

UNITED NATIONS MANDATES AND UNITED NATIONS PEACE SUPPORT OPERATIONS

I. BACKGROUND

Whether involved in Preventive Diplomacy, Peacemaking, Peacekeeping, Peace Enforcement, or post-conflict Peace-building or humanitarian relief operations, United Nations (UN) action is considered legal, under international law, when it is taken in accordance with the UN Charter. Using a legal analogy, if the UN Charter is, in essence, the “constitutional” basis for UN action, then Security Council Resolutions concerning a particular course of events become the “statutory” basis that gives legality to the actions being taken by operatives on behalf of the United Nations. (The same could be said for the resolutions of any regional or interested state coalition which direct action in accordance with the authority of the Security Council previously provided under Chapter VIII of the UN Charter.) The authority of the Security Council to act is clearly vested in it by the Charter and it is these resolutions or “mandates” that become, continuing the legal analogy, the “law of the case.”

II. MANDATE DILEMMA

Security Council resolutions or mandates are the basis on which the United Nations Department of Peacekeeping Operations (UNDPKO) and UN peace operators formulate their operational plans for a particular peace support operation. Whether at the strategic level in UN Headquarters or the operational and tactical levels in the field, it is the language of the mandate which provides the political and operational parameters that, in turn, control all planning and other operational guidance including, but not limited to, the geographic location of the operation, the foundation for the Rules of Engagement for the operation, and the size and length of the particular peace support operation.

The history of events during the 1990’s showed that Security Council resolutions, which almost always reflect political compromise within the Council, are political statements that do not always easily translate into military guidance for peace support operators on the ground. Unlike a national command authority which works closely with the military to devise the military solutions to a problem, the Security Council has no standing force or command staff, as initially envisioned under Chapter VII, which can support a like process. While the Council does receive in-depth situation assessments from UNDPKO and suggestions for formulating missions from the Secretary General (SG) in an SG’s report on a particular situation, the Council must first pronounce the mandate and then UNDPKO and the ad hoc military command for that operation must react to that mandate (or changes to the original mandate) and direct and conduct operations accordingly.

Because the Security Council rarely speaks as one, the UN process does not lend itself well to an ongoing dialogue between military commanders and a “Commander in Chief,” as happens in most democracies involved in a military action. Furthermore, it is not a system that has historically reacted quickly to changing circumstances on the ground. So, if the

mandate has structured the force for, as an example, a Chapter VI mission and then alters the mandate to Chapter VII, it will be months before the manpower and equipment can be shipped in to meet that mandate. (For example: In part due to a lack of manpower and equipment, the UN mission in Rwanda (UNAMIR) in April 1994 could do little to stop the genocide because at the time of the massacres, UNAMIR was a mandated Chapter VI operation stationed in Rwanda to help the national reconciliation process following the Arusha Accords, and its limited personnel and equipment resources reflected the relatively benign nature of the mission implied by a Chapter VI mandate (resolution) that had been passed in 1993.) Finally, military leaders serving as the Force Commander or as country contingent commanders are tightly controlled based on the political nature of the mission and this system rarely allows, or even encourages, dramatic, independent leadership at the operational level.

Therefore, it is understandable that some military operators through the years, and particularly with the missions for Yugoslavia and Somalia in the 1990s, have been critical of mandates and the system that produces them. Traditionally military commanders prefer clear guidance from elected civilian leaders and crisp decision making ability. Unless and until major changes (which would dramatically alter the Security Council's authority under the Charter) are made in the way command guidance flows to a UN force, mandates and the language of them will always create the possibility of discord between diplomats and military peace support operators. They may also create confusion in the field at all levels of command.

III. MANDATE REALITIES

- A. UN forces are not legally permitted to take action that is not set out by a Security Council Resolution. Therefore, a careful reading and universal understanding of the mandate is necessary to achieve a focused and mutual perspective of what is required to be done by all participating countries and their forces. (For example, a UN mission could not cross international borders in pursuit of armed aggressors without authorization to do so in the mandate.)

- B. As the UN attempts to react to changing circumstances at the scene, changing mandates have become standard for UN operations. Unfortunately, the language of a mandate may be difficult to interpret in large part because the language is a reflection of the political compromise and possible "arm twisting" that it took to get any agreement, whatsoever, for the operation in the Security Council. Moreover, the ripple effect that these changes or the unclear language in the mandate may have on the military forces and other mission members and assisting organizations in the field, can be extraordinary. (For example, when the mandate directs the mission "to contribute to the creation of the necessary security conditions for the provision of humanitarian assistance" it opens the door for varying interpretations of the amount of force that should be applied to: "1) guaranteeing; 2) ensuring; 3) assisting in; 4) facilitating; 5) observing or 6) any combination thereof" the provision of humanitarian assistance.)

- C. Mixed mandates, which include both classic Chapter VI and Chapter VII actions, can create real difficulties in the planning and execution phase of a peace operation. As “peacekeeping” has moved beyond traditional Chapter VI peacekeeping to multi-dimensional peace support operations, these problems have become even more challenging. A typical example of this mixture would be a Chapter VI mission which also requires the mission “to ensure” the delivery of humanitarian aid. It may be necessary to use force in excess of self-defense to ensure the delivery of that aid, thus the dilemma for the operators.
- D. When the language used in the Security Council Resolution is unclear, misleading, or contradictory with other language contained in the same or a previously referred to resolution, the problem is multiplied geometrically. This was a major problem in Yugoslavia from 1992-1994 where succeeding mandates often contradicted their predecessors. Given the lessons learned from the 1990s as well as the present emphasis on carefully drafted mandates, this situation is far less likely to occur today.
- E. Military and police operators, however, must be continually mindful that no language in the mandate can contradict or overcome the basic human right to self-defense inherent to any individual (a “golden rule” that has unfortunately been misunderstood by some individuals and/or contingents in the recent past) or the need to follow internationally recognized legal norms and human rights principles in all dealings and operations.

IV. MANDATES IN GENERAL

- A. Authority of the Security Council. The UN Charter, while not referring to peace support operations by name, gives control of such UN activities to the Security Council with advice from the Secretary General and, at times, the General Assembly.
 - 1. Article 24. (1) "... Members confer on the Security Council primary responsibility for the maintenance of international peace and security and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf." (2) "... The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII and XII."
 - 2. Articles 33 - 54. The language of each article makes it clear that it is the Security Council that has the authority to take, direct, or monitor the specific action taken pursuant to these articles which include all Chapter VI, VII and VIII articles which, in turn, form the litany of options available for peace support operations to the Security Council.
- B. General Practice. While Articles 45-47 contemplate a standing, or, at least, stand-by UN military force, the realities of the Cold War following World War II made formation of such a force impossible. While present thinking may be inclined to

suggest a Rapid Reaction force or at least a deployable standing Headquarters Unit, those recommendations have met with considerable resistance. Thus, for now and the foreseeable future, every operation has been and will be a unique event with all actions of the mission directed by the applicable mandates as opposed to any “standing orders” given to any standing UN force.

1. Mandates for Chapter VI actions specifically do not refer to Chapter VI. Rather the drafting technique for Chapter VI actions is to dictate requirements via so-called “action verbs” in each portion of the mandate. (For example a Chapter VI task would be “to monitor the quartering of forces.”)
 2. Mandates for Chapter VII actions, however, specifically note that the Security Council is acting pursuant to its authority under Chapter VII in ordering the specific action and must always first find and declare that the situation creates “a threat to international peace and security.” (An example of a Chapter VII task would be “to ensure the protection of UN personnel, facilities, installations and equipment” as well as the “security and freedom of movement of” the mission’s personnel.)
 3. Authority to take action by a coalition can specifically be mandated by specific referral to Chapter VIII or there can be no mention of Chapter VIII in the mandate. Within the coalition’s mandate, there may be authorization to operate under Chapter VII, if there is none and simply action verbs, the coalition would have to conduct its operations in accord with Chapter VI.
- C. Underlying Legal Principle. As mandates are the legal authorization for action, it is important that the international community, as well as the UN or authorized regional or coalition forces themselves, be clear on what can and cannot be done according to the mandate. This is an issue that goes beyond the language of the mandate itself, although clear language certainly is both desired and required, because the language presumes that actions that are taken in accordance with the mandates will be done in compliance with international law and the Rule of Law in general.
- D. Mandates usually (and hopefully) include:
1. The role of the peace support operation force.
 2. The mission of the peace support operation’s organization.
 3. The tasks or functions to be performed.
 4. The size and organization of the force or mission.
 5. The authority for the Secretary General to appoint a Special Representative of the Secretary General (SRSG) and a Force Commander, as well as any

special mediators and their terms of reference.

6. The nomination of the lead UN agency responsible for the operation.
 7. General arrangements for financial and logistical support.
 8. The division of UN, coalition and national responsibilities.
 9. The time limit of the mandate.
 10. The terms or conditions the host country intends to impose on the presence of the force or mission.
 11. Statements of the rights and immunities of the force or mission members.
 12. A host of social, political and diplomatic concerns raised by the situation to include, but not be limited to: 1) thanking a regional organization for their contribution to maintaining the peace or the need to regard, and 2) showing concern for child soldiers or for the need to end impunity for ongoing violations of human rights.
- E. Loss of "Impartiality and Neutrality." There are three key sections of mandates in the past 15 years that, in particular, have led peace support operators to forfeit the consent of the parties, by appearing to behave in a way that was not impartial and/or to use force other than in self-defense. This was true whether the mandate was a Chapter VI or VII mandate. However, even with Chapter VII authority the Force Commander often found that his force was unable to carry out the mandate and/or to adequately defend either itself or possible civilian victims because of the circumstances and/or the resources made available to him by the Security Council.

Those three general tasks were:

1. Protecting humanitarian operations during continuing warfare.
2. Protecting civilian populations in designated safe areas.
3. Determining how to extend the Rules of Engagement to protection of civilian non-combatants who are the victims of crime and atrocities.

V. EXAMPLES OF SPECIFIC MANDATES

For a full understanding of a specific UN mandate the reader always needs to recall: 1) the historical context of the specific operation approved by the Security Council; 2) the specific recommendations of the Secretary General in his SG's Report concerning the proposed mission; and 3) the host of social, economic, humanitarian and political concerns that have

been included in the mandates when the UN is attempting to structure the rebuilding of sovereign state torn apart by intrastate conflict.

- A. Mandate for Burundi (Resolution 1545 of 21 May 2004). This is a Chapter VII peace support operation designed to follow up on the efforts of the African Mission in Burundi (AMIB) in order to support and help implement the efforts of Burundians to restore lasting peace and bring about national reconciliation as agreed to in the Arusha Agreement.
1. Typical of missions in 2004 it is a Chapter VII mission, although the parties have consented to the UN mission and requested it. The mandate directs the mission to perform a series of typical military duties, but also directs its involvement in a host of Peace-building activities. Most interestingly it requires close cooperation with the UN mission in the Democratic Republic of Congo (DRC), MONUC, and authorizes pursuit of combatants across the DRC's borders to affect the mandate.
 2. The complete text of the mandate can be found at the UN web site at: http://www.un.org/Docs/sc/unsc_resolutions04.html
- B. Mandate for Haiti (Resolution 1542 of 30 April 2004). This is a Chapter VII mission designed to follow up on the efforts of the Multinational Interim Force (MIF) that the Security Council authorized to enter Haiti in February of 2004 to stabilize the country following the collapse of the government and the outbreak of intrastate conflict.
1. This mission has three main areas of concern: 1) a secure and stable environment; 2) the rebuilding of a viable political process; and 3) the institutionalization of protection for human rights. These three areas all address long standing issues in Haiti and appear to commit the UN to a long-term deployment in Haiti to head a major peace-building effort.
 2. The complete text of the mandate can be found at the UN web site at: http://www.un.org/Docs/sc/unsc_resolutions04.html
- C. Mandate for Haiti (Resolution 975 of 30 January 1995). This mandate was the Chapter VI mandate that authorized the UN force to relieve the Multi-National Force that had been authorized to intervene in Haiti in 1994 to create a secure and stable environment in the country.
1. These two mandates for Haiti clearly demonstrate how mandates have changed in the past decade. While both missions for Haiti are very similar and originated under very similar circumstances, the mandate for 2004 is a Chapter VII mandate and the foundational concerns are far more extensive as is the guidance provided to the mission.

2. The complete text of the mandate can be found at the UN web site at: <http://www.un.org/Docs/scres/1995/scres95.htm>

VI. ON-SCENE REALITIES

The extensive language and broad scope of the two 2004 mandates, discussed briefly above, reflect many lessons learned from the 1990s. In addition to clearer language and unambiguous tasks they also incorporate Secretary General's reports and adopt several innovative ways to construct missions to get the job done. However, despite all of the lessons learned by the Security Council concerning the language of mandates, the situation in Sierra Leone in 2000 and in the Democratic Republic of Congo in 2003 reflected significant confusion over the authority and intent of the mission. That lack of understanding ultimately cost peacekeepers their lives and threatened the complete collapse of the mission in Sierra Leone and resulted in significant criticism of the UN and the MONUC mission in the DRC.

Ultimately, even with improved mandates and a more operationally friendly organization at the United Nations, the mandate alone cannot solve all of the problems. It must continually be recognized that:

- A. UN forces are by their very nature, coalitions. Therefore, terms of art concerning the use of force and their significance vis-a-vis the different units making up the force become critical. Vague and overly inclusive language in the mandate or in a specific order compounds the problem since different words mean different things to various countries with varying military traditions.
- B. Apart from clarity or, conceivably, shifts in focus (while at the same time referencing all previous resolutions for a particular operation), the mandates are often unrealistic in that they authorize or direct action that is not possible either due to the real time ground conditions or the limited resources that have been authorized and/or that are available to the SRSG and Force Commander.
- C. The UN command structure is simply not the same as most commanders encounter while conducting their own national operations. UN mandates are very definitely political documents that authorize intervention and the use of force in a manner that is politically and economically acceptable to the Security Council.
 1. The mandates then take on a life of their own and their interpretation in the field often reflects the disconnect that may occur between reality on the ground and the considerations of the strategic level in New York. Proposed solutions to this problem have been the subject of a variety of military and UN treatises, but, at this point, the problem remains and seems to "rear its head" when least expected or at the most inopportune moments.
 2. In the end there is simply no substitute for quality leadership on the ground and constant communication and understanding between UNDPKO, the

SRSG and the Force Commander.

VII. CONCLUSION

Complete understanding of a United Nations resolution or mandate is not an issue for the average peace support operator on the ground, but rather a problem for the command of the operation. Units receive their orders, rules of engagement, etc. and carry them out. However, the mandate is the foundation of all action at the scene and is certainly a subject to be briefed to all officers. Furthermore, all UN funding and resources are tied to the language of the mandate and the reality is that unless a particular item or concern is articulated in the mandate, getting manning, funding and any support for addressing a pressing issue in the field is virtually impossible. In short, it may be a “political” document, but without it nothing happens.