Policy Brief
[8 / 2014]

Indian Perspectives on the Use of Force and the Growing Robustness of UN Peacekeeping

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Summary

This policy brief provides a perspective on the use of force and growing robustness of recent UN peacekeeping operations, such as MONUSCO in DR Congo and MINUSMA in Mali. It examines the evolution of UN peacekeeping, and looks at India's experience and how India views the use of force, growing robustness and recent developments in UN peacekeeping operations.

India has extensive experience with the practice of UN peacekeeping and has been a major contributor since its inception. In recent years, the role of peacekeeping has expanded to include the protection of civilians and observing the rule of law. However, the use of force and growing robustness associated with peacekeeping appear to contain an inherent contradiction: peacekeeping operations are intended to have a robust mandate in themselves in order to achieve their desired end states. Recent UN peacekeeping missions like MONUSCO and MINUSMA have been guided by more robust mandates that could allow for more proactive implementation, resulting in new possibilities as well as new challenges. While constant adaptation in addressing emerging challenges is important, it must be weighed against implications in the field and must not compromise or dilute the core UN principles of peacekeeping.

Introduction

Peacekeeping has been the flagship enterprise of the United Nations since the first peacekeepers donned their 'Blue Helmets'. Faith in UN peacekeeping has become so deeply embedded that people in conflict-affected countries expect that with the arrival of the Blue Helmets, violence, deprivation and despair will no longer rule their lives. They hope that the peacekeepers will provide them with safety, security, food, shelter and medicine. Peacekeeping has evolved rapidly from a traditional, primarily military, model of observing cease-fires and enforced separation after inter-state wars, to incorporate a complex model where many elements, military and civilian, work together to maintain peace in the dangerous aftermath of violent conflict. 'Peacebuilding' is a term of more recent origin: it refers to activities undertaken in the

mid- to long term after conflict, aimed at re-assembling the foundations of peace and providing the tools for building something that is more than simply the absence of war.[1]

Evolution of UN Peacekeeping

Over the years, UN peacekeeping has become multidirectional. Its mandates have expanded to include protection of civilians, confidence-building measures, electoral process, rule of law, and economic and social developments. It is therefore important that the key requirements of peacekeeping are adequately resourced and its structures strengthened. At the same time post-conflict situations and those of prolonged conflict demand that serious attention be paid to building basic structures of government and providing basic services, without which the chances of a relapse into conflict multiply manifold.[2]

While most peacekeeping operations have served their purpose well, the past two decades have seen some quantitative changes in peacekeeping operations. This has been necessitated by the fact that recent conflicts have tended to be intra-state, and the major combatants have not been the national armed forces of the state, but militias, irregulars or para-military forces. Most of the victims of such conflicts have been innocent civilians. Another change is that the demands and responsibilities of most ongoing peacekeeping operations have extended well beyond those of traditional peacekeeping. Some current operations include disarming and demobilisation of troops and armed para-militaries or irregulars, promotion of national reconciliation, restoration of effective government and rule of law mechanisms, the organisation and monitoring of elections, provision of broader support to humanitarian aid missions, including escort of relief convoys, and protection of safe areas. Over the years, the UN peacekeeping missions have become more expensive, more complex and more dangerous.[3]

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1   Singh, PK et al., eds, *Civilian Capacity Building for Peace Operations in a Changing World Order: An Indian Perspective*, New Delhi: USI 2013, p 1.
2   Ibid, p 2.
3   Nambiar, Satish Lt Gen, For the Honour of India: A History of Indian Peacekeeping, New Delhi: USI 2009, p 6.

India's Experience with UN Peacekeeping

In recent decades, India has experienced a transformation, leaving behind its colonial legacy and becoming a modern, dynamic democratic nation with a rapidly growing economy. This experience on the home front has made Indian peacekeepers instinctively realise that no peace can be effective unless it is accompanied by growth of local institutions. Therefore, Indian peacekeepers in various UN missions have undertaken conscious efforts to assist local authorities in restoring national structures that had collapsed during conflict. They have taken on peacebuilding roles and helped to restore administrative processes, strengthened local policing and activated judicial mechanisms in the areas where they have served. They have worked through indigenous mechanisms for conflict resolution and mediation in order to strengthen local institutions so that they become the foundations of a peaceful society. Indian peacekeepers have also sought to get educational institutions to function, and have provided services like livestock clinics to help spur local economies.[4]

India stands solidly committed to assisting the UN in the maintenance of international peace and security. It has a proud history of UN peacekeeping dating back to its inception in the 1950s. India has participated in some of the world's most difficult peacekeeping missions, and over 176,000 Indian troops have donned the Blue Beret in 46 UN missions to date. As of June 2014, India is the second largest troop contributor, with 8,123 personnel deployed to nine UN Peacekeeping Missions; of these, 51 are military experts and 991 are police personnel, including the first Female Formed Police Unit under the UN.[5]

Use of Force and the Growing Robustness of UN Peacekeeping

The concept of use of force and the growing robustness of UN peacekeeping involves an inherent contradiction. All UN peacekeeping operations should be robust in themselves, and the use of force is incorporated in that idea. As envisaged under the UN Charter, peacekeeping was meant to serve as an inter-positional buffer, comprising an armed observation force, positioned to prevent adversaries from violating a ceasefire or peace agreement. Peacekeepers helped keep apart the parties to a truce; they prevented cross-border forays or encounters and deployed neutral observers to ensure border separation.[6]

In the classical view, at least three conditions must be met for peacekeeping to work: first, consent of parties to the peacekeepers' presence, upon entry and throughout the mission; second, the minimal use of force, employing arms only in self-defence; and third, neutrality between the parties, principally because peacekeeping was not intended to change the outcome of a war or conflict.[7]

In the last two decades, however, peacekeeping has become a new kind of operation. Not confined to inter-positional observation or monitoring a peace accord, it has encompassed attempts to de-conflict and demobilise opposing forces even before a ceasefire has been ensured. UN forces have gradually become involved in tasks ranging from reconstruction, disarming rebel forces and providing immediate assistance to IDPs, to organising elections for post-conflict governments: i.e., considerable civilian capacity-building. With peacekeeping having involved itself in capacity building as well, the UN is turning into a full-fledged provider of institution building for post-conflict societies, in coordination with multiple regional and international agencies and organisations.[8]

Ever since the First Gulf War, technologically superior coalition forces have largely undertaken peace-enforcement, peace-building and peacekeeping missions and crisis-management efforts. While the UN has mandated most such operations, it has in an individual capacity been left to undertake lower-risk missions. This period has also witnessed the UN progressing towards further development of new doctrines while simultaneously revisiting existing ones: the Brahimi Report, the Capstone Doctrine and the New Horizon discussions all show a concern for robustness. Here it should be noted that even strongly mandated coalition forces have encountered setbacks that they have sought to overcome by adopting various strategies – or, in the worst-case scenario, abandoning the mission itself. This implies that while the UN may be called upon to face difficult situations in the future as well, peacekeeping will continue to be undertaken with consent rather than compulsion, involving political processes rather than force. However, greater robustness will enhance the UN's ability to control the crisis-ridden operational area, while simultaneously protecting the peace process and the people and parties involved.[9]

While on one hand, the UN Working Group on the Use of Mercenaries has been extremely critical of private security contractors, the UN is increasingly employing Private Military Security Companies (PMSC) in its various missions. Although PMSC personnel have not been deployed in combat, the UN's reliance on such firms is growing as its own personnel are increasingly being targeted in conflict zones. One result of the use of PMSCs to provide protection for UN staff has been that its personnel have become more vulnerable to attacks. That is indeed a cause for concern, and could even pose a challenge to the perceived neutrality of UN peacekeeping operations. The very ethos of the UN as a body dealing with states and not with mercenaries could come in doubt.

Use of Force

The UN Charter acknowledges the necessary and legitimate use of force to ensure the safety of an operation or a population. However it does not endorse the exercise of force as a mechanism by which the operation achieves its objectives, especially the consent of the parties.[10] The term 'use of force' relates to the employment of any means necessary to bring a volatile situation to a more manageable and or resolved state, and covers actions from simple deployment of unarmed personnel and or contingents in response to a threat situation to those personnel or units /sub-units actually using their capabilities to the full. However, that use of force is not to be the decisive tool in peacekeeping. The Capstone Doctrine clearly states:

> "The ultimate aim of the use of force is to influence and deter spoilers working against the peace process or seeking to harm civilians; and not to seek their military defeat.

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6   Ruth Wedgwood, *United Nations Peacekeeping Operations and the Use of Force,* p 2, available at http:// digital commons.law. yale.edu/cgi/viewcontent.cgi?article=3272&context=fss_papers

7   Ibid. p 3.

8   Ibid, p 5.

9   Sartre, Patrice, *Making UN Peacekeeping More Robust: Protecting the Mission*, Persuading the Actors, IPI, August 2011, p 6.

10 Ibid., p 7.

The use of force by a United Nations peacekeeping operation should always be calibrated in a precise, proportional and appropriate manner, within the principle of the minimum force necessary to achieve the desired effect, while sustaining consent for the mission and its mandate". [11]

But can robust peacekeeping be implemented by the limited use of force – or would the non-use of force render peacekeeping weak? The corollary to this would be that not using force to meet the assigned objectives may eventually encourage troublemakers rather than deterring or dissuading them.[12] Also, modern-day asymmetric conflicts, involving a high degree of force, have shown that the use of force itself can confer vulnerability, and also demonstrate that vulnerability to adversaries using less force. So, the next question follows: what sort of use of force is necessary and acceptable in peacekeeping operations?[13]

The UN doctrine limits the use of force to actions aimed at avoiding resultant war fighting. The use of force clearly remains limited to the extent of peacekeeping and for legally and physically ensuring the safety of the local people, the peacekeeping troops involved and the mandate itself. If the justification for use of force in peace operations – the right to self-defence, which is the current justification – is to be further strengthened, it should be formulated as the duty or responsibility to protect. While self-defence can only be defensive, the right to protect can include a degree of temporary offence.[14]

Robustness of UN Peacekeeping

Robust peacekeeping comprises a posture that demonstrates willingness, capacity, and capability to deter and confront, also through the use of force when necessary, obstructions to the implementation of the UN's mandate. The desired end-state of a robust operation would be the protection of the local population as well as the peace mission itself. To ensure effectiveness, more robustness is sometimes demanded – but it must be remembered that more force may not always mean greater effectiveness, as peacekeeping does not in the first place attempt to achieve its objective by the use of force. That said, in the overall interest of peace, peacekeeping operations must retain their ability and freedom of action to control a crisis-ridden area, if not dominate it completely, towards eventually achieving the political aim, which is the prime objective of robustness.[15]

In authorising any mission, the UN must ensure that its peacekeepers do not themselves become the victims of the conflict. The UN also has the duty to stipulate such rules of engagement for its peacekeepers that provide them the means of robustness to not only ensure peace, but also be insured against unfair accusations of violation. Here a difficult compromise must be made between the physical safety of the members of a peace operation and their legal protection.[16]

The UN has had to supplement the Charter progressively, if not in law then at least in doctrine, with what the international community has called the 'responsibility to protect' (or R2P). Acknowledging the failure to respond adequately to the most hei-

nous crimes known to humanity, the UN in 2005 made a commitment, through R2P, to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity: [17]

(a) The state carries the primary responsibility for the protection of populations from genocide, war crimes, crimes against humanity and ethnic cleansing.
(b) The international community has a responsibility to assist states in fulfilling this responsibility.
(c) The international community should use appropriate diplomatic, humanitarian and other peaceful means to protect populations from these crimes. If a state fails to protect its populations or is in fact the perpetrator of crimes, the international community must be prepared to take stronger measures, including the collective use of force through the UN Security Council.

Thus, robust peacekeeping and responsibility to protect seem closely related, with the former appearing to be a pre-condition for the latter.[18] While R2P is well intended, it should not become a basis or pretext for regime change, as has been the case in certain coalition operations conducted in recent years. The goal should be to strengthen the R2P doctrine so that it can become an enabler for future international diplomacy and protection of civilians.

Indian Perspectives on the Use of Force and Growing Robustness of UN Peacekeeping

The statement by Ambassador Asoke Kumar Mukerji, India's permanent representative at the UN, on 19 December 2013 sums up the Indian view:[19]

"India believes that peacekeeping has been a critical instrument of the United Nations in maintaining international peace and security. Its collaborative character infuses it with a unique legitimacy that defines its strength. The core values of UN peacekeeping explain its enduring relevance. Principles of consent, impartiality, and non-use of force except in self-defence and in defence of the mandate have evolved many transitions that peacekeeping has witnessed from truce-supervision missions of yesteryears to multidimensional mandates of today. While the United Nations, to further strengthen its peacekeeping operations, has over a period of time evolved different strategies to address the ever emerging complex security scenarios, a cautious and pragmatic approach in application of these new strategies is crucial to ensure that such operations continue to be viable and do not become counterproductive".

In the interests of peace and security, the UN Security Council authorised a 'robust mandate' with the deployment of an intervention brigade (Force Intervention Brigade, FIB) to reinforce the overall mandate in MONUSCO to protect civilians and to stabilise the eastern part of the DR Congo. This special mandate to carry out offensive operations to neutralise armed groups has implications: FIB and peacekeeping units operating under one command, to implement a single mandate but with differ-

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11 DPKO Capstone Doctrine, p 35 available at http://pbpu.unlb.org/pbps/library/capstone_doctrine_eNg.pdf.
12 Sartre, op. cit., p 8.
13 Ibid.
14 Ibid, p 9.
15 Ibid, p 10.
16 Ibid.

17 *The Responsibility to Protect*, available at http://www.responsibilitytoprotect.org/index.php/about-rtop.
18 Sartre, op. cit., p 11.
19 Statement by Ambassador Asoke Kumar Mukerji, Permanent Representative of India to the UN, at High-Level Seminar on UN Peacekeeping – Blue Helmets: New Frontiers, ECOSOC Chambers, 19 December 2013.

ent levels of force posture and with no differentiation in physical appearance, are in fact on the ground inviting attacks on traditional peacekeepers, especially by militia groups opposed to the country's recognised government.[20] The mandating of the FIB is one of many decisions taken by the UN without a holistic consideration of the full potential of the extant capacities and chain of command in the mission. Also with numerous missions and agencies sanctioned under different mandates and under different chapters, but operating in close proximity in one area, a unified command structure needs to be put into place. That would enable better inter-agency coordination, better command and administrative functioning and cohesiveness, in the end enhancing operational capacity. Sanctioning of the FIB without a full analysis of the roles and tasks of the approved sanctioned contingents, especially the already available reserves, should be a cause for concern.

Given the increasing intensity and recurrence of attacks on peacekeepers, the UN must undertake concrete measures to ensure prosecution, and bringing to justice those militia and non-state actors who perpetrate attacks on peacekeepers. In order to have a deterrent effect, justice must be quick, and must be seen to be delivered. A related issue of robust mandate is the impact on the traditional legal immunity from prosecution of UN peacekeepers operating under the pre-robust mandate regime, and the implications of robust mandates on this legal immunity. Urgent attention must be paid to the issue of UN peacekeepers operating under robust mandates being legally considered 'enemy combatants' or 'party to the conflict' under international law, or not. [21]

Robust mandates have invariably required the employment of more sophisticated technologies like Unmanned Aerial Vehicles (UAVs or 'drones') and the Counter Battery Radars. The implications for the sovereignty of the country where such technology is deployed need assessment, for cost-benefit analysis and legal aspects of surveillance as well as intelligence gathering, sharing and the use of such data for peacekeeping operations. Operations at mission level are in practice mostly tactical, comprising patrols, check points, crowd/riot control, convoy protection and support. An undue emphasis on such technology must be approached with cau-

tion. However, if the mandate so requires, in order to ensure better domain awareness and area intelligence, the use of satellite imagery may provide better value for money.

Conclusions and Recommendations

The line between the use of force and the growing robustness of UN peacekeeping is very thin and blurred. Determining how far UN forces can or should go in applying force can be problematic. There appears to be no clear differentiation between robust peacekeeping and peace enforcement. During an ongoing operation in a complex conflict with a high degree of fluidity, the differences at the tactical level are likely to be almost indistinguishable. This makes it even more important that commanders on the ground are guided by their mandate and by clear and concise Rules of Engagement, and are prepared to use the forces at their disposal prudently, with deliberate purpose and for effect.

Every UN mission will have its own framework as to the goals, tasks and constraints from which the commanders must determine if and how to apply force robustly – provided they have been unambiguously mandated to do so. In theory, there is ample scope for UN forces to apply robust peacekeeping; but in practice the extent to which this can be doctrinally embedded in the UN is greatly restricted by the organization's political and institutional constraints on the effective use of force. This aspect of peacekeeping, namely the use of force, needs change and greater clarity in quantification. The standard language of the mandate authorising military action – 'to take all necessary measures or means' – is vague, too permissive and perhaps ambiguous. It must be made more explicit in form and content.

When existing mandates become more robust, the UN must ensure that deployed troops are capable of defending not only themselves, both physically and legally, but other mission components as well. The promulgated rules of engagement should be sufficiently robust, clear and concise to ensure that the initiative always remains with the UN-deployed troops and is never ceded to the adversary. While constant adaptation in addressing emerging challenges is important, this should be weighed against implications on the field, and must not compromise or dilute the core UN principles of peacekeeping.[23]

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20 Ibid.

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20 Mukerji, op. cit., p 2.

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