview with Paul Szasz (Mar. 11, 2002) ("If you want to use substantial force, you have to rely on the big powers, and they won't allow the U.N. to have real command of their forces.").

264. *Id.*

265. See BOULDEN, *supra* note 34, at 140. Perhaps for this reason, the Brahimi Report avoids endorsing such recommendations, simply stating that "serious great power backing" is necessary, but leaving it undefined. *Brahimi Report*, *supra* note 224, ¶ 25.

266. Interview with David Malone, *supra* note 220.

"large chunks of peacekeeping" are already contracted out,<sup>267</sup> but only in the area of logistics; the arrival of the professional mercenary among the ranks of frontline personnel may well be greeted by what Frederick Forsyth calls the "politically correct cries of 'Yuck.'"<sup>268</sup> Indeed, while the Secretary-General has not rejected the idea,<sup>269</sup> he has acknowledged the strong opposition of Member States.<sup>270</sup> This opposition is illustrated by the reaction to a February 2002 Green Paper, in which the U.K. Foreign Office mooted the idea that mercenaries employed by private military companies might be hired for peacekeeping operations.<sup>271</sup> One Labour Party M.P., and member of the House of Commons Foreign Affairs Select Committee, Andrew Mackinlay, described the proposals as "repugnant,"<sup>272</sup> and stated that even to "contemplate giving such companies a veneer of respectability"<sup>273</sup> was "breathtaking in the extreme."<sup>274</sup> He claimed that the proposal "would create the potential for wrongdoing by companies that could then dissolve themselves and lose themselves in remote parts of the world, unaccountable for their conduct or stewardship of war."<sup>275</sup> Another M.P. asked the Prime Minister whether he supported the idea of employing mercenaries "who often work for the most odious regimes and whose only loyalty is to money."<sup>276</sup> Yet we might question the idea that the use of mercenaries would necessarily mean abandoning any moral strengths of the U.N. peacekeeping system, particularly as regards incentives and accountability. After all, the claim has

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267. *Id.*

268. Frederick Forsyth, *Send in the Mercenaries*, WALL ST. J., May 15, 2000, at A50.

269. Interview with David Malone, *supra* note 220.

270. *Id.*

271. *See Peacekeeping 'Role' for Mercenaries*, BBC News Online, Feb. 13, 2002, at [http://news.bbc.co.uk/2/low/uk\\_news/politics/1817495.stm](http://news.bbc.co.uk/2/low/uk_news/politics/1817495.stm).

272. *Id.* (internal quotations omitted).

273. *Id.* (internal quotations omitted).

274. *Id.* (internal quotations omitted).

275. *Peacekeeping 'Role' for Mercenaries*, BBC, Feb. 13, 2002, at <http://www.globalpolicy.org/security/peacekpg/general/2002/uk.htm> (last visited Feb. 5, 2003).

276. *Prime Minister's Questions*, (Feb. 13, 2002), at [http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo020213/debtext/20213-03.htm#20213-03\\_spnw9](http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo020213/debtext/20213-03.htm#20213-03_spnw9) (last visited Jan. 30, 2003) (question raised by Llew Smith, M.P.).

been made that the national contingents that typically form a U.N. peacekeeping operation are chosen “not for martial prowess but because their governments are willing to send them, often for no better reason than to collect a daily stipend.”<sup>277</sup> As for accountability, the failures of the present system, as demonstrated most dramatically in Rwanda, led the authors of the OAU Report to note that “[n]one of the key actors on the Security Council or in the Secretariat who failed to prevent the genocide has ever paid any kind of price,”<sup>278</sup> adding that “[i]nstead of international accountability, it appears that international impunity is the rule of the day.”<sup>279</sup> It might indeed be possible to hold commercially contracted personnel *more* accountable for the services they deliver than Member States, whose personnel have often proved deeply unsatisfactory in recent years.<sup>280</sup>

### B. *Avoiding Unrealistic Promises*

The Brahimi Report acknowledges the danger of deploying small numbers of peacekeepers in the kind of operation suited to a cooperative environment when indications suggest that the environment will be anything but cooperative. Relying on best-case scenarios is unsuitable where the parties have exhibited “worst-case behaviour.”<sup>281</sup> Yet the Report’s suggested solution, namely the deployment of “bigger forces, better equipped and more costly,”<sup>282</sup> is problematic. Firstly, bigger forces must mean fewer U.N. operations, since U.N. resources are already “pared to the bone.”<sup>283</sup> In addition, the

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277. Max Boot, *Paving the Road to Hell: The Failure of U.N. Peacekeeping*, 79 FOREIGN AFF. 143, 145 (Mar.-Apr. 2000) (reviewing WILLIAM SHAWCROSS, DELIVER US FROM EVIL: PEACEKEEPERS, WARLORDS, AND A WORLD OF ENDLESS CONFLICT).

278. OAU Report, *supra* note 191.

279. *Id.*; see also text accompanying note 231.

280. Interview with David Malone, *supra* note 220 (emphasis added).

281. *Brahimi Report*, *supra* note 224, ¶ 51.

282. *Id.*

283. *Playing at Foreign Policy*, WASH. POST, May 25, 1999, at A36. Indeed, the main advantage of the “light option” of 7,600 troops for the Bosnian “safe areas” was that it “present[ed] an approach that [was] most likely to correspond to the volume of troops and material resources which [could] realistically be expected from Member States and which [met] the imperative need for rapid deployment.” *Report of the Secretary-General Pursuant to Security Council Resolution 836 (1993)*, *supra* note 73, ¶ 5. As it was, UNPROFOR

proposal threatens the traditionally consensual nature of U.N. peacekeeping. The Brahimi Report deems it essential that peacekeepers be aware that consent is manipulable.<sup>284</sup> Yet the recommendation of Ian Johnstone that they should assume that consent is unreliable, though it differs little in substance,<sup>285</sup> would be, according to one staff member at the Secretary-General's Executive Office, the end of peacekeeping.<sup>286</sup> Peacekeeping has traditionally meant assisting parties in the implementation of a ceasefire or a peace agreement.<sup>287</sup> For the United Nations to express doubts about such an agreement "would be an insult, and the UN is not in the business of insulting."<sup>288</sup>

Less drastic than basing troop numbers on the assumption that consent is unreliable is the option of having contingency plans for each operation, thus avoiding the assumption that all parties to an agreement intend to respect it.<sup>289</sup> The Independent Inquiry into Rwanda, stating that "UNAMIR was established without a fall-back position or a worst-case scena-

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was the largest and most expensive mission that the U.N. had deployed, RAMSBOTHAM & WOODHOUSE, *supra* note 18, at xvii, with an annual budget of \$1.6 billion, Sills, *supra* note 221, at 453. See Adam Roberts, *Communal Conflict as a Challenge to International Organization: The Case of the Former Yugoslavia*, in PEACEMAKING AND PEACEKEEPING FOR THE NEW CENTURY 27, 52–53 (Olara A. Otunnu & Michael W. Doyle eds., 1998) ("There is a widespread perception that the former Yugoslavia had massive (if still inadequate) resources devoted to it and that the UN has not succeeded in maintaining a proper balance between the various crises that demand its attention.").

284. *Brahimi Report*, *supra* note 224, ¶ 48.

285. "Peacekeepers have to assume that this consent can't be relied upon: you try to build consent over time, you work with the parties continually. Don't just assume that signatures are enough." Johnstone, *supra* note 78.

286. Interview in New York (Dec. 3, 2001).

287. *Id.*

288. See Center for International Studies Conference, International Law and International Organizations in Situations of Civil War, NYU School of Law (February 23–24, 2002).

289. Interview with John L. Hirsch, *supra* note 209. See also *Brahimi Report*, *supra* note 224, ¶ 26 ("It is vitally important that negotiators, the Security Council, Secretariat mission planners, and mission participants alike understand . . . how the environment may change under their feet once they arrive, and what they realistically plan to do if and when it does change. Each of these must be factored into an operation's entry strategy and, indeed, into the basic decision about whether an operation is feasible and should even be attempted.").

rio,”<sup>290</sup> recommends willingness to adopt contingency plans for both existing and future operations.<sup>291</sup> Yet such plans, even if never put into operation, may threaten the extent to which the United Nations is seen to trust any peace agreement and thus, perhaps, the level of trust that the parties place in the United Nations and each other: Indeed, it is due to fears that documents suggesting concerns about a party’s lack of good faith might leak out and lead to accusations of bias that the United Nations has traditionally been reluctant to commit contingency plans to writing.<sup>292</sup>

Thus none of these suggestions provides a means for the United Nations to avoid the problem of inadequate troop provision while continuing its peacekeeping in recognizable form. Neither the U.N. Standby System, nor SHIRBRIG, nor increased consultation with troop-contributing countries provides any guarantee against refusals by Member States to join or remain within a U.N. peacekeeping operation. Neither a U.N. standing army, nor a system of mandatory troop contributions by members of the Security Council, nor reliance on mercenaries is politically acceptable. Finally, to base troop levels on the assumption that any peace agreement is unreliable would be a radical departure from U.N. tradition and, on one reading, the end of peacekeeping; widespread use of contingency planning might have similar, albeit less dramatic, implications. Thus it appears that a future deployment of similar U.N. peacekeeping forces into a situation where such warning signs appear would be likely to face similar obstacles.<sup>293</sup>

#### V. NEITHER INADEQUACY NOR INACTIVITY

It might then seem that in the face of such warning signs about the number of troops likely to be required or provided, the Security Council should refrain from taking any action at

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290. *Independent Inquiry*, *supra* note 92, at 42.

291. *See id.* at 56.

292. Interview with John L. Hirsch, *supra* note 209.

293. Indeed, the under-resourcing of U.N. peacekeeping operations continued after the events described. The Secretary-General, in his report of 14 March 2001, some ten months after the Sierra Leone kidnapping crisis, stated that he had “continued efforts to seek the urgently needed contribution to UNAMSIL of additional well-trained and well-equipped troops.” *Ninth Report of the Secretary-General on the United Nations Mission in Sierra Leone*, U.N. SCOR, ¶ 65, U.N. Doc. S/2001/228 (2001).

all. After all, the surest way to avoid a gap between mandate and means is to have no mandate. Indeed, disregarding either kind of warning sign can lead to a halfhearted deployment that is worse than no deployment at all.<sup>294</sup> With respect to non-cooperative environments, the Bosnian "safe areas" indicated the dangers caused by an undersized U.N. force and its apparent guarantee of protection. The population of the "safe areas" was increased by refugees seeking protection from ethnic cleansing:<sup>295</sup> Thus, "safe areas" became natural targets for Serbian attacks.<sup>296</sup> In the case of Srebrenica, the designation of the "safe area" provided the civilian population with a sense of security that was drastically misplaced.<sup>297</sup> Those involved in establishing "safe areas" have agonized over the extent to which their actions may have led to the slaughter of over 7,000 inhabitants of Srebrenica.<sup>298</sup> Addressing failures to achieve the authorized troop levels, the Brahimi Report warns that "[t]o deploy a partial force incapable of solidifying a fragile peace would first raise and then dash the hopes of a population engulfed in conflict or recovering from war, and damage the credibility of the United Nations as a whole."<sup>299</sup> A loss of

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294. See Quentin Peel, *Peacekeeping on a Shoestring*, FIN. TIMES (LONDON), May 15, 2000, at 21 (quoting John Davies, a "specialist in conflict management at the University of Maryland," as saying that "[w]hen threats of intervention are made that are not credible, we have found that an accelerator of conflict . . . . If you want to make a commitment, it must be a comprehensive and total commitment."). See also *Brahimi Report*, *supra* note 224, ¶ 59 ("Member States must not be led to believe that they are doing something useful for countries in trouble when—by under-resourcing missions—they are more likely agreeing to a waste of human resources, time and money.").

295. See U.N. SCOR, 49th Sess., 3367th mtg. at 42, U.N. Doc. S/PV.3367 (1994) (statement of Mr. Olhaye, Djibouti).

296. See Nicole M. Procida, Note, *Ethnic Cleansing in Bosnia-Herzegovina, A Case Study: Employing United Nation Mechanisms to Enforce the Convention on the Prevention and Punishment of the Crime of Genocide*, 18 SUFFOLK TRANSNAT'L L. REV. 655, 677 (1995).

297. See Netherlands Institute for War Documentation, *Srebrenica: A 'Safe' Area*, Epilogue (Apr. 10, 2002), at [http://www.srebrenica.nl/en/content\\_epiloog.htm](http://www.srebrenica.nl/en/content_epiloog.htm).

298. See, e.g., Major D.M. Last, *Reflections from the Field: Ethical Challenges in Peacekeeping and Humanitarian Interventions*, FLETCHER F. WORLD AFF., Spring 2000, at 73, 82.

299. *Brahimi Report*, *supra* note 224, ¶ 60. See also *Srebrenica Report*, *supra* note 58, ¶ 499 (several representatives on the Security Council warned that "in failing to provide a credible military deterrent, the safe area policy would be gravely damaging to the Council's reputation, and, indeed, to the United

U.N. credibility, which is, in Kofi Annan's words, one of the organization's "indispensable assets,"<sup>300</sup> may deter those in conflict from seeking U.N. help in the future.<sup>301</sup> It may also make potential troop contributors less likely to participate in future operations.<sup>302</sup> Thus, the under-resourcing of operations can be self-perpetuating.

However, it is preferable to avoid a choice between the Security Council deploying a U.N. force in unsuitable conditions or doing nothing at all. That dichotomy would inevitably lead to further deployment of under-resourced operations, since, as Shashi Tharoor puts it, "[f]or most of the crises that thrust themselves on the United Nations' agenda, indifference is impossible."<sup>303</sup> UNPROFOR was established, for example, despite the fact that political groups in Yugoslavia continued

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Nations as a whole.") See also BOULDEN, *supra* note 34, at 116 (by failing to back up its resolutions concerning the "safe areas" with "concrete support of the mandate's implementation, the Security Council contributed to a serious disintegration of UN credibility that extended well beyond the Balkans").

300. See Kofi A. Annan, *Challenges of the New Peacekeeping*, in PEACEMAKING AND PEACEKEEPING FOR THE NEW CENTURY, *supra* note 214, at 169, 186 ("[T]he organization's legitimacy and credibility [are] its indispensable assets."); see also *Report of the Secretary-General Pursuant to Security Council Resolutions 982 (1995) and 987 (1995)*, *supra* note 60, ¶ 82 ("[T]he credibility of the United Nations is of the utmost importance and must be safeguarded at all times. Few things damage it more than to give United Nations peace-keepers tasks that cannot be accomplished in prevailing circumstances. And the damage is not only to peace-keeping. Loss of United Nations credibility there will affect the Organization's endeavors for development, for the environment, for human rights and for every other important objective.").

301. Security Council representative Mr. Jesus (Cape Verde) stated that the failure of the Security Council and the United Nations to do more to honor the Security Council's decisions on the Bosnian conflict was bound to have a major negative impact on the outcome of the current and potential conflicts. It might be interpreted by those that would like to take in their hands the solution of their disputes with others as incapacity by the United Nations to stand up to its responsibilities to maintain peace and reverse aggression. U.N. SCOR, 48th Sess., 3247th mtg. at 7, U.N. Doc. S/PV.3247 (1993).

302. See Annan, *supra* note 300, at 172. If the U.N. fails, as it did in Bosnia and Somalia, to achieve the "right force structure to be able to carry out its mandate and to protect the operation," its credibility "will be eroded even further, and it will become increasingly difficult to find troop contributors." *Id.*

303. Tharoor, *supra* note 229, at 413.

to object to the U.N. plan,<sup>304</sup> because the Secretary-General judged "that the danger that a United Nations peace-keeping operation will fail because of lack of cooperation from the parties is less grievous than the danger that delay in its dispatch will lead to a breakdown of the cease-fire and to a new conflagration in Yugoslavia."<sup>305</sup> The Secretary-General described a similar dilemma after UNPROFOR's deployment in Croatia, when he stated that "soldiering on in hope seems preferable to withdrawing in abdication."<sup>306</sup> Whereas in those circumstances the absence of a U.N. force was presented as a type of abdication, authorizing a force for Rwanda that had no chance of achieving rapid deployment has also been described as part of a conscious abdication of responsibility by the Security Council.<sup>307</sup> In circumstances where warning signs exist with respect to the level of the parties' consent or of the willingness of Member States to contribute troops, the best way for the Security Council to meet, rather than abdicate, its responsibility for the maintenance of international peace and security may be neither inactivity nor authorization of a U.N. force in unsuitable conditions, but a third option. A U.N. force was deployed "*faute de mieux*" in Bosnia,<sup>308</sup> and again in Sierra Leone,<sup>309</sup> in the latter case particularly because of the limited

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304. John A. MacInnis, *Piecemeal Peacekeeping: The United Nations Protection Force in the Former Yugoslavia*, in "THE SAVAGE WARS OF PEACE": TOWARD A NEW PARADIGM OF PEACE OPERATIONS 113, 116 (John T. Fishel ed., 1998).

305. *Further Report of the Secretary-General Pursuant to Security Council Resolution 721 (1991)*, *supra* note 156, ¶ 28. See Ashton, *supra* note 159, at 787 (UNPROFOR was deployed "because it was the lesser of two evils and because it met the international community's demand for action.").

306. *Report of the Secretary-General Pursuant to Resolution 871 (1994)*, *supra* note 1, ¶ 45.

307. See text accompanying note 189, *supra*.

308. *Srebrenica Report*, *supra* note 58, ¶ 492 ("None of the conditions for the deployment of peacekeepers had been met: there was no peace agreement—not even a functioning ceasefire—there was no clear will to peace and there was no clear consent by the belligerents. Nevertheless, *faute de mieux*, the Security Council decided that a United Nations peacekeeping force would be deployed.").

309. See David M. Malone, *The Security Council in the 1990's: Boom and Bust?*, Keynote Address to Canadian Council on International Law (Oct. 28, 1999) ("[O]ften *faute de mieux*, particularly given the limited capacities of most regional organizations, the UN was again called upon in 1999 to deploy large peace operations in Kosovo, East Timor and Sierra Leone.").

capacity of regional organizations.<sup>310</sup> U.N. partnerships with regional or multinational organizations, to increase their capacities, might be one way of ensuring that, where a U.N. peacekeeping force is inappropriate, there exists a viable alternative.

Such an approach would utilize the strengths of the United Nations and of multinational or regional forces, while asking neither to attempt tasks that are beyond their capabilities. According to Dan Lindley, multinational forces offer “relatively streamlined decision-making procedures,”<sup>311</sup> and “tend to be more highly motivated,”<sup>312</sup> than collective security organizations. The participation of major powers is more likely, and more likely to be effective, than in U.N. operations.<sup>313</sup> As for regional organizations, they may possess greater regional knowledge than the United Nations,<sup>314</sup> and may be more likely to show lasting commitment to resolving local crises.<sup>315</sup> Regional peacekeepers may also adjust more rapidly to the situation on the ground than international troops,<sup>316</sup> and their presence has a more obvious justification.<sup>317</sup> Shaharyar Khan finds it clear that, “given the parameters of a debt-ridden UN and donor states reluctant to commit their troops except in their own backyards, the future trend for peace-keeping is likely to be the greater involvement of regional groups.”<sup>318</sup>

The Security Council might not only extend its support more willingly to regional than to U.N.-led operations, but also, through its active involvement, limit some of the potential drawbacks of regional and multinational forces. The sup-

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310. *Id.*

311. Dan Lindley, *Collective Security Organizations and Internal Conflict*, in *THE INTERNATIONAL DIMENSIONS OF INTERNAL CONFLICT*, *supra* note 12, at 537, 541.

312. *Id.*

313. Interview with David Malone, *supra* note 220.

314. See UNA-UK, *Briefing Paper: Regional Security Action*, at <http://www.una-uk.org/UN&C/regional.html> (last visited Feb. 12, 2003).

315. *Id.*

316. See SHAHARYAR M. KHAN, *THE SHALLOW GRAVES OF RWANDA* 214 (photo. reprint 2001) (2000).

317. See Feil, *supra* note 196, ¶ 66.

318. KHAN, *supra* note 316, at 215.

ply of training,<sup>319</sup> equipment, and resources is one example.<sup>320</sup> Regional collective security organizations are less likely than the United Nations to possess military force and financial and political support that are adequate for the situation into which they are deployed,<sup>321</sup> and assets may be particularly limited in the regions where they are most needed.<sup>322</sup> Matthew Vaccaro suggests that regional troops should be given advance training and access to pre-positioned, U.N.-owned equipment,<sup>323</sup> and that, in the case of Rwanda, if such forces had existed, the Member States responsible for the bulk of the U.N. peacekeeping bill might have supported a Security Council decision to deploy them.<sup>324</sup> U.N. involvement may also counteract the danger, identified by Dan Lindley, that members of regional organizations are "influenced by political, economic, ethnic, and other ties."<sup>325</sup> According to Lindley, the "United

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319. Ramsbotham notes as one of the obstacles to effective action by regional organizations "a lack of standardized training and common doctrine." RAMSBOTHAM & WOODHOUSE, *supra* note 18, at 205.

320. See KHAN, *supra* note 316, at 216 ("(a) Troop-contributing nations need to be identified and peacekeeping training and preparedness imparted to them on a national or regional basis. (b) Adequate financing, assets and equipment should be ensured to these countries, with Third World TCNs [troop contributing nations] being assisted with matching assets and equipment from those donor states that are disinclined to commit troops into dangerous Third World theatres."); see also *Brahimi Report*, *supra* note 224, ¶ 54 ("Providing training, equipment, logistical support and other resources to regional and subregional organizations could enable peacekeepers from all regions to participate in a United Nations peacekeeping operation or to set up regional peacekeeping operations on the basis of a Security Council resolution.").

321. See Lindley, *supra* note 311, at 556.

322. See Feil, *supra* note 196, ¶ 67 ("[T]he countries in the very regions in which a force may be required are in dire financial, social, and political straits. They would be hard-pressed to participate in intervention operations without assistance."). See also *Brahimi Report*, *supra* note 224, ¶ 54 ("[M]ilitary resources and capability are unevenly distributed around the world, and troops in the most crisis-prone areas are often less prepared for the demands of modern peacekeeping than is the case elsewhere.").

323. Vaccaro, *supra* note 113, at 401–02.

324. *Id.* at 401.

325. Lindley, *supra* note 311, at 556.

Nations's worldwide membership neutralizes some of these sources of bias."<sup>326</sup>

The danger that multinational forces might advance the political objectives of a single state was illustrated by the deployment of *Opération Turquoise* in Rwanda. It was led by France, which was, according to Samantha Power, "perhaps the least appropriate country to intervene because of its warm relationship with the genocidal Hutu regime,"<sup>327</sup> and it had what Philip Gourevitch describes as "some rented Senegalese troops along for the ride to create an aura of multilateralism."<sup>328</sup> Although it saved thousands of lives,<sup>329</sup> it has been accused of offering protection primarily to the Hutu perpetrators rather than the Tutsi victims.<sup>330</sup> Again, the Security Council might have a role in limiting such dangers. Concerns about the objectives and behavior of coalition leaders might be lessened if the Security Council gave its support to coalition operations only if they included a contingent of U.N. military observers with sufficient manpower and freedom of movement to monitor the coalition's adherence to any conditions the Council may have placed upon its endorsement.<sup>331</sup> Whereas, in the absence of the kind of collective security system envisaged by Article 43 of the U.N. Charter,<sup>332</sup> it is unrealistic to conceive of forceful multinational operations functioning under U.N. command and control,<sup>333</sup> the Security Council may give multinational operations the international legitimacy they require.<sup>334</sup>

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326. *Id.* See also *Independent Inquiry*, *supra* note 92, at 55 ("The United Nations remains the only organization which can bring global legitimacy to peacekeeping efforts.").

327. POWER, *supra* note 70, at 380.

328. GOUREVITCH, *supra* note 115, at 155.

329. "[A] reasonable conclusion is that *Turquoise* saved around 10–13,000 lives." Gérard Prunier, *Opération Turquoise: A Humanitarian Escape from a Political Dead End*, in *THE PATH OF A GENOCIDE*, *supra* note 102, at 281, 303.

330. Lindley, *supra* note 311, at 547.

331. William J. Durch, *Keeping the Peace: Politics and Lessons of the 1990s*, in *UN PEACEKEEPING*, *supra* note 113, at 1, 28.

332. *Id.* at 27.

333. *Id.*

334. *Id.* (adding that the Security Council's role as a legitimizing force might also encourage states "to grant coalition forces the right to overfly, refuel in, or stage from their territory").

Thus, there exists a range of ways in which the Security Council might meet its responsibility for the maintenance of peace and security, even in situations where a U.N. force is inappropriate. It is these alternatives, rather than those that try to adapt Secretary-General-led peacekeeping to situations for which it is inherently unsuitable, that should be further explored.

One counter-argument in response might be that increased use of regional or multinational forces in place of U.N. operations might lead to the loss of some valuable qualities that only U.N. peacekeeping possesses. Impartiality and universality are two strengths that have traditionally been associated with U.N. operations. Yet, arguably, the extent to which these two qualities are guaranteed in U.N. peacekeeping is easily overstated. With regard to impartiality, the notion that Member States' participation in U.N. operations is apolitical and disinterested is naïve. Even though peacekeeping theory requires a neutral international force, the countries willing to commit their troops to an operation must, according to Matthew Vaccaro, "see their interests served by such participation, which may raise questions about their neutrality."<sup>335</sup> To call for international accountability is to miss the point that, as Edward Luck puts it, "national leaders are ultimately accountable to their people, not just to the rules of international institutions or to the ideals of the international community."<sup>336</sup> As for universality, the current arrangement offers neither universality of troop contributors nor universality of areas of deployment. Whereas under earlier theory and practice, the composition of peacekeeping forces reflected the U.N.'s universality,<sup>337</sup> the modern reality is more often one that, according to Adriaan Verheul, does not "reflect the solidarity on which the Charter is built."<sup>338</sup> the Security Council "devises a mandate and expects soldiers from poor countries to die for it."<sup>339</sup>

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335. Vaccaro, *supra* note 113, at 397.

336. Edward C. Luck, Book Review, 94 AM. J. INT'L. L. 603 (2000) (reviewing WILLIAM SHAWCROSS, *DELIVER US FROM EVIL: WARLORDS AND A WORLD OF ENDLESS CONFLICT* (2000)) ("To be operational, humanitarian values must be embedded in these domestic processes, as well as in global conventions.").

337. See Tharoor, *supra* note 229, at 414.

338. Verheul, *supra* note 215.

339. *Id.*

Universality of deployment is belied by a lack of commitment to address conflict in Africa.<sup>340</sup> This erosion of two of the touted strengths of U.N. peacekeeping supports the argument that since its use in operations where the willingness of troop contributors and warring parties is uncertain has proven problematic, and since no politically acceptable proposals exist for how to avoid these problems through the U.N. system alone, attention should turn to alternative ways in which the Security Council can meet its responsibility for the maintenance of international peace and security.

## VI. CONCLUSION

The inability to carry out these peacekeeping and security mandates can be attributed, at least in part, to an inadequate number of properly equipped troops. In each case, troop levels were authorized in the face of clear signs that they would not rapidly be made available or would nevertheless be inadequate. The fact that the warnings were explicit that the consent neither of the parties in conflict nor potential troop contributors was likely to be forthcoming—indeed, several of the warnings were contained in Secretary-General's Reports to the Security Council—suggests that merely improving the information available to the Security Council will not cure its inadequacy in dealing with such situations. It might be objected that to focus on a group of operations that includes some of the Organization's most prominent failures is inevitably to paint an unrepresentatively bleak picture of the U.N.'s peacekeeping abilities. Yet the very fact that these failures receive such prominence increases their importance, since the damage that they do to the Organization's credibility has an adverse effect on the willingness of parties in conflict and potential troop-contributors to trust the United Nations in future operations. Nor has their prominence ensured that all the necessary lessons have been learned, as was shown by the kidnapping crisis in Sierra Leone, which was reminiscent of U.N. failures in Bosnia, Rwanda, and Somalia and was itself followed by months of UNAMSIL understaffing. As the Brahimi Report

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340. See David M. Malone & Ramesh Thakur, *UN Peacekeeping: Lessons Learned?*, 7 *GLOBAL GOVERNANCE* 11, 16 (2001) ("Countries with large financial and military resources remain reluctant to deploy either to address African conflicts.").

states, "[o]ver the last decade, the United Nations has repeatedly failed to meet the challenge"<sup>341</sup> of "sav[ing] succeeding generations from the scourge of war,"<sup>342</sup> and "it can do no better today."<sup>343</sup>

Thus, as the Brahimi Report concludes, "significant institutional change"<sup>344</sup> is necessary. Various suggestions have been made regarding ways to effect this change within the existing system of Secretary-General-led operations. Yet none offers the United Nations a politically acceptable means of surmounting the obstacles created when troop contributors or parties in conflict are clearly unwilling to comply. The risk remains that fig-leaf resolutions that bear little chance of receiving a rapid supply of troops for implementation, or fig-leaf operations that bear little chance of success in non-consensual environments, will continue to be created as a result of the pressure to seem to do something.<sup>345</sup> Such halfhearted actions represent an abdication of the Security Council's responsibility. So does the refusal to take any action at all. Efforts at innovation should therefore be directed at a third option, whereby, in situations where clear warning signs exist concerning the willingness of parties in conflict or of troop contributors to comply, the Security Council could create and develop forms of collaboration between the United Nations and regional and multinational coalitions, for whom robust action is more appropriate. Thus the credibility and the manpower of the United Nations could be conserved and strengthened, in preparation for those operations to which the Organization is better suited.

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341. *Brahimi Report*, *supra* note 224, ¶ 1.

342. *Id.* (quoting U.N. CHARTER pmbl.) (internal quotations omitted).

343. *Id.*

344. *Id.*

345. In the case of Bosnia, for example, it has been said that "[t]he crucial factor in the decision to deploy peacekeepers was neither humanitarian nor military. It was a political imperative—namely for the Security Council to be seen as doing something when individual member states were unwilling to act." Prager, *supra* note 62. Thus, the United Nations "ended up being more in the fig-leaf business than the security business." DAVID HALBERSTAM, WAR IN A TIME OF PEACE: BUSH, CLINTON, AND THE GENERALS 125 (2001).

