

Regulating the Use of Force by United Nations Peace Support Operations: Balancing Promises and Outcomes

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The United Nations Peace Support Operations (PSOs), originally envisaged for simple missions like monitoring ceasefires and facilitating negotiations during international armed conflicts, underwent a massive transformation after the end of the Cold War when the UN found itself involved in complex military operations embedded in violent intra-state conflicts. As civilians are increasingly subjected to brutality and atrocity in such conflicts, the use of force by the UN has become necessary for fulfilling its mandate for Protection of Civilians (POC) and Responsible to Protect (R2P).

As a result of this, PSOs are authorised to use all means necessary, including the use of deadly force, to prevent civilians from the threat of genocide, war crimes, ethnic cleansing and crimes against humanity perpetrated by the belligerent forces. The UN's failure to protect innocent civilians during the genocides in Rwanda and Srebrenica has been subjected to several studies and reports, all of which point out that the failure or hesitation to use force on the part of UN missions that were already present on ground during these humanitarian catastrophes led to the belligerent parties engaging in a rampant killing spree. Lessons

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drawn from such past failures have all been attributed to the fact that the use of force has become an integral part of UN PSOs.

It is in this context that the author, Charuka Ekanayake, dwells upon the core question as to how the application of force by UN PSOs can be regulated through legal mechanisms for achieving the objectives of the mission's deployment. The book addresses this key question first by explaining the rationale behind the necessity to use force by UN personnel. Second, the author explores the ways through which legal regulations can play a crucial role in guiding UN missions once the use of force has been authorised. The first chapter gives a detailed overview on how the failure to use force by UN peacekeeping operations in Rwanda had resulted in the deaths of thousands of innocent civilians. The second chapter explores the historical, institutional and structural underpinnings of UN PSOs. In doing so, the author differentiates peacekeeping, peace enforcement and PSO missions while explaining how the application of force in these military operations is fundamentally different from that of traditional warfare. The book acknowledges the challenges of the UN not possessing a standby force and its absolute reliance on troop-contributing countries (TCC) as one of the core issues that inevitably lead to the 'TCCs' command structure intruding with the well-structured UN command chain. Several instances that illustrate this issue have been enumerated in this book wherein military operations carried out by TCC under the UN banner fell totally outside the purview of the UN command and control structure resulting in these missions exacerbating the ground situation by emboldening the belligerent forces in a conflict and even leading to the UN personnel themselves engaging in wrongful acts.

To address this challenge, the book recommends Articles on the Responsibility of International Organisations (ARIO) and Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) of 2001 as a legal framework to establish the conceptual basis of responsibility of the TCC and Force Commanders (FC) of UN missions.

The third chapter explores the legal and moral dichotomy in the application of force during UN missions. It is here that the book fills a gap in the literature as it examines the moral components involved during the use of force, an aspect that is under-researched. Taking into perspective Article 1(1) of the UN Charter, which espouses the maintenance of international peace and security through the prevention and removal of threats to peace, the book focuses on the fundamental

objectives of UN missions that can be achieved through the use of force. The chapter correlates the moral dimensions for use of force in UN missions with the 'Just War' calculus through the analysis of deontological and consequentialist elements of the 'Just War' theory. The chapter underscores the colossal failures experienced by the UN with respect to POC and R2P obligations during the 1990s in Rwanda and Srebrenica as important lessons in deducing a moral framework for the justification for the use of force in PSOs. Overall, this chapter highlights the thin tightrope that the UN troops are required to walk on, while trying to balance between the moral and legal elements involved while using force during a PSO.

The fourth and the fifth chapters examine the core issue of the book, which is to ascertain how regulatory legal frameworks can reduce the gap between the promises made and the outcome secured by the UN with the use of force during its missions. For this purpose, the author focuses on the forms, branches and context of the existing international legal framework including customary laws that act as a regulating mechanism for use of force by the UN. Both International Humanitarian Law (IHL) and International Human Rights Law (IHRL) are stated in principle applicable to UN forces acting in conflict situations that meet the threshold of armed conflicts.

The book shows that just as the belligerent forces' use of force in an armed conflict is subject to the provisions of IHL and IHRL, the *Jus in Bello* in the case of UN forces shall also be dictated by the same provisions. The use of force by the UN personnel must be in accordance with the principles of necessity, proportionality and planning threshold as laid out in the provisions of IHL. Also, the chapter states that the principle of distinction as elucidated in Article 51(5) b is paramount to any use of force by the UN as with any belligerent forces in an armed conflict.

The sixth chapter of the book explains how conflicts may arise from the interpretation of various legal provisions derived from the existing international legal framework with regard to the use of force. Taking into account ICJ's verdict in the North Sea Continental Shelf case of 1969 involving Denmark, Germany and the Netherlands and also in the Tehran Hostage case involving the US and Iran, the author notes that there have been several instances wherein special rules usually contained in bilateral, multilateral or regional treaties often contradict rules of general international law.

Under such circumstances, the book recommends *Lex specialis* of existing international law for regulating the use of force by the UN in response to five distinct scenarios wherein the UN personnel may be compelled to use force. Through these scenarios, the chapter explores how the intricate dynamics of legal, operational and policy frameworks influence the Rules of Engagement (ROE) on the basis of which UN personnel may resort to the use of force. The last chapter presents a comprehensive reiteration of the various analyses and recommendations of the preceding chapters thereby emphasising why the blue helmets cannot be considered as 'just another combatant' as their deployment objectives subject them to accepting higher levels of risk for ensuring the safety of civilian lives. This is precisely the reason why the UN personnel may have to exert a greater degree of restraint while using force in comparison to regular combatants involved in an armed conflict. The excessive use of force by the blue helmets may undermine the overall efforts of UN PSOs by disenfranchising local populations from this process.

Today the UN stands at a critical juncture wherein it must undertake radical reforms to remain relevant in an increasingly turbulent geopolitical world order. The UN's ability to swiftly intervene in an escalating armed conflict has been impaired by the absence of a standing force. Over the past two decades, reflecting on its failures to intervene in humanitarian catastrophes like Rwanda and Srebrenica, the UN has made major headways in realising its potential to swiftly intervene in an escalating conflict situation through the creation of a Vanguard Brigade. In such a scenario the publication of this book is timely as it addresses a very critical element involved in a UN intervention during an armed conflict, which is the use of force.

This book serves as an important piece of literature in understanding how legal tools can play a pivotal role in regulating the use of force by UN personnel, thereby optimising the mission's ability to secure a favourable outcome. To a legal practitioner and the scholarly community, this book gives critical insights into the legal dimensions involved in regulating the use of force in UN PSO. For a general reader, the book elucidates how the *Jus ad Bellum* and *Jus in Bello* for the use of force by the blue helmets is significantly different from that of a regular combatant and how legal caveats can play an instrumental role in calibrating UN's application force to achieve its stated objectives, which are again different from that of a belligerent force in an armed conflict. The most significant aspect of

this book that differentiates it from other similar works is its emphasis on moral attributes for the use of force by the UN and how the legal framework can regulate such actions. Certainly, this book is bound to generate a lot of interest among the policymakers, military planners, legal practitioners and the academic community that studies the UN PSOs.

