

## Security Council mandates and the use of lethal Force by Peacekeepers: What Place for the Laws of War?

Nigel D. White

### Introduction

Since the turn of the 21<sup>st</sup> century, peacekeepers have been under pressure to protect civilians and to protect the peace process. Peacekeepers have been criticised for being inactive in the face of violence when the mandates given to them by the Security Council clearly enable them, arguably require them, to use necessary measures against those who would undermine the peace or threaten civilians.<sup>1</sup>

The chapter will explore the gap between the Security Council's mandate and the use of lethal weapons by peacekeepers and its implications for the law applicable to the use of force by peacekeepers. The argument is that the more coercive the mandate becomes, the more it might be expected that peacekeepers use force in accordance with the laws of war. However, the reality is that, unless they (exceptionally) become combatants in an armed conflict, they remain bound by human rights law, specifically, to respect the right to life. The question then becomes whether the human rights legal framework is sufficient to allow peacekeepers to carry out their mandate or whether it is possible to identify a new legal framework as part of an emerging *jus post bellum*?

The focus of the chapter is on the military component of peace operations acting under the mandate, command and control of the United Nations (UN) - the blue helmets; although reference is also made to the police element of UN peace operations. The chapter will trace the development of peace operations from their inception as limited military forces in the

---

<sup>1</sup> Especially in relation to the conflict in Darfur; for example, A. de Waal, 'Darfur and the Failure of the Responsibility to Protect', 83 *International Affairs* (2009) 1039; C.G. Badescu and L. Bergholm, 'The Responsibility to Protect and the Conflict in Darfur: The Big Let Down', 40 *Security Dialogue* (2009) 287.

1950s to their modern form, which is not only multifaceted but appears, from the mandates given by the Security Council to such operations over the last decade, to be more belligerent than their predecessors.

Peacekeepers, even at their inception, have been given functions that are less than those of combat yet more than those of law enforcement, but it is argued that this does not somehow place them in a legal no-man's land. Instead, it is asserted that, despite increasingly coercive Security Council mandates, peacekeepers remain subject to international human rights law standards when using weapons and, only exceptionally, when actively engaged as combatants within an armed conflict situation, to international humanitarian law (IHL) standards – where the right to life is qualified by those laws of war that allow 'enemy' combatants to be engaged with lethal force.<sup>2</sup> There is, as yet, no intermediate position that might emerge as part of a developing *jus post bellum* regime.

Support for this position is drawn from two resources that feature in this book – the perspectives of the military lawyer and of Peter Rowe himself. First of all, support for the position adopted in this paper is drawn from the argument of Rob McLaughlin of the Royal Australian Navy, who reasoned that there are only two legitimate paradigms for multinational peace operations acting under a Chapter VII mandate, one of armed conflict and another of law enforcement, and that the default position is that of law enforcement governed by human rights law.<sup>3</sup> This chapter adopts a similar position, although it approaches the subject through considering the nature, doctrine and practice of UN peacekeeping operations, and argues that the concept of self-defence, as developed by that doctrine and practice, is both wide enough to allow peacekeepers to perform their functions and specific enough to remain compliant with human rights law.

---

<sup>2</sup> P. Rowe, *The Impact of Human Rights Law on Armed Forces* (Cambridge University Press, 2006), 135: The '*lex specialis* (international humanitarian law) permits a lawful combatant to kill another lawful combatant providing that the means of doing so are not, themselves, prohibited under that law'. See further, the International Court of Justice in *Legality of the Threat or Use of Nuclear Weapons*, ICJ Reports 1996, 240 at para. 25: 'The protection of the International Covenant of Civil and Political Rights does not cease in times of war, except by operation of Article 4 of the Covenant whereby certain provisions may be derogated from in a time of national emergency. Respect for the right to life is not, however, such a provision. In principle, the right not arbitrarily to be deprived of one's life applies also in hostilities. The test of what is an arbitrary deprivation of life, however, then falls to be determined by the applicable *lex specialis*, namely, the law applicable in armed conflict which is designed to regulate the conduct of hostilities'.

<sup>3</sup> R. McLaughlin, 'The Legal Regime Applicable to the Use of Lethal Force When Operating under a United Nations Security Council Chapter VII Mandate Authorising All Necessary Means', 12 *JCSL* (2007) 389-417.

Further support is drawn from Peter Rowe, who convincingly reasoned that there are many operational, as well as legal, reasons why military contingents contributing to peacekeeping forces will not be combatants in an armed conflict, not least that it is very unlikely that ‘participating states will wish to accept that they are engaged in an armed conflict and thereby lose’ their legal protection ‘even where their national contingents come under intense fire and a number are killed or wounded’.<sup>4</sup> For Rowe, the legal framework governing the use of lethal force by peacekeepers will be ‘compiled from the national, military law and any human rights obligations’ of the Troop Contributing Nations.<sup>5</sup>

### **The nature and development of peacekeeping**

Peacekeeping was essentially a development of the stifling and ubiquitous effects of the Cold War and as such, was not envisaged in the UN Charter. Nevertheless, it was vital in securing the basic goal of the UN, namely a minimum level of peace and security in trouble spots around the world. This initially resulted in very small UN unarmed observer forces in colonial and post-colonial conflict zones in Indonesia, Kashmir, and Palestine in the late 1940s, dispatched to provide the Security Council with a reliable account of the facts. This led, in 1956, to a fully-fledged, lightly armed, but several thousand-strong, force (the UN Emergency Force – UNEF I) deployed to secure the peace by acting as a buffer between formerly hostile nations following the British/French/Israeli intervention in Suez.

Although new in its day, this now ‘traditional’ type of peacekeeping, embodied in UNEF I, reflected classical principles of international law in that it was based on the consent of the host State or States and, even though it appeared to constitute military intervention, its respect for sovereignty was reflected in the neutrality of such forces. The restrictions on the use of force to defence of peacekeepers or their equipment meant that the trinity of peacekeeping principles (consent, impartiality and non-use of force<sup>6</sup>) reflected the fundamental principles of

---

<sup>4</sup> P. Rowe, ‘Maintaining Discipline in United Nations Peace Support Operations: The Legal Quagmire for Military Contingents’, 5 *JCSL* (2000) 45, 52. See also, Rowe (n.2), 227.

<sup>5</sup> Rowe (n.2), 233.

<sup>6</sup> Report of the Special Committee on Peacekeeping Operations, 2012 session, GAOR 66<sup>th</sup> session, supp. No. 19, para. 25.

international law of sovereignty, non-intervention and non-use of force found in Article 2 of the UN Charter.<sup>7</sup>

The fact that the UN General Assembly mandated the original force (UNEF I) is no coincidence<sup>8</sup> in that its functions reflected the views of the Non Aligned majority, as well as traditional principles of international law that gave such states protection from intervention. However, peacekeeping subsequently crossed into the domain of the Security Council as part of its primary responsibility for peace and security under Article 24 of the UN Charter. This has led to the possibility of a more coercive peacekeeping force empowered, in whole or in part, under Chapter VII of the UN Charter.

The dialectic between consensual peacekeeping and its more belligerent variant was established as early as the second full peacekeeping force in the Congo in 1960–64 and was repeated, with less success, in the force in Somalia in 1993–5.<sup>9</sup> It is currently back on the agenda as the UN struggles to implement the ‘responsibility to protect’,<sup>10</sup> ‘protection of civilians in armed conflict’,<sup>11</sup> and ‘human security’ agendas,<sup>12</sup> through, *inter alia*, ‘protection’ mandates given to UN forces by the Security Council.<sup>13</sup> These mandates typically authorise the UN force under Chapter VII ‘to use all necessary means to carry out its mandate, within its capabilities and its areas of deployment’, including ‘to protect civilians under imminent threat of physical violence’.<sup>14</sup>

In general, the orthodoxy is that such mandates are compatible with the traditional principles of international law and peacekeeping<sup>15</sup> and, therefore, do not constitute full-blown military enforcement action against a state on a par with the UN-authorised actions in Korea in 1950–3 and the Gulf in 1991 (whose constitutional base is Article 42 of Chapter VII of the UN

---

<sup>7</sup> Report of the Special Committee on Peacekeeping Operations, 2012 session, GAOR 66<sup>th</sup> session, supp. No. 19, para. 25.

<sup>8</sup> UNGA Res 998-1001 (1956).

<sup>9</sup> UNSC Res 814 (1993), 897 (1994).

<sup>10</sup> As formulated at the UN’s World Summit Outcome Document of 2005 in UNGA Res 60/1 (2005) paras 139–9.

<sup>11</sup> See, for example, UNSC Res 1674 (2006) on the protection of civilians.

<sup>12</sup> Human security was first posited in the UNDP’s Human Development Report, ‘New Dimension in Human Security’ (UN, 1994).

<sup>13</sup> N. D. White, Empowering Peace Operations to Protect Civilians: Form over Substance’, 13 *Journal of International Peacekeeping* (2009) 327.

<sup>14</sup> UNSC Res 1528 (2004) establishing UNOCI in the Ivory Coast.

<sup>15</sup> *Certain Expenses of the United Nations*, ICJ Reports 1962, 163–4.

Charter).<sup>16</sup> The late 1980s and early 1990s saw the end of the Cold War and a change in UN interventions, with operations in Namibia, Nicaragua, El Salvador, Cambodia and Mozambique becoming multi-functional by combining peacekeeping with limited peace-building. The latter was usually centred on the holding of elections as the pivotal event between conflict and a stable state. Such operations were a mixed success, with a number failing because the electoral process did not engage factions sufficiently to prevent a fresh outbreak of fighting (for instance, in Angola in the 1990s).<sup>17</sup> Furthermore, these developments did not prevent the occurrence of egregious human rights violations under the noses of peacekeepers, most shockingly the genocides in Rwanda and Srebrenica.<sup>18</sup>

More integrated extensive peace operations have emerged since the 2000 Brahimi Report.<sup>19</sup> Such operations combine peacekeeping with more ambitious peace-building; the latter consisting of much more than the crude introduction of Western-style democracy to an often alien environment. Given that such operations are often conducted in fragile or failed states, there has been a trend towards enabling the military element of such operations to use force beyond the traditional limited form of self-defence possessed by peacekeepers.

The increasing complexity of peace operations that followed the recommendations of the 2000 Brahimi Report has been described as a process of ‘civilianisation’ of peace operations, whereby the still large military peacekeeping component is matched by the inclusion of ‘civil administration, humanitarian assistance, policing, electoral, human rights monitoring, economic revival functions and personnel’.<sup>20</sup> In some ways this disguises the changes that have been wrought, at least at the level of the mandate, in the military element.

Arguably, the developing nature and function of modern complex peace operations reflect changes in international law in which the prominence of external self-determination in the period of decolonisation and independence of new states has, to a large extent, been replaced

---

<sup>16</sup> UNSC Res 83 (1950); UNSC Res 678 (1990).

<sup>17</sup> V. P. Fortna, ‘United Nations Angola Verification Mission’ in W. J. Durch (ed), *The Evolution of UN Peacekeeping* (Macmillan, 1994), 353.

<sup>18</sup> See, Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda, 15 Dec 1999 (UN doc S/1999/1257); Report of the Secretary General Pursuant to General Assembly Resolution , The Fall of Srebrenica, 15 Nov 1999 (UN doc A/54/549).

<sup>19</sup> ‘Report of the Panel on United Nations Peace Operations’, UN doc.A/55/305 and S/2000/809, 21 August 2000 (Brahimi Report).

<sup>20</sup> J. Cockayne and D. Malone, ‘United Nations Peace Operations: Then and Now’, 9 *International Peacekeeping: The Yearbook of International Peace Operations* (2005) 18.

by concerns for internal self-determination within existing states, while the protection and enhancement of human rights and human security (of individuals and groups) have supplemented the traditional concern for security between States. This has led to 21<sup>st</sup> century peace operations being furnished, as a matter of course, with Chapter VII elements in their mandates empowering them to protect the peace process and civilians under threat of attack, while still being based on the consent of the host State.

The move towards greater coercion by UN peace operations has continued apace. Although they remain distinct from military enforcement action taken by Coalitions of the Willing (CoWs), this is often more in composition and command and control than in the mandates. The NATO-led IFOR and KFOR operations in Bosnia and Kosovo, although under UN mandates,<sup>21</sup> operate under delegated command and control and, moreover, are equipped and, at least at their inception, were mandated to undertake potentially much deadlier levels of force than UN-commanded and controlled blue-helmeted forces.<sup>22</sup> That distinction has become somewhat eroded. The NATO-led forces are authorised to operate against state and non-state actors alike,<sup>23</sup> while UN operations generally operate against non-state actors (spoilers), those that threaten civilians and, exceptionally, organised rebel and insurgent armed groups.<sup>24</sup> This means that although UN peace operations do not undertake peace enforcement against a state potentially in an international armed conflict, they may become engaged as combatants in a non-international armed conflict involving non-state actors.<sup>25</sup>

Thus, increasingly coercive mandates would suggest that peacekeepers can cross the line to become war-fighters, or ‘combatants’ in the language of the laws of war (IHL), sometimes causing confusion as to the legal status of peacekeepers, who are traditionally not seen as

---

<sup>21</sup> UNSC Res 1031 (1995) re IFOR in Bosnia; UNSC Res 1244 (1999) re KFOR in Kosovo.

<sup>22</sup> See, for example, para. 9(a) of UNSC Res 1244 (1999) which decided that KFOR’s responsibilities included ‘detering renewed hostilities, maintaining and where necessary enforcing a ceasefire, and ensuring the withdrawal and preventing the return into Kosovo of Federal and Republic military, police and paramilitary forces ...’.

<sup>23</sup> See, for example, para. 15 of UNSC Res 1031 (1995) which authorised IFOR to ‘take all necessary measures to affect the implementation of and to ensure compliance with Annex 1-A of the peace agreement’, stressed that ‘all parties shall be held equally responsible for compliance, and shall be equally subject to such enforcement action by IFOR as may be necessary to ensure implementation of that Annex ...’.

<sup>24</sup> See, for example, UNSC Res 1925 (2010), which established MONUSCO in the DR Congo (to replace MONUC), and emphasised the primary responsibility of the government for security, but stated that MONUSCO and the government should, inter alia, secure the ‘completion of the ongoing military operations in the Kivus and Orientale Province, resulting in minimizing the threat of armed groups and restoring security in sensitive areas ...’.

<sup>25</sup> In either case there is enforcement action requiring the authority of the Security Council, see UNSC Res 1744 (2007) re AU force (AMISOM) mandated to fight alongside government forces against al-Shabaab.

legitimate targets. Indeed, attacks on them remain prohibited under the 1994 UN Safety Convention.<sup>26</sup> In 1999, the UN Secretary General attempted to clarify the non-combatant status of peacekeepers, even in situations of armed conflict, by declaring that they are to be viewed as civilians under IHL unless, and until, they actively engage as combatants in an armed conflict.<sup>27</sup>

It is in this complex, constantly shifting and often dangerous environment that armed UN peacekeepers and police operate, with the potential to (mis)use lethal weapons.

### **Widening of defensive use of force**

Over the lifetime of peacekeeping operations there has been confusion as to the nature and level of force that peacekeepers are permitted to use. Sitting somewhere between a military combat operation and an armed police operation,<sup>28</sup> this confusion is unsurprising, even though the UN has had plenty of practice in which to develop clear norms on the use of force.

At its core, the limited use of force available to peacekeepers means self-defence, which is normally interpreted narrowly to cover a peacekeeper using force in defence of his own life, his ‘comrades and any person entrusted in [his] care, as well as defending [his] post, convoy, vehicle or rifle’.<sup>29</sup> Beyond this there has been a continuing lack of clarity as to whether the force could also ‘defend’ that force’s mandate.

While UNEF stuck to a narrow interpretation of self-defence by using light arms to defend itself, by 1960 there was an alternative version of peacekeeping in the Congo. ONUC used a variety of weapons: mortars, fighter and bomber aircraft, light armoured vehicles, as well as rifles, light automatic weapons and bayonets and anti-tank and anti-aircraft weapons.<sup>30</sup> ONUC initially confined its use of force to self-defence when overseeing the withdrawal of Belgian

---

<sup>26</sup> 1994 UN Convention on the Safety of United Nations and Associated Personnel, Articles 7–9.

<sup>27</sup> UNSG’s Bulletin, ‘Observance by United Nations Forces of International Humanitarian Law’, UN doc. ST/SGB/1999/13, 1999, section 1.2. On the difficulty of reconciling the Bulletin with the 1994 Convention see, Rowe (n.4), 52-3.

<sup>28</sup> A position that has become even more acute with the end of the Cold War, see, M. Kaldor, *New and Old Wars: Organized Violence in a Global Era* (Stanford University Press, 1999), 125.

<sup>29</sup> ‘General Guidelines for Peace-Keeping Operations’, UN Doc UN/210/TC/CG95 (1995).

<sup>30</sup> G. I. A. D. Draper, ‘The Legal Limitations Upon the Employment of Weapons by the United Nations Force in the Congo’, 12 (1963) *ICLQ* 396.

troops, but that proved inadequate when its task became the elimination of the mercenaries supporting the Katangese secession.<sup>31</sup> In reality, in 1961, ONUC had ceased to act in a defensive way and began to take the initiative and enforce the peace by engaging the forces of non-state actors in combat.<sup>32</sup>

This has also occurred in more recent operations; for example, in July 2012 MONUSCO used offensive force, including attack helicopters, against M23 rebels in DR Congo; and in April 2011 UNOCI used attack helicopters against the heavy weapons of the forces of former President Laurent Gbagbo in the Ivory Coast.

Despite a post-Cold War trend towards allowing more offensive action to be taken by peacekeepers, there remains reluctance, especially from TCNs, to move away from self-defence as this makes the force less acceptable to the host state and the parties within it. Thus, narrow self-defence remains the norm for modern peacekeeping, even those peace operations having Chapter VII elements to their mandates, requiring them to protect the peace process and civilians.

However, despite this reticence in practice, the UN has expanded the concept of self-defence at the doctrinal level. The Brahimi Report of 2000 did this by extending the language of self-defence from individual self-defence to defence of the mission.<sup>33</sup> This forms part of the doctrinal development of when legitimate force can be used by peacekeepers through the ‘gradual expansion of the meaning of self-defense in PKOs, from individual self-defense inherent to military personnel, to freedom of movement and defense of positions, to the defense of the mandate and the protection of third parties’.<sup>34</sup>

This development is reflected in the UN’s latest statement of peacekeeping doctrine in the 2008 Principles and Guidelines document (sometimes known as the Capstone Document)—which, while still distinguishing peacekeeping from enforcement action, states that it is ‘widely understood that peacekeeping forces may use force at the tactical level, with the

---

<sup>31</sup> UNSC Res 169 (1961).

<sup>32</sup> UNSC Res 161 (1961).

<sup>33</sup> Brahimi Report, para. 48–51.

<sup>34</sup> N. Tsagourias, ‘Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping Operations: Their Constitutional Dimension’, 11 *JCSL* (2006), 465, 473.



authorization of the Security Council, if acting in self-defense and defense of the mandate'.<sup>35</sup> However, the reality is that once self-defence is so expanded it is no longer individual self-defence but is a mandate permitting a certain level of enforcement (of measures of the type envisaged by Article 40 of Chapter VII), though short of full peace-enforcement under Article 42 of Chapter VII.

Thus, increasing pressure is on peacekeepers to use force to protect civilians under attack or under threat of attack and to protect the peace agreement and process from 'spoilers' wishing to undermine it. With the greater use of weapons that this potentially entails, the problem becomes the choice as to which legal regime should be applicable to modern peace operations – that applicable in armed conflict (IHL) or international human rights law norms.

### **Applicable Law:**

#### **International Humanitarian Law or International Human Rights Law?**

Increasingly coercive mandates mean that peacekeepers can potentially cross the line to become 'combatants', in the language of the laws of war (IHL), sometimes causing confusion as to the legal status of peacekeepers who are traditionally not seen as legitimate targets.<sup>36</sup> In 1999, UN Secretary-General Kofi Annan, in a piece of internal UN law, reasserted the civilian status of peacekeepers, even in situations of armed conflict, by declaring that they are to be viewed as civilians under IHL unless and until they actively engage as combatants in an armed conflict.<sup>37</sup> This establishes the default position of a peacekeeper as a non-combatant, with him or her only becoming a combatant in exceptional circumstances.<sup>38</sup> This should be

---

<sup>35</sup> United Nations Peacekeeping Operations: Principles and Guidelines (UN, 2008), 31 (Capstone Document).

<sup>36</sup> See judgment of the Special Court for Sierra Leone in *Prosecutor v. Issa Hassan Sesay, Morris Kallon and Augustine Gbao*, (Case No. SCSL-04-15-A: Special Court for Sierra Leone (Appeals Chamber), 26 October 2009, which was concerned with the criminality of attacks by RUF rebel forces against UNAMSIL in Sierra Leone. For discussion see J. Sloan, 'Peacekeepers under Fire: Prosecuting the RUF for Attacks Against the UN Assistance Mission for Sierra Leone', 9 *Law and Practice of International Courts and Tribunals* (2010) 243.

<sup>37</sup> UNSG's Bulletin, 'Observance by United Nations Forces of International Humanitarian Law', section 1.2.

<sup>38</sup> However, see Peter Rowe's point that the Bulletin's assumption that the UN may become a party to a non-international armed conflict does not accord with Article 2(2) of the 1994 Convention, under which peacekeepers remain protected until they are 'engaged as combatants against organized armed forces and to which the law of international armed conflict applies', Rowe (n.4), 52. Thus, Rowe concludes that the 'protection of the 1994 Convention would continue to apply to UN and associated personnel as long as they are not engaged in an *international* armed conflict as a Party to the conflict. Thus, even if they are, technically, parties to a *non-international* armed conflict the protection of the 1994 Convention would apply. The Secretary-General's Bulletin, however, produces a different result. It leads to the conclusion that all combatants in whatever type of armed conflict, are equal in the eyes of international humanitarian law and that those who

contrasted with the legal status of US and other soldiers sent to fight against Iraqi forces in Kuwait, under a UN enforcement mandate,<sup>39</sup> who were clearly instructed to engage the enemy,<sup>40</sup> thereby recognising that they were lawful combatants and also legitimate targets in an armed conflict.

IHL is applicable during an armed conflict, and thus is primarily applicable to the *in bello*, rather than the *post bellum*, stage (with the exception of the law of occupation). If, however, violence persists or flares up in the post-war phase and reaches the level of an armed conflict of a non-international character (defined by the International Criminal Tribunal for the former Yugoslavia as protracted armed violence between governmental authorities and organized armed groups within a state),<sup>41</sup> then IHL applies to the parties to that conflict and also to a UN peacekeeping operation should it engage, as a party to a conflict, against organised armed groups. Being based in the host state with the consent of that government signifies that a peacekeeping force would not become engaged against the forces of the host state in an international armed conflict. Indeed, if were to, the peacekeeping force would cease to be a peacekeeping operation and would become a non-consensual enforcement action requiring authorisation under Article 42 of the UN Charter.

All this suggests that IHL does not play a significant role in a post-war situation to which peacekeepers are deployed and it is the *jus post bellum*, more accurately, those aspects of general international law, human rights law, refugee law and international criminal law, as well as the national criminal and military laws of the TCNs and national law of the host state, that together frame the work of a peace operation.

This doctrinal position is reflected in practice. A review of a sample of current UN operations shows that peacekeepers will only exceptionally become engaged as a party in a non-international armed conflict. An examination of documentation (UN force press briefings and other documents, as well as the Secretary General's reports and Security Council resolutions) of three different types of UN peacekeeping force over the last five years – in Cyprus (a traditional force), in Liberia (in a dangerous but stable state) and in the DR Congo (where

---

attack UN forces have a 'right' to do so providing they also comply with the fundamental principles and rules of that law', Rowe (n.4), 53-4.

<sup>39</sup> UNSC Res 678 (1990).

<sup>40</sup> See, Pocket Card in A. Roberts and R. Guelff (eds.), *Documents on the Laws of War* (Oxford University Press, 2000), 561.

<sup>41</sup> *Prosecutor v. Tadić* (1996) 105 ILR 488.

protracted armed violence regularly breaks out) – reveals that while the force in Cyprus has not used any significant force in the last 5 years and the Liberian force has only used force in relatively narrow circumstances of self-defence and in dealing with riots, the Congo force has regularly used both defensive force to protect itself and civilians and, occasionally, alongside government forces, offensive force against armed groups who undermine the peace and threaten civilians.<sup>42</sup> It is only in the latter situation, when fighting alongside government forces against organised armed groups, that the peacekeepers should be applying the laws of war.

It follows that for most peacekeepers the relevant international laws will be those governing human rights. The existence of human rights obligations on peacekeepers flows from two main sources. The first source for peacekeepers is as state agents and comes from the human rights obligations of their sending states under human rights treaties,<sup>43</sup> which attach to them, even when acting extra-territorially, in circumstances where they exercise control over areas or individuals. Although human rights jurisprudence is mixed, there is some indirect support, from the Inter-American Commission on Human Rights, for making a further argument that when peacekeepers fire weapons at individuals they are, in effect, asserting jurisdiction over them for the purposes of human rights law.<sup>44</sup> However, the orthodox view is that found in the General Comment of the Human Rights Committee in 2004 where it stated that parties to the International Covenant on Civil and Political Rights must ensure the human rights of persons ‘within the power or effective control of the forces of a State Party acting outside its territory ... such as forces constituting a national contingent of a State Party assigned to an international peace-keeping or peace-enforcement operation’.<sup>45</sup>

The second source of human rights obligation applies to peacekeepers as members of a UN force, given the UN’s obligations under customary international law that attach to it as an

---

<sup>42</sup> Data on file with the author, who would like to thank Auriane Botte, Ph.D student in the School of Law at the University of Nottingham, for painstakingly gathering this data.

<sup>43</sup> Consider also the human rights obligations of the host states to ensure that human rights within its jurisdiction are protected, Rowe, *The Impact of Human Rights Law on Armed Forces*, 234.

<sup>44</sup> L. Doswald-Beck, *Human Rights in Times of Conflict and Terrorism* (Oxford University Press, 2011), 19-21, citing cases where the state has been held to be in breach of the right to life when firing at a person from a distance; for example, *Armando Alejandro Jr, Carlos Costa, Mario de la Pena and Pablo Morales v Cuba (Brothers to the Rescue case)* Case 11.589, Report No 86/99, 29 September 1999, para. 25. But, see the European Court of Human Rights decision in *Bankovic and others v 17 NATO States*, Admissibility Decision (Grand Chamber), 12 December 2001, paras 52-3.

<sup>45</sup> Human Rights Committee, General Comment 31, ‘Nature of the General Legal Obligation on States Parties to the Covenant’, UN Doc CCPR/C/21/Rev.1/Add.13 (2004), para. 10.

international legal person.<sup>46</sup> The International Law Commission (ILC) 2011 Articles on the Responsibility of International Organizations clearly show that it is possible to attribute wrongful acts to the UN;<sup>47</sup> such responsibility is based on it having duties under customary international law, including ones to uphold and protect human rights.

### **The use of lethal force and the right to life**

Having established that human rights law is normally applicable to peacekeepers<sup>48</sup> and that even a more belligerent force will only occasionally become engaged as combatants, and so subject to humanitarian law, it would appear that modern peacekeepers are placed between the rock of human rights constraints and the hard place of a Security Council mandate that appears to require them to use lethal force in a range of circumstances.

The fact that UN peacekeepers and armed police carry weapons, the use of which may cause deaths, seems at first glance to be incompatible with the right to life. When, if at all, is the taking of life by UN peacekeepers and police justified? Major human rights treaties make it clear that the right to life, though fundamental, is not absolute. The basic principle is that life cannot be taken arbitrarily.<sup>49</sup> Louise Doswald-Beck suggests that in order to understand when life is not taken arbitrarily a good starting place is Article 2(2) of the European Convention on Human Rights, which, in contrast to Article 6 of the International Covenant on Civil and Political Rights, details when lethal force is permitted.

Drawing on this, essentially, during peacetime and situations short of armed conflict, lethal force can only be used when absolutely necessary for self-defence (including defence of third parties), to effect an arrest or prevent escape of a detainee, or in action taken to quell a riot or insurrection; while during an armed conflict IHL applies to those engaged in it as combatants, when the right to life is further qualified, although civilians and those *hors de combat* remain

---

<sup>46</sup> *Reparation for Injuries Suffered in the Service of the United Nations*, ICJ Reports 1949, 174-178;

*Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, ICJ Reports 1980, 73, 89-90.

<sup>47</sup> ILC, Draft Articles on the Responsibility of International Organizations, Articles 3-7, UN Doc A/66/10 (2011); taken note of in UNGA Res 66/100 (2011).

<sup>48</sup> See further, N. D. White, 'Use of Weapons in Peace Operations', in Stuart Casey-Maslen (ed.), *Weapons under International Human Rights Law* (Cambridge University Press, 2014); D. Stephens, 'The Lawful Use of Force by Peacekeeping Forces: The Tactical Imperative', 12 *International Peacekeeping* (2005) 163.

<sup>49</sup> Doswald-Beck (n.44), 161.

protected. This provides a relatively clear legal framework within which peacekeepers should operate.

A more detailed examination of UN policy and guidelines on when peacekeepers can use force, including lethal force, shows that the UN largely acts within this legal framework, indeed, that the UN frames its policies and directives largely within the parameters of international human rights law, rather than IHL. For example, the Department of Peacekeeping Operations' *Handbook on United Nations Multidimensional Peacekeeping Operations* of 2003 provides that self-defence includes the 'right to protect oneself, other UN personnel, UN property and other persons under UN protection', though it does recognise that the Security Council can, exceptionally, authorise an operation to use armed force in situations other than self-defence, which might suggest going beyond the human rights standard. Beyond that the Handbook leaves it to the mission-specific Rules of Engagement (RoE) to 'clarify the different levels of the use of force that can be used in various circumstances, how each level of force should be used and any authorizations that may need to be obtained from commanders'.<sup>50</sup>

RoE perform a mediatory role between the mandate and the actual use of force by peacekeepers. They 'specify the circumstances in which armed force may be used by a military unit and its permissible extent and degree'.<sup>51</sup> RoE 'provide as clearly as possible the parameters within which armed military personnel assigned to a peacekeeping operation may use force'.<sup>52</sup> In this way, it has been argued that RoE are more important than the Security Council's mandate in determining the actual level and extent of force used by a peacekeeping component.<sup>53</sup> RoE are usually not 'regarded as legal instruments in their own right, but rather they reflect the law and thus are intended to ensure that military forces act within the law. The "law" in question may comprise both national and international law'.<sup>54</sup>

Each mission's RoE govern the use of force by military peacekeepers and Directives on the Use of Force (DUF) govern the use of force by any police contingent to the mission. Both are

---

<sup>50</sup> DPKO, 'Handbook on United Nations Multidimensional Peacekeeping Operations', (UN, 2003), 57.

<sup>51</sup> H. McCoubrey and N. D. White, *The Blue Helmets: Legal Regulation of United Nations Military Operations* (Dartmouth, 1996), 146.

<sup>52</sup> R. Zacklin, 'The Use of Force in Peacekeeping Operations' in N.M. Blokker and N. Schrijver (eds), *The Security Council and the Use of Force* (Martinus Nijhoff, 2005), 100.

<sup>53</sup> P. Rowe, 'The United Nations Rules of Engagement and the British Soldier in Bosnia', *ICLQ* (1994), 947.

<sup>54</sup> D. Stephens, 'The Lawful Use of Force by Peacekeeping Forces: The Tactical Imperative', 12 *International Peacekeeping* (2005), 163.

developed by the UN Department of Peacekeeping Operations (DPKO) in New York. In 2002, the UN produced draft RoE,<sup>55</sup> though their current status is unclear. Oswald, Durham, and Bates assert that the ‘legal foundation for DUF is primarily’ international human rights law, whereas the ‘legal framework for RoE is a combination of’ IHL and international human rights law.<sup>56</sup> This analysis of the legal framework for the RoE of the peacekeeping component raises some concerns. The RoE of such forces should only reflect IHL if, and only to the extent that, they exceptionally become engaged as combatants within an armed conflict and, therefore, should normally be framed by international human rights law not a ‘mixture’ of the two.

Although a systematic review of RoE is not possible, materials that reflect the RoE, such as soldiers’ pocket cards, training materials, standards and rules, all suggest that it is the case that RoE are largely framed by human rights law and, indeed, should be framed by such law and only exceptionally by the laws of war.<sup>57</sup> Of course, if the mandate is for military enforcement action wherein the force will be engaged as combatants in an armed conflict, then the framework for the RoE will largely be the laws of war,<sup>58</sup> although it must not be forgotten that human rights law continues to apply during armed conflict.

As mentioned above, the 2008 Capstone Document expands somewhat on when potentially lethal force may be used, stating that peacekeeping operations may ‘use force at the tactical level, with the authorization of the Security Council, if acting in self-defense and defense of the mandate’. Again, the latter seems open-ended, but the Capstone Document goes on to explain that ‘all necessary means’, which would include lethal force where necessary, may be used against ‘militias, criminal gangs, and other spoilers who may actively seek to undermine the peace process or pose a threat to the civilian population’ in order to ‘deter forceful attempts to disrupt the political process, protect civilians under imminent threat of physical attack, and/or assist the national authorities in maintaining law and order’.<sup>59</sup>

---

<sup>55</sup> UNDPKO, ‘Guidelines for the Development of Rules of Engagement (ROE) for United Nations Peacekeeping Operations’, May 2002, UN doc. MD/FGS/0220.0001, in C.K. Penny, ‘Drop That or I’ll Shoot ... Maybe: International Law and the Use of Deadly Force to Defend Property in UN Peace Operations’, 14 *International Peacekeeping* (2007), 365.

<sup>56</sup> B. Oswald, H. Durham and A. Bates (eds), *Documents on the Law of UN Peace Operations* (Oxford University Press, 2010), 562.

<sup>57</sup> McLaughlin, (n.3), 411.

<sup>58</sup> As in UNSC Res 678 (1990), which authorised the use of force to expel Iraq from Kuwait, and reflected in the RoE given to Coalition forces to engage the enemy.

<sup>59</sup> Capstone Document, 34–5.

It is possible to interpret these guidelines as being compatible with human rights standards if the provisions recognising that potentially lethal force may be used when absolutely necessary to effect an arrest or in tackling riots and insurrections is applied to include these, and analogous, situations faced by peacekeepers when force is absolutely necessary to tackle militias, criminal gangs and other armed spoilers who undermine the peace or threaten civilians. If this purposive interpretation is adopted, then it follows that there is sufficient leeway in human rights law to enable peacekeepers to perform their functions using potentially lethal force where absolutely necessary.

There remains the problem of ensuring that peacekeepers do not exceed these standards under the guise of a Chapter VII mandate that authorises ‘necessary measures’, for necessary measures in a situation short of armed conflict are those absolutely necessary to defend civilians or to defend peacekeepers when tackling those who undermine the peace.<sup>60</sup> There also remains the problem, found in many UN documents, of peacekeepers being permitted to use deadly force to protect UN property, which is generally difficult to reconcile with human rights law,<sup>61</sup> although it is permissible in some circumstances under IHL.

Article 103 of the UN Charter, which states that obligations derived from the Charter prevail over those in any other international treaty, does not affect the analysis given above for a number of reasons, two of which will be mentioned. First, Article 103 does not affect customary obligations under human rights law and protecting the right to life is one of those. Second, Security Council obligations cannot override human rights treaty obligations unless the Security Council expressly states that this is the case. Drawing upon the European Court of Human Rights judgment in the case *Al-Jedda* of 2011, it is for TCNs to interpret Security Council mandates to peacekeepers to use necessary measures in line with their human rights

---

<sup>60</sup> Labelled ‘active’ self-defence by McLaughlin (n.3), 410.

<sup>61</sup> It may be possible, in certain limited circumstances, to reconcile defence of property with human rights law if, for example, lethal force is used to prevent insurgents acquiring and using UN weapons against peacekeepers or civilians – K. M. Larsen, *Human Rights Treaty Obligations of Peacekeepers* (Cambridge University Press, 2012), 376-7, 379-80. See further, the UN Special Rapporteur on extrajudicial summary or arbitrary executions who stated that ‘protection of property cannot be invoked as a justification for the use of potentially lethal force unless it is somehow linked to the defence of life’, Report of the Special Rapporteur annexed to UN doc A/66/330, 30 Aug 2011, para. 43.

obligations unless, and until, the Security Council clearly exempts states from these obligations.<sup>62</sup>

### **Positive obligations to prevent the arbitrary deprivation of life**

The argument so far has been that while human rights law allows peacekeepers to use lethal force where absolutely necessary and proportionate in self-defence, defence of third parties and to deal with armed spoilers, they cannot go beyond that by adopting some of the more generous rules of IHL unless, and until, they become engaged as combatants in an armed conflict. There is no half way house between human rights law and IHL and this should be borne in mind by the Security Council, the Secretary General and the UNDPKO when mandating, assembling and directing the activities of a peacekeeping force.

The UN's interpretation of when peacekeepers can use force seems to accord, with some exceptions, with the obligation on TCNs and the UN not to take life arbitrarily, but pressure will increase on peacekeepers to use lethal force more extensively. Thus, care must be taken to ensure that policies and guidelines do not broaden the circumstances of when force can be used beyond the frameworks provided by international law.

Furthermore, as the Human Rights Committee points out, the obligation on states, and by analogy the UN, is not only to ensure that their agents do not arbitrarily take life, but also to take positive measures to protect that right.<sup>63</sup> Those positive obligations, drawn from treaty body practice on both law enforcement and military activities, are: first, the presence of clear laws prohibiting the 'arbitrary use of potentially lethal force'; second, adequate training of military, security, and police personnel to ensure they respect the law; third, adequate planning of any peace operation to prevent arbitrary loss of life as much as possible;<sup>64</sup> and, finally, provision for independent investigation and, if necessary, criminal prosecution of

---

<sup>62</sup> 'The Court does not consider that the language used in this Resolution indicates unambiguously that the Security Council intended to place Member States within the Multi-National Force under an obligation to use measures of indefinite internment without charge and without judicial guarantees, in breach of their undertakings under international human rights instrument including the Convention' (*Al Jedda v The United Kingdom* (Application No. 27021/08, Judgment, 7 July 2011, para. 105). But, see, Larsen (n.61), 380.

<sup>63</sup> Human Rights Committee, 'General Comment 6 on Article 6', 30 April 1982, §5.

<sup>64</sup> Drawing upon the European Court of Human Rights, *McCann v United Kingdom*, Judgment (App. No. 18984/91), 27 September 1995.



violators.<sup>65</sup> Access to justice for victims should also be included in the last obligation, including non-judicial avenues of redress.

Looking at the UN's doctrine and practice in this regard there are a number of deficiencies that will be pointed out.

*Whether there is UN law governing when lethal force may be used by peace operations?*

While there are a number of UN documents (more for UN police than for peacekeepers) specifying when lethal force can be used, they are primarily concerned with redefining the notion of self-defence. The detail is left to RoE for the military component of peace operations and DUF for the police element, arguably leaving a gap in which the UN should provide more precise, but generally applicable, regulations on when lethal force can be used. The key document is the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,<sup>66</sup> which is viewed in the UN system as normative.<sup>67</sup> Although it may well have become custom, its terms are limited to police enforcement. While some of its principles are also applicable to peacekeepers, there is a need for an equivalent document for UN peacekeepers. This document should still be based on human rights law, but should clarify when lethal force can be used against spoilers and other armed groups. It should also clarify the UN's position on protection of UN property, which is inconsistent with human rights standards.<sup>68</sup>

*Whether there is adequate training of personnel in respect for the law?*

Analysis of UN documents on training reveals that, for peacekeepers, the responsibility to ensure that soldiers are properly trained, presumably including basic weapons training, falls

---

<sup>65</sup> Doswald-Beck (n.44), 162, 167.

<sup>66</sup> Endorsed in UNGA Res 45/166 (1990) para. 4.

<sup>67</sup> Policy on Formed Police Units in United Nations Peacekeeping Operations (UNDPKO2009.32), para. 21.

<sup>68</sup> For efforts to promote a 'human rights' revision of the UN's standard SOFA, see the project based at Essex University:

[www.essex.ac.uk/.../model\\_sofa\\_peliminay\\_report\\_august\\_2010.pdf](http://www.essex.ac.uk/.../model_sofa_peliminay_report_august_2010.pdf)[www.essex.ac.uk/.../model\\_sofa\\_peliminay\\_report\\_august\\_2010.pdf](http://www.essex.ac.uk/.../model_sofa_peliminay_report_august_2010.pdf)

on member states, though the Secretary General is requested to prepare training materials to assist those states in this regard.<sup>69</sup>

The development of training materials at UN level and ensuring that TCNs use them are both essential if the UN is to reduce the unevenness of training within TCNs, where it can be envisaged that, left to their own devices, there will be contingents with little or no training, a number that are well trained in IHL, but not in human rights law, and others that have comprehensive training programmes.

Pre-Deployment Training Standards are, since 2007, now being produced by the UNDKO. However, they are not encouraging when considered against the applicable laws that have been identified thus far. For example, the ‘Human Rights Standard in the Use of Force’, produced in 2009, does not contain a ‘standard’ as such, but simply states that the training module on this issue will ‘provide participants with a clear understanding of the human rights implications relating to the use of force and firearms by law enforcement officials’.<sup>70</sup>

Even more worryingly, in 2011 the DPKO produced the ‘UN Protection of Civilian PDT Standards’ that, on the one hand, restate the rules on self-defence that have been identified since 1956 and, on the other, then go much further than this when contemplating mandates with Chapter VII elements. The document provides that all UN peacekeepers have an inherent right to defend themselves by using force, up to and including deadly force if necessary. In addition, peacekeepers, authorised under Chapter VII, can use such force ‘to prevent, pre-empt, and respond effectively to acts of, or imminent threat, of violence against civilians from any source, including host state bodies or authorities’.<sup>71</sup>

As a ‘standard’ this leaves a great deal to be desired, potentially encouraging broad interpretations of when deadly force can be used and when weapons can be fired, for instance ‘pre-emptively’. Furthermore, though it is true to say that the impartial enforcement of a protection mandate should not distinguish between state and non-state actors who threaten civilians, the fact is that action against the government will constitute enforcement action rather than peacekeeping.

---

<sup>69</sup> UNGA Res 49/37 (1995).

<sup>70</sup> ITS/DPET, ‘Police STM: Human Rights Standard in the Use of Force’, 4/2009, 9.

<sup>71</sup> DPKO, *UN Protection of Civilian PDT Standards* (UNDPKO, 2011) 20.

*Whether there is adequate planning of peace operations in terms of mandate, size and equipment (including weapons) to limit to the greatest degree loss of life (including the lives of UN peacekeepers, UN police and civilians)?*

Training, no matter how comprehensive, will only be effective if there has been adequate planning so that the force deployed is capable of meeting the exigencies of the situation and environment it is deployed to. This is recognised by the 2008 Capstone Document:

The Secretariat has a responsibility to provide the Security Council with an accurate assessment of the risks associated with its decision to deploy a United Nations peacekeeping operation, and ensure that its mandate and capabilities are tailored to the requirements of the situation<sup>72</sup>

However, the realities of putting a peace operation together often result in peace operations that are, at least initially, inadequate for the task. An examination of the UN Secretary General's initial reports to the UN Security Council, advising on the nature and extent of the operation for a particular situation, often reveals this as he struggles to put in place a force that is sufficient in size and adequately equipped and supported.

The reality is that in the deployment period up to full complement, the greatest danger is to civilians and to the peace process, not from the arbitrary use of force by UN personnel, but from on-going violence committed by non-state actors.

*Whether there is automatic investigation into when life is arbitrarily taken by a UN peacekeeper and provision for access to justice for victims?*

Arguably, even in the exceptional circumstances of armed conflict, independent investigation of uses of lethal force by UN peacekeepers or police, as well as when the lives of UN personnel are themselves lost, is required. In conditions short of armed conflict such investigation is clearly required under human rights law. Within the UN system, this function is performed by the Office of Internal Oversight Services (OIOS),<sup>73</sup> though its 'Investigations

---

<sup>72</sup> Capstone Document, 49.

<sup>73</sup> UNGA Res 48/218B (1994).

Manual’ of 2009<sup>74</sup> makes it clear that each TCN has ‘sovereign rights and primary responsibility’ to investigate allegations of misconduct by its military personnel. Nevertheless, OIOS investigators may play a role if the TCN so requests, or if the TCN has failed to respond to a complaint, but such an investigation is subject to the national and military law of the TCN.<sup>75</sup>

In terms of access to justice for victims, there are a number of UN laws and practices providing remedies, though they tend not to be specifically human rights focused, yet the reality is that many abuses will go unpunished and victims will remain without redress. The 1946 Convention on the Privileges and Immunities of the United Nations, which grants the UN and its agents legal immunities, still requires that the UN ‘shall make provisions for appropriate modes of settlement’ for contractual disputes or disputes of a private law character to which the UN is a party (in Article VIII, section 29). The 1990 model UN SOFA provides for the establishment of a standing claims commission for disputes or claims of a private law character,<sup>76</sup> though in practice such commissions have not been created and claims have been settled through internal claims review boards.<sup>77</sup> Furthermore, there has been considerable practice by the UN, dating back to the first forces in 1956 and 1960, by which the UN has paid compensation to injured third parties.<sup>78</sup> None of these, however, provide for a systematic system of access to justice for victims of human rights violation at the hands of UN peacekeepers or police.

## Conclusion

Throughout the history of peacekeeping, there has been a gap between the mandates agreed at the political level in the UN – in the Security Council, General Assembly and Secretariat – and the actions of peacekeepers on the ground. One only has to go back to Bosnia, during the dark days of UNPROFOR, when Chapter VII resolutions spoke of safe areas protected by UNPROFOR contingents that were wholly inadequate in military terms; or back to the mid-

---

<sup>74</sup> Available at [www.un.org/Depts/oios/pages/id\\_manual\\_mar2009.pdf](http://www.un.org/Depts/oios/pages/id_manual_mar2009.pdf).

<sup>75</sup> *Ibid.*, para 6.5.5.

<sup>76</sup> UNGA Res 45/594, Annex (1990), para. 51.

<sup>77</sup> B. Oswald, H. Durham and A. Bates (eds.), *Documents on the Law of UN Peace Operations* (Oxford University Press, 2010), 324.

<sup>78</sup> *Ibid.*, 323.

1970s when SG Waldheim stated that peacekeepers could use force to protect their mandate at a time when they were clearly restricted to a narrow concept of self-defence.

While the Security Council may feel that it has discharged its primary responsibility for peace and security by introducing Chapter VII into modern peace operations, it leaves the situation on the ground unclear.<sup>79</sup> Peacekeepers are required to use lethal force to protect civilians and the peace process. However, this chapter has argued that, in so doing, they are primarily bound by the principles of human rights law, and principles of IHL are the exception.<sup>80</sup>

While it is possible to reconcile the ‘protection mandates’ given to modern peace operations with the restrictions on the arbitrary deprivation of life contained in human rights law, care must be taken, as mandates produced by the Security Council increase pressure on peacekeepers and TCNs, not to stray into a legal no-man’s land between human rights law and humanitarian law. In this zone individuals would have neither clear rights under human rights law nor protection under the laws of war, meaning that the use of lethal force is unaccountable and open to abuse.

Any arguments for a middle ground between human rights law and the laws of war would have to be based on a conceptualisation of a *jus post bellum*, which might claim that a special regime for the use of force is necessary to secure the peace in a post-conflict, but still violent and volatile, situation.<sup>81</sup> As yet, no such sustained arguments have been made and, even when they are, it will require a further process of international negotiation and law-making to elaborate such standards. This author would argue against any underlying justification for such a development given that human rights laws, especially non-derogable ones, such as the right to life,<sup>82</sup> were framed precisely with violent situations in mind. Furthermore, human rights law is sufficiently flexible to allow peacekeepers to do their jobs within the strictures of

---

<sup>79</sup> Rowe (n.4), 47, where he eloquently explains that ‘The starting point will be the mandate. This is likely to be expressed in rather general terms, telling states where the pitch is, who the players are and the objective of the operation, but providing no clear rules to when a yellow or red card should be shown to the players’.

<sup>80</sup> See also, McLaughlin (n.3), 417. ‘Any assumption that a SC Chapter VII ‘all necessary means’ mandate either creates its own ‘third paradigm’ in relation to the use of lethal force, or is by default to be understood as invoking the IHL paradigm, runs the high risk of offending what is arguably the actual international and domestic default legal paradigm – the law enforcement paradigm, with its focus on human rights, criminal law and limiting the use of lethal force to (essentially) self-defence situations’.

<sup>81</sup> T. Weiss, ‘The Blurring Border between the Police and the Military: A Debate without Foundations’, 49 *Cooperation and Conflict* (2011) 396, 397. See generally, C. Stahn, *Jus ad Bellum, Jus in bello, Jus post Bellum?*, 17 *EJIL* (2006) 921.

<sup>82</sup> Article 4 International Covenant on Civil and Political Rights 1966.

the law. It is not human rights law that prevents peacekeepers fulfilling their functions, rather it is often a lack of military capability. Of course, there is great concern that peacekeepers use force when necessary to protect civilians under existential threat, but care must be taken to ensure that while more is done to achieve this laudable aim, the excessive use of force by peacekeepers, which may itself leads to the arbitrary deprivation of life, is not encouraged.