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Why is peacekeeping reform repeatedly often on the agenda but then rarely implemented?

1. A fundamental difficulty for the implementation of reform lies in the fact that peacekeeping has no clear location in international law. The term does not appear in the UN Charter and there is no consensus as to which part of it, if any, could be said to cover it. Is peacekeeping embraced by Chapter VI “Pacific Settlement of Disputes”? Or by Chapter VII “Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression”? One response to this legal elusiveness has been to claim peacekeeping as a “Chapter VI-and-a-half” activity. But, however droll, this merely illustrates the problem rather than resolving it. This legal ambiguity around peacekeeping has been useful from time to time as it allows a wide field for the formulation of mandates appropriate to specific conflicts. But it has frequently been a source of conflict within the UN and provides a weak base on which to pursue reform.
2. If anything the problem has become more acute as peacekeeping mandates have become increasingly “robust” over the past twenty years or so. The Security Council resolutions authorising them frequently now make explicit reference to Chapter VII, but the implications of this – including, potentially, full-scale enforcement action under article 42 – are never articulated.
3. Implementation of reform therefore is impeded by a lack of legal clarity. Consequently, in practical terms clear-cut reform has been problematic in at least two respects – one embedded in the politics of the Security Council, the other more immediately pragmatic.
4. There are long-standing tensions within the Security Council, going back to the days of the cold war. The Soviet Union at the outset and now Russia - and at one time France as well - have been wary of the entire peacekeeping project as it has developed. For Moscow the lack of a clear identity for peacekeeping in international law, and specifically in the UN Charter, posed a threat to Soviet interests in a UN system in which, initially at any rate, the Soviet bloc was consistently in a minority within the broader UN system. Although this stance eased during the period of détente in the 1970s and again in the Gorbachev interlude in the early 1990s, Russia appears

to have readopted it. (France's objections were more "Gaullist", based on the rejection of the UN as in any way a "supranational" organization and did not long outlive the General himself).

5. Quite separate from this, there is a sense among established and potential troop and police contributing countries (TCCs) that reforms might threaten to "pre-commit" them to participation in operations. This could arise from innovations such as a stronger funding base combined with more efficient processes such as advanced readiness arrangement for deployment etc. TCCs can view a certain sluggishness and uncertainty in mission formation as an advantage providing important space for autonomous decision-making after testing political and public reactions to the prospect of participation. Paradoxically, therefore, reform leading to more efficient and timely systems may not be universally favoured by peacekeeping states themselves.

What critical reforms should the UK and UN Secretary-General prioritise?

6. At root, reform efforts since the 1990s have been concerned with managed and consensual departure from the trio of original "rules" of peacekeeping practice:
 - Consent (initially of the "host state", but increasingly of the parties more generally to a conflict).
 - Operational neutrality between those parties.
 - The use of force only in self-defence.
7. These were distilled from the lessons taken by Secretary-General Dag Hammarskjöld from the UN Emergency Force which was deployed after the Suez crisis of 1956 (Summary study of the experience derived from the establishment and the operation of the force: report of the Secretary-General, 9 October 1958: <http://www.un.org/depts/dhl/dag/docs/a3943e.pdf>). Very quickly, however, their relevance to operational realities was thrown into question. This came most dramatically during the UN involvement in the Congo crisis between 1960 and 1964 which rapidly shifted from an inter-state to a complex intra-state conflict. Post-cold war peacekeeping has further highlighted the inapplicability of these "Hammarskjöldian" rules. But the political difficulties involved in departing from them while maintaining a consensus in the Security Council and among TCCs has already been pointed up (question 1.).
8. As a result, one is spoiled for choice when seeking areas for reform. Well recognised issues include:
 - The revision and stabilisation of the basis on which peace operations are financed. But this is a highly politicised issue going back to the Soviet objections to

peacekeeping as a UN project in the 1960s (question 1.). At that time it was subject to an (unavailing) International Court of Justice Advisory Opinion (Certain Expenses of the United Nations [Article 17, Paragraph 2, of the Charter], Advising Opinion of 20 July 1962: <http://www.icj-cij.org/docket/index.php?sum=290&code=ceun&p1=3&p2=4&case=49&k=4a&p3=5>). This was followed by a bitter and protracted wrangle in the General Assembly over a number of years.

- A more structured approach to national preparedness for peace operations. But, as already suggested (question 1), this courts resistance on the basis that it is perceived as a threat to the freedom of decision-making by TCCs.
 - Greater technical and political scrutiny and “scoping” of Security Council mandates to improve their viability. But while unrealistic mandates have been recognised as a major cause of peacekeeping failure, the Security Council naturally resists any move which might undermine its pre-eminent position in the UN system and threaten the “sanctity” of its resolutions.
9. However, one specific - though still difficult - area which might provide a focus for a reform initiative is the political, legal and operational clarification and codification of active protection of civilians (PoC) by peacekeeping forces. Although this has been an issue in peacekeeping at least since the Congo operation of the 1960s, it has become particularly urgent in a range of missions since the 1990s. PoC was most obviously and dramatically an issue in the Rwandan genocide in 1994 and in Bosnia (particularly over the Srebrenica massacre in 1995).
10. The PoC issue underlines the inadequacy of each of the original trio of peacekeeping principles. Active PoC approaches:
- could lead to the withdrawal of *consent* from those whose activities are being curtailed;
 - call into question the “*neutrality*” of the peacekeepers;
 - dictate that the *use of force* by peacekeepers must go beyond self-defence.
11. The UN has certainly been aware of the problem. It was addressed at some length in the report of the panel convened by Kofi Annan and chaired by Lakhdar Brahimi of Algeria in 2000. This spoke of the need to resist the “manipulation” of consent; insisted on the distinction between impartiality in fulfilment of mandate and “neutrality” towards parties to the conflict regardless of their behaviour; and emphasised that peacekeepers may be “morally compelled” to use force in defence of “victims” (Comprehensive review of the whole question of peacekeeping operations in all their aspects, 21 August 2000: <http://www.un.org/documents/ga/docs/55/a55305.pdf>).

12. The Brahimi report was perhaps the most probing and clear-sighted exploration of peacekeeping at the beginning of the new millennium, but unfortunately few of its recommendations have been properly implemented. More recently the 2015 high level panel convened by Ban Ki-moon (chaired by José Ramos Horta, the former president of Timor-Leste) devoted a section of its report to PoC. This, however, was at pains to emphasise the importance of “unarmed” strategies of protection (Report of the high level independent panel on peace operations, 16 June 2015: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/70/95). While this approach perhaps reflects shifting political perspectives within the UN since 2000, it fails to confront directly a central dilemma for peacekeepers in the field when required to respond rapidly to threats to the lives of civilians.
13. To a degree, the issue of PoC in respect of UN peace operations has become confused with the separate discourse of “responsibility to protect” (“R2P”) which emerged (also in reaction to the perceived inadequacy of peacekeeping in the 1990s) from the Canada-UN report of 2001 (The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty: <https://www.idrc.ca/en/book/responsibility-protect-report-international-commission-intervention-and-state-sovereignty>) . While the rights and duties of states involved in acts of armed “humanitarian intervention” are outlined in this report, these relate to a quite separate category of intervention from consent-based UN peace operations.
14. In short, the entire question of the protection of civilian populations in peacekeeping operations involving the use of force by the UN where necessary, requires a clear and definitive statement of peacekeepers’ rights and responsibilities. Moreover, this is an area that touches on some of the most politically and diplomatically sensitive aspects of peacekeeping; it would therefore be a particularly appropriate area for initiative by the UK as a Permanent Member of the Security Council.

What scope does the Secretary-General have to implement change? How can the UK be constructive?

15. In narrow legal terms the most obvious power possessed by the Secretary-General lies in article 99 of the UN Charter. This empowers the Secretary-General to: “bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security”. This in principle could embrace critical reform to peace operations.
16. However, more realistically, the Secretary-General has the authority to either undertake or commission major enquiries. Dag Hammarskjöld’s 1958 Summary Study of the lessons of the Suez operation set the tone for this and asserted, as indicated (question 2.), the fundamental rules of early peacekeeping. In the post-cold war period, as the impact of systemic changes on peacekeeping requirements became

clear, Boutros Boutros-Ghali produced the celebrated *Agenda for Peace* report over his own signature (An Agenda for Peace: preventive diplomacy, peacemaking and peace-keeping, 31 January 1992: <http://www.un-documents.net/a47-277.htm>) as well as its more pessimistic follow-up three years later (Supplement to An Agenda for Peace, 3 January 1995: <http://www.un.org/documents/ga/docs/50/plenary/a50-60.htm>). Both of the subsequent Secretaries-General, Kofi Annan and Ban Ki-moon, commissioned their own high level panels (those chaired respectively by Lakhdar Brahimi and José Ramos Horta already cited).

17. Annan, coming to the office of Secretary-General by way of earlier professional responsibility for peacekeeping operations, and in the aftermath of the high profile “failures” in Bosnia, Rwanda and Somalia, was particularly active in pressing for reform. The difficulty however has always been at the nexus of report findings and implementation. Here the political difficulties rooted in the perceived national interests of individual UN member states (most importantly but not only the Permanent Members of the Security Council) come into play. None of the post-cold war reports cited above resulted in meaningful implementation.
18. The scope of the Secretary-General to implement change in peacekeeping policy and practice (beyond relatively narrow operational aspects determined at the level of the Department of Peacekeeping Operations) is constrained by the inter-governmental nature of the United Nations system.

The UK is holding a summit in September on peacekeeping. How would you assess the agenda and where does the UK add value in UN peacekeeping?

19. The appropriateness of a focus on the protection of civilians by peacekeeping forces has been argued above (question 2.). But beyond this, an obvious area for discussion in the UK context is the extent and nature of Britain’s own contribution the UN peace operations.
20. In common with other economically developed states of the global North, over the past two decades Britain has retreated from its direct operational contribution to peacekeeping (in other words, its role as a TCC). Currently about 70% of peacekeeping personnel are provided by UN member states from Africa and Asia. (Though it should be acknowledged that Britain, along with other developed UN members, continues to bear a major responsibility for the financing of peace operations.)
21. As both a colonial power and an alliance leader, Britain was largely excluded from direct participation in peacekeeping operations during the cold war. But in the transformed conditions of the 1990s the UK took on a considerable and varied burden. In 1995 Britain was the largest single contributor out of 84 TCCs by providing 8575

personnel. By 2001 Britain was supplying 688 troops and police and was ranked 18th out of 88 TCCs. Now, at mid-2016, Britain contributes a total of only 299 military and police personnel which places it 53rd of 123 contributors. (Ranking of military and police contributions to UN operations:

http://www.un.org/en/peacekeeping/contributors/2016/jun16_2.pdf).

22. There have been several reasons for this retreat from operational participation in peacekeeping. Public opinion in many UN members states took a negative turn after the apparent failure of UN operations in the 1990s (Bosnia, Rwanda, Somalia, Angola, Sierra Leone etc.). In the face of this, the UK - particularly under Labour from 1997 - appeared to favour intervention outside of the UN system. Thus it was under NATO auspices that Britain intervened in Kosovo in 1999, while its decisive intervention in Sierra Leone in 2000 was undertaken unilaterally (despite the parallel presence of a large UN force in the country).
23. Then, interventionism lost much public credibility after the invasion of Iraq in 2003 which, unfairly perhaps, tainted perceptions even of UN operations. Subsequently, this commitment in Iraq along with that in Afghanistan meant that British military resources became stretched in a way that left little capacity for UN peacekeeping.
24. Recently, since the withdrawal from Afghanistan and with the gradual rehabilitation of the reputation of UN peacekeeping after its most lurid failures, there has been discussion of British re-engagement with UN operations.
25. A newly emerged problem with this, however, is that much of the discussion originally took place in relation to the formulation of a distinct “European” approach in the context of the EU’s Common Security and Defence Policy. Clearly, with Brexit this framework is now highly problematic. Nevertheless, some of the elements of the debate and the proposals that have emerged from it can be transposed to specifically British circumstances. The essential focus of such an approach should be on Britain’s special capacities (the “added value” of the question) rather than simply an increase in personnel provision. Discussion of the following four roles at the UK summit could be fruitful:
 - A “strategic enabler” role: Britain might provide specialist support for UN operations employing its advanced capacities without necessarily forming part of the general deployment (for example, in the areas of specialised transport of personnel and equipment, logistics and intelligence).
 - A bridging role: Britain might provide rapid “holding” responses in sudden and rapidly developing crises by deploying limited but highly trained forces pending the establishment of a full-scale UN mission.

- A stand-by role: Britain might provide an ‘over-the-horizon’ back-stop presence (perhaps employing Special Forces) to give critical support to UN operations or to cover emergency extraction of UN personnel as and when necessary.
- A training role: Britain might provide greater and more systematic general and specialist training and mentoring for other TCCs and/or formal groupings of TCCs (for example, the African Union).

What steps could the UN Secretary-General undertake in order to mitigate sexual abuse and exploitation by UN peacekeepers? How would you respond to the idea of an international tribunal?

26. This is an immensely difficult area which has attracted widespread international public attention only relatively recently. It must be said, however, that this has probably been a long-term though under-reported problem in peace operations which involve extensive contact between UN personnel and problem local civilian populations.
27. The obvious difficulty for Secretaries-General (and the Department of Peacekeeping Operations for which they are responsible) lies in the relationship between the UN and the – voluntary and autonomous – TCCs. The Secretary-General has no clear-cut power in international law to control the behaviour of national contingents and impose discipline on them (other than in the unlikely event of criminality of such a level which could involve the International Criminal Court). The only sanction available would be to require the withdrawal of all or part of a national contingent. This of course could have very serious political consequences which might include deterring other member states from volunteering forces. Put plainly, the balance of power in this central peacekeeping relationship lies with the participating states rather than the Secretary-General.
28. In the field, the authority of the United Nations lies with the military commander of the operation acting with the Special Representative of the Secretary-General who has overall responsibility for the mission. These officials have naturally tended to try to deal with issues of sexual abuse and exploitation with minimum public attention in order to minimise the danger of conflict between TCCs and the UN. For these reasons, the prospects for a public international tribunal to deal successfully with such crimes are not encouraging.
29. Some national contingents tacitly acknowledge the training and discipline shortcomings of their own forces. Indeed there is a view that participation in multi-national peace operations is seen by a number of national governments and military hierarchies a means of *correcting* shortcomings in behaviour. The suggestion here is that exposure to the practices of other, better trained and disciplined contingents will

lead to the transfer of improved norms of conduct. This process of military “socialisation” may be seen as a means of improving civil-military relations at home. This, of course, is hardly relevant to personnel from a number of supposedly advanced democracies who have been guilty of abuse. However, referring back to Britain’s capacity to “add value” to peace operations (question 4.), this particular problem might be a focus for any special training role adopted.

30. Clearly none of this addresses the damage done to the victims of abuse and exploitation. One recent development which may be of value is the active encouragement by the UN of increased female participation in peacekeeping operations, among both military and police personnel. Specifically, the involvement of women in specially created oversight units could be a standard fixture of all operations. Such units would be concerned specifically with the behaviour of peacekeepers towards local civilians and might ideally be formed from personnel from countries other than the mission TCCs.

Finally, how well-prepared is the UN to manage insecurity and conflict stemming from non-state actors and irregular forces?

31. It has become received wisdom that after the cold war the UN was suddenly faced with an enforced shift from peace operations as “traditional” inter-state ventures to a “new peacekeeping” which had to deal with emerging forms of intra-state conflict.
32. This, along with the so-called “new wars” thesis with which it is associated, is overstated. The UN has throughout most of the history of peacekeeping been required to deal with apparently intractable internal conflicts driven by irregular forces. The first obvious example of this was in the Congo in the early 1960s. This was followed by Cyprus from 1964 and then, in the 1970s, by Lebanon. The problems of peacekeeping between non-state actors and irregular forces are not, therefore, new to the UN, though the end of the cold war did see a dramatic increase in the number of such conflicts (or, perhaps more correctly, the number of such conflicts which the UN was entrusted to deal with).
33. The challenges posed by these situations, particularly in Africa and the Americas but potentially in the future in the Middle East as well, are obviously considerable. They have been well-recognised by various UN enquiries (by Boutros-Ghali in 1992 and 1995, by Brahimi in 2000, and by the most recent high level panel in 2015).
34. In a sense this question brings the evidence presented here full-circle. As suggested (question 2.), reform of peacekeeping has broadly speaking been about moving the basis of operations on from the trio of characteristics originally ascribed to “classical” peacekeeping: host state consent; operational neutrality and the use of force only in self-defence. None of these fundamentals can be sustained amidst complex conflicts

involving non-state antagonists, often ethnically or religiously defined, operating amidst civilian populations. It is with this in mind that the crucial but still insufficiently resolved issue of peacekeepers' responsibility for the protection of civilians has been proposed as an area in particular need of clarification and codification. As suggested (question 2.), the political complexities inherent in this point to the Security Council-as the appropriate level at which to pursue change; it would thus provide the UK, as a permanent member, with a distinct area in which to lead reform.

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