

The 2015 Report on *Uniting Our Strengths for Peace: a New Framework for UN Peacekeeping?*

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Introduction

A comprehensive new report on UN peace operations by a High-level Independent Panel has just appeared: *Uniting Our Strengths for Peace - Politics, Partnership and People* (hereafter the “2015 Report”).¹ In its Executive Summary the Report speaks of the changed and changing environment facing UN peace operations. “UN peace operations have proven highly adaptable and contributed significantly to the successful resolution of conflicts and to a declining number of conflicts over two decades. Today, however, there is evidence of a worrisome reversal of some of this trend and a widely shared concern that changes in conflict may be outpacing the ability of UN peace operations to respond. The spread of violent extremism, overlaid into long-simmering local or regional conflicts and the growing aspirations of populations for change, is placing pressure on governments and the international system to respond. As UN peace operations struggle to achieve their objectives, change is required to adapt them to new circumstances and to ensure their increased effectiveness and appropriate use in future.”²

The new report comes at a time of major divisions between states about the rules governing peacekeeping: there are debates as to the interpretation of the traditional principles of peacekeeping, the proper scope of the use of force by peacekeeping forces and the primary role of the Security Council in the context of its relationship with troop- contributing countries.³ Much controversy has been provoked by recent peacekeeping operations in Africa. Have the operations in Mali and the DRC brought a fundamental change of approach? If so, is this a desirable development? The divisions between states on the desirability of robust peacekeeping and on the protection of civilians were very apparent in recent General Assembly debates and in the debates of the Special Committee on Peacekeeping.⁴

The 2015 Report has been published 15 years after the influential *Brahimi Report*

on *UN Peace Operations* which had been drawn up for the UN Millennium Summit (2000).⁵ Since then there have been many significant developments. The assumption on which the *Brahimi Report* was based - that the UN would launch only one new major operation each year - has been overtaken. In the twenty-first century, there has been a massive surge in peacekeeping since 2003; this has led to concern about overstretch. The UN has experienced serious difficulties in obtaining enough personnel and equipment for its peacekeeping operations. Today there are sixteen peacekeeping operations, nine of which are in Africa. They include over 100,000 military and police personnel, compared with just 34,000 in 2000. The peacekeeping budget for the current year is nearly US\$ 8.5 billion, an apparently very large amount that exceeds the UN's current regular budget of US\$ 5.5 billion, but - to put it into perspective - an amount which is only about 0.5% of total world military spending.

The experience of peacekeeping after the *Brahimi Report* created a new awareness of the danger of relapse into conflict after a peacekeeping operation is withdrawn. For example, in the Central African Republic terrible inter-communal violence broke out in 2012 after the departure of an earlier UN peacekeeping operation. Liberia returned to conflict in 2003 after an earlier peacekeeping operation had completed its task in 1997. Somalia was without an effective and stable government for many years after the UN peacekeeping operation was withdrawn in 1995; even today the security situation is extremely fragile and the AU force, AMISOM, struggles to fulfil its mandate. This awareness of the danger of relapse has led to a renewed focus on peacebuilding. The Peacebuilding Commission set up following the recommendations of the *Brahimi Report* currently operates in six African states.⁶

Moreover, there is a corresponding focus on “multidimensional” peacekeeping operations, operations that are designed to secure the transition from conflict to stable government. Today's multidimensional peacekeeping operations are called upon not only to maintain peace and security, but also to facilitate the political process, protect civilians, assist in the disarmament, demobilization and reintegration of former combatants, support the organization of elections, protect and promote human rights and assist in restoring the rule of law. The current peacekeeping operations in Mali

(MINUSMA) and the Central African Republic (MINUSCA) were expressly given the titles of multidimensional operations: the UN Multidimensional Integrated Stabilization Missions in Mali and the CAR.⁷ The Security Council in its first general resolution on peacekeeping for 10 years, Resolution 2086 (2013), focused on multidimensional operations. It emphasized that “UN peacekeeping activities should be conducted in a manner so as to facilitate post-conflict peacebuilding, prevention of relapse into armed conflict and progress towards sustainable peace and development”; it recognized the important role of multidimensional peacekeeping missions to assist host countries, and it sets out the types of functions that they could be mandated to carry out.

Since the *Brahimi Report*, there is also an increased awareness of the contrasting danger that a UN peacekeeping operation may freeze the situation and may remain in existence indefinitely despite the lack of progress towards a political solution. The 2015 Report points out that “An older generation of small cease-fire monitoring missions has endured for decades with no end in sight.”⁸ The lack of any serious progress in resolving the decades-old political situations raised the question whether they should be ended. This is currently being debated with regard to UNFICYP in Cyprus (established to prevent further fighting between Greek Cypriots and Turkish Cypriots in 1964, and kept on following the 1974 Turkish invasion to supervise the ceasefire and maintain the buffer zone between Turkish-occupied North Cyprus and the rest of the island). Similarly, the small ceasefire monitoring mission in Jammu and Kashmir, UNGOMAP, was established in 1949 and remains today. Other long-established missions in the Middle East have run into problems as a result of the conflict in Syria.⁹ The 2015 Report recognizes that some of the ceasefire monitoring missions face threats from non-state armed groups: “The parameters for success or failure of these missions has never been fully articulated, nor has the point at which such missions should be withdrawn or replaced by another form of international engagement.”¹⁰ The Report says that, in environments where new conflict has emerged and threatens the mission, these question become more pressing. While these questions are considered, significant investments are needed to better protect and

empower mission personnel in the course of their duties.

The large-scale operation in Haiti, initially created in 2004 after the breakdown of law and order following a coup, and reconfigured after the 2010 earthquake, has also given rise to the questions how long a peacekeeping operation should continue and whether a peacekeeping operation is any longer a suitable instrument to address Haiti's problems.¹¹ The hybrid AU/UN operation UNAMID was set up in Darfur (Sudan) in 2007 following the widespread violence against civilians; it remains there today, despite the fact that for many years there was no progress towards a political solution. Hopes of an inclusive political settlement were raised following the *Doha Document for Peace in Darfur* (2011), but these have been weakened by the continuing violence.¹²

In response to these concerns that the presence of a peacekeeping operation may just freeze a situation, peacekeeping operations today typically conduct regular strategic reviews of their size and mandate, and plan for their exit strategy. For example, the government of the DRC and the UN have entered into a strategic dialogue to develop a road map and exit strategy for MONUSCO.¹³ This was set up to succeed an earlier UN peacekeeping operation, MONUC, after stability had been restored to most of the DRC. Serious violence against civilians had continued in the east, and MONUSCO was established under Security Council Resolution 1925 (2010) to use all necessary means to protect civilians, and to contribute to stabilization and peace consolidation in that difficult environment.

The 2015 Report

The 2015 Report starts by setting out the context, painting a grim picture of the challenges facing UN peacekeeping.¹⁴ Conflicts are on the rise again; the number of civil wars has increased in the last few years; there has been an increase in attacks by governments and armed groups against civilians. This increase is compounded by a rise in violent extremism. Transnational criminal networks trafficking in drugs, weapons, people and money have embedded themselves in many conflicts, feeding on them and fueling them with funds and weapons. Many conflicts are caused by bad governance; "when peaceful protests fail to bring about compromise violence often

ensues and, in its path, the reopening of historic wounds, the hardening of religious or ethnic competitive identities, regional entanglements and, at times, the accentuation of international rivalries.”

Many of today’s conflicts are less conducive to political resolution. Many result from entrenched long-term conflict punctuated by episodic relapse into large-scale violence.¹⁵ And today many UN peacekeeping operations operate in very challenging environments. According to the 2015 Report, “Many contemporary UN missions are struggling in complex political contexts and difficult operating environments. . . . A growing number of missions operate in remote and austere environments where no political agreement exists. . . . They face ongoing hostilities and parties who are unwilling to negotiate or who undermine the presence of a mission by inflicting restrictions on its freedom to operate. The challenge is multiplied in large, infrastructure-poor countries where it becomes much harder for UN missions to make their presence felt.”¹⁶ Several current UN peacekeeping operations face these types of challenges: MINUSMA in Mali, MONUSCO in the DRC, UNAMID in Darfur, and UNMISS in South Sudan. But a credibility gap has opened between the ambitious mandates and high expectations of peace operations on the one hand, and the challenges on the ground.¹⁷

The 2015 Report in its *Calls for Change* therefore proposes “four essential shifts” in the design and implementation of peace operations.¹⁸ First, politics must drive the design and implementation of peace operations. Lasting peace is achieved not through military and technical engagements, but through political solutions. Second, the full spectrum of UN peace operations must be used more flexibly to respond to changing needs on the ground.¹⁹ Third, a stronger, more inclusive peace and security partnership is needed for the future, meaning increased cooperation with regional organizations. Fourth, the UN Secretariat must become more field-focused and UN peace operations must be more people-centred. The report then goes on to set out “new approaches” for UN peace operations: conflict prevention and mediation must be brought to the fore; protection of civilians is a core obligation of the UN, but expectations and capability must converge; clarity is needed on the use of force and in the role of UN peace

operations in managing conflict. Much of the 2015 Report concerns practical matters, and the Secretary-General's Report on implementation of the 2015 Report also focuses primarily on these.²⁰ He proposes "three key changes". First, the UN with the support of member states needs to prioritize prevention and mediation; second, it needs to change the way it plans and conducts UN peace operations so that they become faster and more agile; third, it needs stronger regional partnerships.²¹

New Approaches: conflict prevention

If we look beyond the general aims set out in the 2015 Report to its more specific recommendations for reform, the similarities to the *Brahimi Report* are striking in many places. This is a clear indication that many of the *Brahimi Report*'s central recommendations have not yet been implemented. Although they may have seemed simple and sensible, in practice they proved to be elusive goals. Thus, the calls in the 2015 Report for increased focus on the prevention of conflict echo those of the *Brahimi Report*.²² The 2015 Report finds that, despite the unassailable logic of early investment in conflict prevention, to forestall the need for much larger expenditure "at the bottom of the cliff" when lives have been lost and billions of dollars lost to war, conflict prevention was still under-resourced. But the Report's calls for an international forum to agree on innovative approaches does not inspire much confidence, and the suggestion that the Security Council should engage earlier to address emerging threats, however desirable, seems sadly unlikely to be any more effective today than it has been in the past. Perhaps the call for a regular budget for the Secretariat's prevention and mediation capacities, and for internal measures to ensure attention to prevention by all UN agencies and programmes will prove of greater practical significance?²³ And it is this practical area that the Secretary-General has focused on in his report on the implementation of the 2015 Report.

New Approaches: protection of civilians by peacekeeping operations

One of the most important (and most controversial) developments since the *Brahimi Report* has been the increased emphasis on the protection of civilians by UN peacekeeping forces.²⁴ Ever since the failure of the UN forces to protect civilians from massacres in Rwanda (1994) and Srebrenica (Bosnia-Herzegovina) (1995), there has

been a greater focus on this aspect of peacekeeping. UNAMSIL in Sierra Leone was the first peacekeeping operation to be given this explicit mandate under Chapter VII in Security Council Resolution 1270 (1999). Nine of the 16 current peacekeeping operations include this task as part of their mandates. The *Brahimi Report* dealt with this aspect of peacekeeping relatively briefly. It said that all operations should be regarded as having an implied power to protect civilians; peacekeepers who witness violence against civilians should be presumed to be authorized to stop it, within their means, in support of basic UN principles. Where operations were given a broad and explicit mandate for civilian protection they should be given the specific resources necessary to implement their mandate. However, these recommendations proved difficult to implement in practice in many cases, where state authority was weak, infrastructure was defective or non-existent, and where peacekeepers were deployed into ongoing armed conflict. Many peacekeeping operations experienced problems in the implementation of this mandate. Perhaps the best known example of failure to protect was that of MONUC in the DRC; it experienced great difficulties in protecting civilians in the east of the country. Its failure to prevent rapes and massacres in 2008 - 9 led to an outcry about the ineffectiveness of the UN peacekeeping operations.²⁵

This increasingly prominent aspect of peacekeeping is one on which there are differences between states. The protection of civilians may seem an obviously laudable aim, but it is not unproblematic. First, several states argue that provisions for the protection of civilians should not serve as a pretext for intervention.²⁶ They were apparently led to take this position in response to the NATO-led operation in Libya (2011). Many asserted that the NATO military action had been taken to support the armed opposition against Colonel Gaddafi in order to secure regime change. They said that it went beyond the scope of Security Council Resolution 1973 (2011), which had authorized the use of all necessary means “to protect civilians and civilian-populated areas under threat of attack”. Russia argued that a mandate requiring the protection of civilians creates a danger that UN peacekeeping operations could compromise their neutrality and be drawn into internal political conflicts in such a way that they support one of the parties.²⁷ Second, some states have stressed that such mandates will raise

expectations and that it is important that the operations be given the resources necessary to carry out their mandate to protect civilians. In the 2014 Security Council debate on the protection of civilians several states stressed the practical problems.²⁸ Some argued that the UN operations in South Sudan and the CAR, whose mandates gave express priority to the protection of civilians, demonstrated these difficulties. When operations were first given the mandate to protect civilians, not much attention was given to the details of what this would involve. It has been left to individual operations to work out practical measures to improve their intelligence gathering and early warning systems and to involve local people in this. States continue to call for clear, detailed rules.²⁹ Third, some states have asked whether the protection of civilians is compatible with the other aims of a peacekeeping operation in cases where it has a robust mandate.³⁰ If UN forces are engaged in robust military action, this fighting may have a negative impact on civilians in the area and their protection may be more difficult. This may be seen in Security Council Resolution 2217 (2015) on MINUSCA in the CAR which provided that MINUSCA should “mitigate risks to civilians posed by its military operations.”

The 2015 Report examines the issue of protection of civilians at greater length than the *Brahimi Report*. It does not address concerns about impartiality and non-intervention and it does not consider the compatibility of the protection of civilians with robust peacekeeping. It says that it is not acceptable for the Security Council to simply stand by when an armed conflict escalates and puts civilian populations at risk of mass atrocities. The international community through the Security Council must be able to muster swift and capable responses; it should have at its disposal robust, fast-deploying, first responder capabilities. If necessary it should draw on regional organizations for a first response.

Nevertheless, the Report does recognize the difficulties involved.³¹ The Panel is concerned about the credibility and achievability of a blanket mandate in this area; there are hundreds and thousands of civilians in current UN Mission areas who are exposed to risks of violence, and the UN forces currently deployed could not protect more than a small fraction of them. Where missions are deployed into increasingly

demanding environments they are struggling to fulfil their protection obligations. There was a need to close the gap: member states must provide the mission with adequate capabilities to implement the mandate. Many missions with protection responsibilities are currently severely under-resourced. Some lack what are today commonly referred to as “critical enablers” - helicopters, engineering capacities and medical facilities. Some operate under rules that prevent the full use of these capacities because individual troop-contributing countries have different operating rules for their troops.³²

The 2015 Report says “No mission can protect all civilians at all times.” Expectations concerning the mission’s ability to protect civilians are often unrealistic. This has been a serious challenge to the UN. Its credibility has been undermined when civilians have been attacked in a peacekeeping operation’s area of operations. But it is difficult to provide practical solutions for this. The 2015 Report recommends only that missions and host governments should communicate frequently and honestly with the host population to manage expectations with regard to the mandate. It asserts that the Security Council has a major responsibility to ensure that expectations are realistic.

The 2015 Report also says that protection mandates must be linked explicitly to political solutions. To do otherwise denies the mission a viable exit strategy and provides only palliative protection for civilians.³³ A mandate focused exclusively, or even predominantly, on the protection of civilians is likely to lead to a long drawn out and ultimately unwinnable campaign. This view of the Panel indicates the need for a reappraisal of the mandates given to peacekeeping operations such as those recently created in the Central African Republic (MINUSCA) and South Sudan (UNMISS). Their mandates were drawn up in response to violence against civilians in ongoing conflicts, and the protection of civilians was made the explicit priority of the peacekeeping operations.

New approaches: Clarity on the use of force

The third “new approach” set out in the 2015 Report is the call for “clarity on the use of force and in the role of UN peace operations in managing conflict”. Again this has been the source of much disagreement between states. African states typically call

for robust action, whereas others including Russia, China and many Latin American states call for limited use of force and respect for the traditional principles of peacekeeping.³⁴

The *Brahimi Report* recommended that the UN undertake robust peacekeeping to avoid problems like those of Yugoslavia, Somalia and Rwanda. It should not leave peacekeeping operations unable to act against spoilers: “Rules of engagement should be sufficiently robust and not force UN contingents to cede the initiative to their attackers.”³⁵ However, the *Brahimi Report*’s discussion was relatively brief.³⁶ Since then many new peacekeeping operations have been set up under Chapter VII, or authorized to use all necessary means under Chapter VII in defence of their mandate or to protect civilians. In particular, the wide mandates of the peacekeeping operations in the DRC and in Mali have provoked much controversy.³⁷

The 2015 Report deals with this question at some length in its section on *The use of force for peace and protection*.³⁸ The past decade has shown that the difficulties of mandate implementation increase when there is little or no peace to keep. The UN today finds itself in more difficult operating environments. First, new challenges face ceasefire monitoring missions.³⁹ Second, multidimensional peacekeeping operations in support of a peace agreement or a political transition may be stretched thin over “large, austere operating environments” and may face spoilers who seek to undermine the peace process; the peace process may have frayed. Third, several UN missions are being called upon to undertake what the report calls “conflict management” roles in situations of violent conflict and in the absence of a viable peace process. Such missions are being asked to deter escalation, contain conflict, protect civilians and to attempt to start or revive a peace process. The concepts, tools, mission structures and doctrine originally developed for peace implementation tasks may not be well-suited for these settings.⁴⁰

The 2015 Report recommends extreme caution with regard to conflict management. In order to enable the peace operations to operate with even limited success, such missions should be deployed only if certain conditions are met. The most important of these are as follows. The mandate must be clear and achievable, reflecting the

language of the *Brahimi Report*, and Security Council Resolutions 1327 (2000) and 2086 (2013). The Report says that mandates have grown longer and less realistic; the tasks should in future be prioritized and sequenced.⁴¹ The mandate should be linked to a political strategy. UN missions given conflict management roles should be given “focused mission objectives”, working towards an agreement on cessation of hostilities, promoting political dialogue, protecting civilians and monitoring human rights. Wider civilian tasks that require a peace to keep should be curtailed. These “focused mission objectives” are clearly still ambitious in situations of violent conflict.

The 2015 Report also recommends that UN missions should be able to take a robust deterrent posture from the start. Assurances should be sought on the responsibilities and commitments of parties to the conflict as a basis for dialogue on managing the mission’s presence and activities. Missions should deploy with the necessary military and medical capabilities to deal with emergencies upon arrival. They must operate on the assumption that the use of force may be necessary from the outset to protect civilians and to defend the mission and its mandate. The Report warns that, where a viable political process cannot be established with the parties, a UN peacekeeping operation will struggle to succeed. It is clear that these conditions for the deployment of operations with a conflict management role will prove very difficult to meet in practice. The 2015 Report therefore recommends that the Security Council should consider others, including regional organizations, as first-responders. In the face of hostilities, and in the absence of fast deploying and interoperable forces, a robust military logistics system, strong command and control and ready reserves - none of which the UN has invested in or developed to date - UN missions may struggle even to reach full operating capability.⁴²

Similarly, the 2015 Report says that UN peacekeeping missions, owing to their composition and character, are not suited to military counter-terrorism operations.⁴³ They lack the specific equipment, intelligence, logistics, capabilities and specialized military preparation required. Such operations should be undertaken by the host government or by a capable regional force or an *ad hoc* coalition authorized by the Security Council. This position may be seen as a response to the experience of

MINUSMA in Mali. An uprising by separatists and various Islamist groups including AQIM (AlQaida in the Islamic Maghreb) in the north of Mali precipitated a crisis in 2012.⁴⁴ The conflict was fuelled by fighters and weapons from the Libyan conflict, and the armed groups seized control of two-thirds of Mali. The Security Council initially turned to regional organizations to respond to the crisis, but it was not quick to authorize action. The Secretary-General argued that the UN should not authorize a regional force until it had a realistic mandate and sufficient resources to achieve its aims. Accordingly, the Security Council in Resolution 2085 (2012) said that military planning would need to be further refined before operations could commence. However, Security Council discussions were overtaken by events as the rebels advanced towards the capital. France began military action against the rebels in *Operation Serval*, and ECOWAS deployed its forces with financial and logistical support from several European states.

In April 2013 the Security Council acting under Chapter VII passed Resolution 2100 (2013) which created a new multidimensional peacekeeping operation, MINUSMA, to take over from the African force. Its mandate was to “use all necessary means to carry out its mandate” in support of the transitional authorities, and to protect civilians on its own or in cooperation with the Malian authorities. The resolution reaffirmed the traditional principles of peacekeeping. It was left to the French force to take action against terrorists. However, this raised familiar problems of characterization: was it possible to determine whether an armed group was part of a separatist force (to be confronted by MINUSMA) or a terrorist group (to be left for the French forces to deal with)? Russia was the only state to express concern in the Security Council at this mandate, but it voted for the resolution, noting that the Secretary-General’s Report had made clear the need for a clear boundary between peacekeeping and peace enforcement. Russia stressed that MINUSMA’s mandate did not include offensive or counter-terrorism operations: such actions would be counter to the basic principles of peacekeeping.⁴⁵

Finally, the 2015 Report recognizes that it is the prerogative of the Security Council to authorize UN peacekeeping operations to undertake enforcement tasks, including

targeted offensive operations, as it did in Somalia in 1993 and the DRC in 2013. These mandates involve a shift from the use of force to protect civilians and UN personnel to a fundamentally different type of posture that uses offensive force to degrade, neutralize or defeat an opponent. The Report advocates extreme caution. Any such mandate task should be a time-limited, exceptional measure. They must be conducted with “a clear and achievable political end state.”⁴⁶ Where a UN peacekeeping operation is deployed in parallel with a non-UN force conducting military counter-terrorism or other offensive operations, a clear division of labour must guide their operations. When such non-UN forces depart, the UN should not be called upon to assume residual tasks beyond its capability.

This section of the Report is clearly the response to the controversial role assigned to MONUSCO in the DRC by Security Council Resolution 2098 (2013). MONUSCO had initially been created as a peacekeeping force in a post conflict environment, to protect civilians and to contribute to stabilization and peace consolidation in the east of the DRC. But there was very little security in the area, and in 2012 the M23 group mutinied against the national army and began to make major advances in the east. In response to a call by the Secretary-General and with the support of the DRC, the Security Council established a special Intervention Brigade within MONUSCO, “on an exceptional basis”. It stressed that this should not create a precedent and did not prejudice the traditional principles of peacekeeping. Resolution 2098 (2013) contains unprecedented language: the Intervention Brigade was to neutralize armed groups; it was to carry out “targeted offensive operations”, either unilaterally or jointly with the DRC army, in a robust, highly mobile and versatile manner, to prevent the expansion of armed groups.

The UK and France gave their strong support to this new departure for UN peacekeeping.⁴⁷ However, Russia and China expressed reservations. For Russia, it was important that the resolution had reaffirmed support for the traditional principles of peacekeeping; for China this should not be regarded as a precedent. There were also several calls for more consultations with troop-contributing countries (TCCs). The Intervention Brigade began operations in July 2013, and the DRC’s armed forces

defeated M23 in November 2013, with the support of MONUSCO.⁴⁸ The Secretary-General reported that MONUSCO had not in fact undertaken purely offensive operations; it had provided support to the offensive operations of the DRC's armed forces, and critical logistical support.⁴⁹

After its identification of the different types of peacekeeping operation, the 2015 Report discusses the three traditional principles of peacekeeping: consent of the parties, impartiality, and the non-use of force except in self-defence or defence of the mandate.⁵⁰ It notes that some states, including many leading TCCs, take the strong view that these principles should be upheld; other states say that they are outmoded and require adjustment. The 2015 Report essentially repeats the position of the *Brahimi Report* on the meaning of “impartiality” and “consent”, but the scope of the right to use force gives rise to difficult questions. The 2015 Report accepts the importance of the core principles where peacekeeping operations observe ceasefires or implement peace agreements, but says that they should never be used as an excuse for failure to protect civilians or defend the mission pro-actively. “Two decades of peacekeeping experience in more volatile settings calls for a flexible and progressive interpretation of these principles.”⁵¹ The obvious question is just how flexible and how progressive should the interpretation of the traditional principles be?

The 2015 Report says that self-defence is a well-recognized concept, but the concept of defence of the mandate requires clarity as to which tasks within the mandate may require the use of force. It should always include the responsibility to protect civilians and to be proactive in doing so. The Secretary-General accepts that an explicit mandate to protect civilians must include the use of force. He says that “this has been defined to mean preventive, pre-emptive and tactical use of force to protect civilians under threat of physical violence”,⁵² but he does not specify the source of this definition. The earlier debates leading up to the adoption of the Capstone doctrine on peacekeeping in 2008 had revealed marked divisions between states about the use of such language.⁵³ There are signs that the UN is now committed to a more robust approach to the protection of civilians, despite the reservations of some states. For example, UNMISS was recently authorised in Security Council Resolution 2241

(2015) to deter violence against civilians, especially through proactive deployment and “active patrolling”.

Defence of the mandate going beyond protection of civilians is also problematic, and could lead to a wide use of force, as the UN Secretary-General had recognized in the early days of peacekeeping.⁵⁴ But this is not considered at any length by the 2015 Report or the Secretary-General. Is it always possible to draw a line between the use of force in pro-active defence of the mission or defence of the mandate on the one hand, and enforcement action or counter-terrorism (which the 2015 Report regarded as generally not suitable for peacekeeping operations) on the other? The 2015 Report says that clarity as to what is required for any particular mission would be contained not in doctrine, but in clear and mission-specific statements, guidelines for TCCs and rules of engagement.⁵⁵

Empowering the Field (1): filling the commitment gap

The “new approaches” just discussed (in particular the protection of civilians and clarity on the use of force) are to be underpinned by important changes to the design and delivery of peace operations; these are discussed in the section on *Empowering the Field*. The *Brahimi Report* wrote of the “commitment gap”, the gap between the mandate that the Security Council assigned to an operation and the resources necessary for it to implement that mandate. UN peacekeeping could only be effective if member states contributed sufficient numbers of trained and equipped troops and the logistical support necessary for them to carry out their mandate. The 2015 Report returns to this fundamental issue in its discussion of new approaches for UN peace operations.

The *Brahimi Report* recommended a two-step process to avoid the problems of the commitment gap: new peacekeeping operations should not be established until member states had guaranteed sufficient personnel and equipment to enable the peacekeeping operation to carry out its mandate. But in practice this recommendation was never implemented. It ran up against the pressure on the UN and on member states to take action in response to a crisis. Even after the *Brahimi Report* it continued to be the norm rather than the exception for the UN to establish an operation before it

had the necessary resources. A central concern of the *Brahimi Report* was the need for the rapid deployment of troops and equipment, and it made detailed recommendations designed to achieve this aim, but UN peacekeeping operations today still face serious problems in obtaining personnel and equipment. In practice the UN still turns to regional organizations and to individual member states for the first response to a conflict. In Mali it was an African-led force (with France) that first responded to the advances of separatist and terrorist forces in 2013. In the CAR, when inter-communal violence escalated in 2013, it was an AU mission (with France) that was authorized to go in first, to take all necessary measures to contribute to the protection of civilians, the stabilization of the country, the restoration of state authority over the whole territory of the country.

The 2015 Report calls for rapid deployment. It says that “slow deployment is one of the greatest impediments to more effective peace operations. When a mission trickles into a highly demanding environment, it is dangerously exposed on the ground and initial high expectations turn to disappointment, frustration and anger.”⁵⁶ It recognizes that the proposals of the *Brahimi Report* on rapid deployment have not been implemented. Without its own standby capacity the UN has been unable to come close to the targets set out in the *Brahimi Report* - 30 days for a traditional mission, and 90 days for a complex mission. The average deployment time for a UN contingent was six months. The 2015 Report acknowledges that previous calls for a global standby capacity have foundered. The UN Secretary-General had first proposed a UN standing capacity in 1948, but no significant progress has been made. Accordingly the 2015 Report now proposes that a small UN vanguard capacity should be considered to allow the UN to insert a quick-responding UN military force into a new area, or to reinforce an existing mission. A reliable system of fast-responding regional or Member State capabilities is required for the future, based on national standby arrangements. This would provide a first response capacity where slower-deploying UN peace operations were not a viable option for a crisis.⁵⁷ The Secretary-General’s Report on the implementation of the 2015 Report accordingly puts forward faster and more agile peacekeeping operations as the second key change to be achieved.⁵⁸

The 2015 Report says that, given the growing needs for more advanced capabilities in missions, it is crucial to reverse the decline in contributions from many high-capability countries. As regards the supply of troops by developed states, the 2015 Report is more outspoken than the *Brahimi Report* had been. Developed states at the time of the 2015 Report made only a small contribution of troops to UN peacekeeping.⁵⁹ The special strategic military cell that they provided to UNIFIL when its size was increased and its mandate was expanded in 2006, following the Israeli invasion of Lebanon, was an exception. It remains to be seen whether Mali will prove a turning point; the Netherlands has provided a significant number of troops to MINUSMA, and other developed states have also contributed. As regards the permanent members of the Security Council, the USA currently supplies hardly any peacekeeping troops. It does, however, provide over a quarter of the peacekeeping budget. In contrast, China supplies only about 7% of the budget, but it has very significantly increased the number of troops it supplies and is currently the 8th biggest contributor.

The 2015 Report takes the position that it is particularly important that the forces of permanent members of the Security Council participate in UN peacekeeping operations, including those with protection of civilian mandates.⁶⁰ Such military participation would restore the full partnership among member states and send a strong message about the confidence of the Security Council in a mission. This could make a difference in the quality of policy deliberations at UN headquarters as much as it could impact effectiveness in the field. Accordingly, the 2015 Report says that “Members of the Security Council, and in particular its permanent members, as well as other member states with required capabilities, are encouraged to offer their troops for UN operations so as to provide these missions with essential capabilities and to signal their resolve, in particular in support of mandates to protect civilians.”

It seems that this recommendation has met receptive ears; it has certainly produced a very quick response. The USA will not itself make any significant increase in the number of troops it provides, but it did organize a meeting of over 50 states on 28 September 2015 for a Leaders’ Summit on UN Peace Operations to pledge new

commitments.⁶¹ It was reported that member states have pledged 40,000 more troops and police, more than 40 helicopters, 15 military engineering companies and 10 field hospitals.⁶² China made the largest commitment of troops: it said it would establish a standby force of 8,000 soldiers. But it expressed concern that peacekeeping should not be exploited for political ends. The basic principles of peacekeeping should be strictly followed. There are indeed concerns about the involvement of all the permanent members of the Security Council in peacekeeping, concerns that they will pursue their own political and economic ends.⁶³

Empowering the Field (2): Triangular consultations with Troop Contributing Countries

As part of the 2015 Report's consideration of how to implement its new approaches and make peacekeeping more effective, it returns to the *Brahimi Report's* recommendation that there should be a new three-way relationship between the Security Council, the UN Secretariat and troop-contributing countries (TCCs). Some progress was made on this following the *Brahimi Report*. Security Council Resolutions 1327 (2000) and 1353 (2001) made provision for a new system of cooperation. Regular meetings of the Security Council and TCCs are now held. But leading TCCs are still not content. Many speak out at debates on peacekeeping, calling for further improvements.⁶⁴ India regularly complains that the Security Council still mandates operations without adequate input from the TCCs. This is not acceptable when mandates may make peacekeepers a party to conflict, putting at risk their lives and their missions.⁶⁵ In support of its call for better consultation, it invokes Article 44 UN Charter.⁶⁶ This provides that "When the Security Council has decided to use force it shall, before calling upon a Member State not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces". Article 43 has never been implemented, but the principle set out in Article 44 is clear. It provides not just for consultation, but for participation in the decisions of the Security Council. That is, the Security Council has the primary role in the maintenance of international

peace and security, but the TCCs should also have an input into decision-making. The Non-Aligned Movement supports this position.⁶⁷

The 2015 Report accordingly returns to this question. Like the *Brahimi Report*, it says that TCCs are not sufficiently consulted in mandate formation and renewal.⁶⁸ “The lack of effective dialogue through so-called triangular consultations . . . has generated frustration on all sides, and has impacted mandate implementation.” The Security Council should now institutionalize a framework to engage TCCs early in the mandate formulation process, in accordance with prior commitments such as Security Council Resolution 1353 (2001). The Secretary-General, also reflecting the *Brahimi* position, has stressed the importance of early triangular consultations to achieve a shared understanding of the mandate, threat assessment and specific unit requirements.⁶⁹

The 2015 Report also addresses another, related problem that has emerged with regard to TCCs. Several recent operations have run into problems with “national caveats”, the restrictions imposed by TCCs on what their troops may do.⁷⁰ The 2015 Report says that the ability of field commanders to ensure performance is severely hampered by the use of caveats and national controls. It may be necessary for the Secretariat to decline an offer of troops if the caveats will impede performance. In the field any further caveats beyond those accepted at the outset cannot be condoned.⁷¹

Empowering the Field (3): strengthening global-regional partnerships

The 2015 Report devotes significantly more attention than the *Brahimi Report* to the relationship between the UN and regional organizations with regard to peacekeeping.⁷² It builds on developments since the 2005 World Summit Outcome Document, which had called for a stronger relationship.⁷³ Much has already been done since then to strengthen the relationship between the UN and regional organizations, in particular the AU, and to build up the peacekeeping capacity of the AU. The UN-AU partnership has come a long way over the past decade.⁷⁴ Recent experience in the CAR, Mali and Somalia has shown that troops from regional countries are essential as first responders, and that they have often brought political commitment, understanding of the context, and a direct link to regional political influence and leverage. As we

have seen above, the 2015 Report refers to the need to rely on regional organizations as first-responders to protect civilians, for conflict management and for counter-terrorism operations. Yet many states have cautioned that there are potential political risks to regional engagement where national interests of neighbouring countries may not be compatible with the intended direction of peace efforts.⁷⁵ In very general terms the 2015 Report now calls on the UN “to craft a collective vision for a future global and regional architecture to maintain international peace and security.” The UN Secretary-General is to “begin building a consensus for such a vision and to propose a roadmap to realize it over the next decade.” In response, the Secretary-General has announced that the UN and the AU are taking steps to finalize in 2016 a Joint UN-AU Framework for an Enhanced Partnership in Peace and Security.⁷⁶

The main practical issue (and one with constitutional implications) identified in the 2015 Report is that of financing for regional peacekeeping operations. The lack of sustained, predictable and flexible funding mechanisms to support AU peace operations undermines their sustainability and effectiveness.⁷⁷ The AU has for many years been calling for the UN to fund its regional peacekeeping operations from the UN peacekeeping budget when the AU operations were authorized by the UN Security Council; the 2015 Report now supports this call “on a case-by-case basis”. The AU in its response to the 2015 Report argues strongly for this change.⁷⁸ It does, however, expressly affirm that any enforcement action by the AU must be authorized by the UN Security Council under Chapter VII.⁷⁹

But the UN Security Council has not previously been willing to accept this proposal, and the UN Secretary-General in his report on the implementation of the 2015 Report does not accept it now: he merely requests another review of the various funding and support mechanisms.⁸⁰ He does recognize the concerns of the permanent members of the Security Council as to the constitutional propriety of funding autonomous AU peacekeeping operations from UN funds, and spells out that any financing provided by the UN would depend on institutional capability to plan, deploy and conduct peace operations effectively, and would be contingent on compliance with

UN norms, standards, and financial rules and regulations.

Conclusion

The UN Secretary-General has welcomed the 2015 Report, saying that “such windows for comprehensive reform are rare - it is essential that we act urgently, boldly and collectively.”⁸¹ But reform in this area has proved difficult in the past: conflict prevention has been an elusive goal; peacekeeping operations may not prevent relapse into conflict; their presence may freeze the situation rather than contribute to a political resolution of the conflict. Much of the 2015 Report adopts and builds on the (not fully implemented) recommendations of the earlier *Brahimi Report*. The most important obstacle to effective peacekeeping is still the lack of troops and equipment. So this latest report represents another attempt at closing the commitment gap and securing the rapid deployment necessary for peacekeeping operations to implement their mandates and to fulfil the expectations their creation has created. It contains strong recommendations that not only developed states in general, but the permanent members (P5) of the Security Council in particular, should step up their contributions of peacekeeping forces. This process has been underway since the September 2015 Leaders’ Summit on Peace Operations, but it has led to some concern that the P5 will come to dominate or to transform the nature of peacekeeping.

The Secretary-General has argued in his report on the implementation of the 2015 Report that the lack of unity among states over the scope and application of the three traditional peacekeeping principles was thwarting their adaptation.⁸² Some seek a more robust approach to peacekeeping operations; others are reluctant to accept such a change. The 2015 Report is a mixture of caution and innovation in its pursuit of “clarity on the use of force” by peacekeeping operations. It advocates extreme caution with regard to operations deployed into ongoing conflict, engaged in what the 2015 Report calls “conflict management” where there is no peace to keep. In general this should be left to others as first responders, rather than undertaken by UN peacekeepers. Also, although in theory the Security Council may authorize UN peacekeeping operations to undertake enforcement and counter-terrorism operations, in practice this should generally be left to others such as the African Union unless certain very stringent conditions are met. Many commentators had hailed the

revolutionary language of MONUSCO's mandate in the DRC and the deployment of MINUSMA in Mali as signifying the start of a new era of UN peacekeeping. Certain states had feared that these developments would transform the nature of peacekeeping and lead to the abandonment of the traditional principles. But the 2015 Report was not ready to take a radical approach on peace enforcement and counter-terrorism operations: as a rule these were still not suitable for UN peacekeeping forces.

The line between these operations and robust defence of the mandate may not be entirely clear. The 2015 Report takes a more radical approach on the protection of civilians, which it sees as a core obligation of the UN. It is here that it calls for a flexible and progressive interpretation of the traditional principles of peacekeeping. It is not swayed by the warnings of certain states that such mandates may serve as a pretext for intervention and regime change. It repeats the *Brahimi Report's* position that all peacekeeping operations have the implied power to protect civilians; it adds that where this is an express task then they should be willing and able to undertake the proactive use of force. For this robust approach to the protection of civilians to succeed, the cooperation of TCCs is crucial. At present their national caveats can undermine effective operations. But many of the major contributors are not satisfied with their current role. The primary role of the UN Security Council with regard to peacekeeping is being questioned in this regard, and with regard to the relationship of the UN and "first responders" such as the AU.

1. Hereafter the 2015 Report, 16 June 2015, available on the UN Peacekeeping website <www.org/en/peacekeeping/operations/reform.shtml>. See also the Secretary-General's Report, *The future of UN Peace operations: implementation of the recommendations of the High-level Independent Panel on Peace Operations*, UN doc S/2015/682.

2. The 2015 Report in the section on *A spectrum of peace operations*, paras 49-52, said that the Secretary-General and Member States should embrace the terminology of "UN peace operations" to denote the full spectrum of UN peace and security missions. By making flexible use of its broad spectrum of tools, the UN can determine which approach is best tailored to the conflict and the political strategy. See also the Secretary-General's Report (note 1 above), para 9. Pakistan expressed doubt about this approach in the UN General Assembly debate on the Secretary-General's Report, UN Press Release GA/11703, 12 October 2015 <<http://www.un.org/press/en/2015/ga11703.doc.htm>>.

3. This article will focus on these issues. It will not cover the sections of the 2015 Report that deal with "Addressing abuse and enhancing accountability" (paras 258-269) or with "Implementation of the women, peace and security agenda" (paras 239-243).

4. See, for example, Special Committee on Peacekeeping, 239th and 240th meetings, 17 February 2015, UN Press Release GA/PK/219; 241st and 242nd meetings, 18 February 2015, UN Press Release GA/PK/221; GA 69th session, Fourth Committee meeting, 28-31 October 2014, UN Press Release GA/SPD/567 - 570.

5. UN doc S/2000/809. See Gray, 'Peacekeeping after the Brahimi Report', 2001 *Journal of Conflict and Security Law* 267.

6. See also the 2015 *Review of Peacebuilding Architecture*, UN doc S/2015/490.

7. The 2015 Report, para 111, was critical of the use of the term "stabilization" mission, and said that it needed clarification.

8. 2015 Report, paras 22, 162

9. On UNDOF, see Secretary-General's Report UN doc S/2015/405; on UNIFIL, see Secretary-General Report UN doc S/2015/475.

10. 2015 Report, para 107.

11. See the Secretary-General's Report, UN doc S/2015/157. In accordance with SC Res 2180 (2014), the UN plans to reduce the military component of MINUSTAH from 5,021 to 2,379.

12. See Secretary-General Report, UN doc S/2015/378.

13. Secretary-General's Reports, UN doc S/2014/957; UN doc S/2015/486; SC 7529th meeting, 7 October 2015; SC Res 221 (2015).

14. 2015 Report, paras 7 - 16.

15. Ibid, para 8.

16. Ibid, para 23.

17. Ibid, para 36.

18. Ibid, paras 43-60.

19. Ibid, paras 37, 49-52. “The UN must improve its capacity to deploy appropriate and effective operational responses to support and sustain political efforts. Despite the diversity of operational tools developed by the UN over the past six decades, these tools have not been used with sufficient flexibility. . . Terms such as ‘special political missions’ and ‘peacekeeping operations’ are engrained in mindsets and the bureaucracy of the UN, but should not constrain the Organization’s ability to respond more flexibly to the needs on the ground.”

20. Secretary-General’s Report (note 1 above). This says that the Secretary-General has already taken 70 practical measures to implement the Report.

21. The Secretary-General devotes more attention to this last key change than does the 2015 Report. For the AU response to the 2015 Report, see the *Common African Position on the UN Review of Peace Operations*, AU doc PSC/PR/2(DII), 29 April 2015.

22. *Brahimi Report* (note 5 above), paras 29-47.

23. Secretary-General’s Report (note 1 above).

24. This is distinct from, but related to, the rules of the law of armed conflict on the protection of civilians during armed conflict.

25. *Keesing’s Record of World Events* (2008) 48812, 48870, 48926; (2009) 49021.

26. See, for example, Final Document of the NAM Ministerial Conference, Algiers, 26-29 May 2014, UN doc A/68/966, para 148.15; UNGA debate on the Secretary-General’s Report, UN Press Release GA/11703, 12 October 2015, <http://www.un.org/press/en/2015/ga11703.doc.htm>.

27. See, for example, SC 6903rd meeting (2013); SC 7109th meeting (2014); Special Committee on Peacekeeping Operations, 222nd - 225th meetings, 21-22 Feb 2012, UN Press Releases GA/PK/209, GA/PK/210.

28. SC 7109th meeting (2014); see also SC 7464th meeting (2015).

29. SC 7464th meeting (2015). It seems that the SC is starting to make more detailed provisions; see, for example, SC Res 2211 (2015) para 9, on MONUSCO.

30. India raised this issue at the 2013 meetings of the Special Committee on Peacekeeping, UN Press Release GA/PK/212, 213, 19-20 Feb 2013.

31.2015 Report, paras 80-102.

32.The fourth recommendation by the 2015 Report is that “Any national caveats beyond the national restrictions expressly accepted by the Secretariat at the outset should be treated as disobedience of lawful command.” On TCCs, see text at notes 48, 66 below.

33.2015 Report, para 100.

34.See, for example, SC 7169th meeting (2014); UNGA 69th session, Fourth Committee meeting, 28-31 October 2014, UN Press Release GA/SPD/567 - 70.

35.*Brahimi Report*, page x.

36.*Brahimi Report*, paras 48-55.

37.SC 7196th meeting (2014); GA 69th session, Fourth Committee meeting, 28-31 October 2014, UN Press Release GA/SPD/567-570.

38.2015 Report, paras 103-126.

39.See text at note 10 above.

40.2015 Report, para 112.

41.Ibid, para 173. The Secretary-General’s Report (note 1 above), paras 57-60, supports this proposal.

42.2015 Report, para 115.

43.Ibid, para 116. This position was supported by several states (India, Pakistan, Mexico, Russia, Argentina) in the UNGA debate on the Secretary-General’s report, UN Press Release GA/11703, 12 October 2015 <<http://www.un.org/press/en/2015/ga11703.doc.htm>>.

44.Secretary-General’s Reports, UN docs S/2012/894, S/2013/189.

45.SC 6952nd meeting (2013).

46.2015 Report, paras 118-120.

47.SC 6943rd meeting (2013).

48.Reports of the Secretary-General, UN docs S/2013/757, paras 17-28, 37-40; S/2013/773.

49.Reports of the Secretary-General, UN docs S/2013/388; S/2013/633; S/2013/648; S/2013/773.

50.2015 Report, paras 121-126.

51.Ibid, para 122.

52. Secretary-General's Report (note 1 above), para 18.

53. See UN Press Releases GA/PK/193, 27 February 2007; GA/SPD/382, 31 October 2007.

54. See Gray, *International Law and the Use of Force* (3rd edn, 2008), page 263.

55. 2015 Report, para 126.

56. *Ibid*, para 185.

57. *Ibid*, para 189.

58. Secretary-General's Report (note 1 above), paras 76-102. He said that currently "At least 20 distinct steps are involved in engaging and deploying uniformed personnel, requiring the coordination of four different divisions within three separate departments. Current processes, when applied to volatile, poorly resourced and often remote environments, are proving ineffective."

59. For Lakhdar Brahimi, the chair of the panel which produced the *Brahimi Report*, speaking to the UN General Assembly on the tenth anniversary of his panel's report, "Another slogan of mine is that it is not an acceptable division of responsibility that the rich contribute money and the poor contribute blood to the common cause of maintaining peace and security." 64th GA Thematic Debate on Peacekeeping, UN Press Release GA/10953, 22 June 2010.

60. Such participation had been deliberately avoided during the Cold War to prevent the politicization of peacekeeping.

61. UN News centre, World leaders recommit to modernize 120,000 strong UN peacekeeping force, 28 September 2015 <www.un.org/apps/news/story.asp?NewsID=52015>.

62. C. McGreal, 'UN Members pledge 30,000 more peacekeepers after US push', *The Guardian*, 28 September 2015.

63. See *SIPRI Yearbook 2015*, Summary, page 8.

64. See, for example, Special Committee on Peacekeeping, 239th and 240th meetings, 17 February 2015, UN Press Release GA/PK/219; 241st and 242nd meetings, 18 February 2015, UN Press Release GA/PK/221.

65. For example, it recently made these arguments at the Leaders' Summit on Peace Operations, C. McGreal, 'UN Members pledge 30,000 more peacekeepers after US push', *The Guardian*, 28 September 2015.

66. See, for example, India's speech in the UNGA debate on the Secretary-General's report, UN Press Release GA/11703, 12 October 2015, <<http://www.un.org/press/en/2015/ga11703.doc.htm>>.

67. Final Document of the NAM Ministerial Conference, Algiers, 26-29 May 2014, UN doc A/68/966, paras 93.3, 148.19.

68.2015 Report, paras 30, 179.

69.Secretary-General Report (note 1 above), paras 61-63.

70.See discussion at the SC 7464th meeting (2015).

71.2015 Report, para 208.

72.Ibid, paras 52-58, 219-232.

73.UN doc A/60/L.1 (2005). See Gray, *International Law and the Use of Force* (3rd edn 372-378).

74.2015 Report, para 225.

75.Ibid, para 224.

76.Secretary-General's Report (note 1 above), para 47.

77.2015 Report, para 230-233.

78.*Common African Position on the UN Review of Peace Operations*, AU doc PSC/PR/2(DII), 29 April 2015, para 24.

79.Ibid, para 1. This had been challenged by some commentators who supported a more autonomous role for regional organizations under a flexible interpretation of Article 53 of the UN Charter: see, for example, Franck, *Recourse to Force* (2002)162.

80.Secretary-General's Report (note 1 above), para 48.

81.UN Press Release SG/SM/17138-PKO/523,
<www.un.org/press/en/2015/sgsm17138.doc.htm>.

82.Secretary-General's Report (note 1 above), para 4.