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ISSN – 2347-7075 Peer Reviewed Vol.12 No.1 Impact Factor – 8.141 Bi-Monthly September – October 2024



Role Of United Nations Peacekeeping Operations In Securing Human

Right's (1990-2010)

Dr. Adinath Vishwanath Londhe

Assistant Professor, Department of Defence and Strategic Studies, M. S. Kakade College, Someshwarnagar Corresponding Author - Dr. Adinath Vishwanath Londhe DOI - 10.5281/zenodo.14467998

Abstract:

Whether or if UN peacekeeping troops and humanitarian operations are effective and realistic means of enforcing human rights is the subject of this thesis' evaluation. The UN peacekeeping system that exists now was shaped in part by three major UN missions, all of which are examined in this thesis. Despite the fact that peacekeeping may be successful in implementing human rights in certain conflicts, the application procedure and legal framework around the employment of enforcement action make it ineffective. This research is looking at how UN peacekeeping operations can protect and promote human rights (1990-2010) a wide range of rule of law initiatives are carried out by UN peace operations in an effort to reconstruct the judicial system and eliminate impunity. Rule of law efforts in peace operations have improved since the UN's attempts with state-building in Kosovo and East Timor. We live in a society where attempts to establish the host state as the legitimate authority are clear to grasp. The United Nations has decided to centre its peace building efforts on removing impunity, which is examined in this essay when it comes to the rule of law. MINUSCA's transitional justice system, in especially the Special Criminal Court, is also discussed.

Keyword: Rule of law, Hybrid courts, UN peacekeeping, Minusca, Local justice.

Introduction:

Human rights and peace are inseparable, according to this theory, which asserts. There can be no promotion or implementation of human rights while there is conflict. Resolution 163 of the United Nations General Assembly emphasises the need of peace as a precondition for realising one's human rights. In the words of former UN deputy secretary-general Jan Eliasson, "there can be no lasting peace or sustainable development without respecting human rights." no peace or sustainable development 2 When the United Nations was established in 1945, its main objective was to ensure worldwide tranquilly and security. The protection and development of human rights, which are referenced expressly many times in the UN's founding charter, are the UN's third primary purpose.

The United Nations is all about peace and human rights. There are numerous methods to achieve these aims, from promoting democracy and the rule of Vol.12 No.1

law to peacekeeping and peace monitoring, and supporting peace discussions through the UN Human Rights Council and High Commissioner for Human Rights, which will be discussed in detail later in this thesis. To enforce human rights, UN peacekeeping and intervention soldiers will be a primary focus of this thesis's analysis. Examining UN peacekeeping and intervention activities in order to analyse their difficulties as well as their performance and viability as a tool is at the heart of this thesis's focus. This thesis examines and analyses the system that regulates peacekeeping and UN operations in order faults to identify and evaluate effectiveness.

Literature Review:

Hegre Håvard (2019)many research have shown that PKOs have a positive impact. However, by focusing just on the individual effects (intensity, duration, recurrence, and spread), they overestimate the importance of PKOs in maintaining international peace and security. The effectiveness of UN PKOs in averting the start, escalation, continuance, and reappearance of internal armed conflict is statistically modeled in our new technique for evaluating the aggregate impact across all paths. Based on these statistical estimations, we've ran a series of simulations to determine the effect of various UN policies between 2001 and 2013. A US \$200 billion investment in PKOs would have decreased significant armed conflict by up to two-thirds and saved 150,000 lives over a 13-year period Dr. Adinath Vishwanath Londhe

compared to a situation where no PKOs existed. The cost-effectiveness of UN peacekeeping is undeniable when it comes to enhancing global security.

Alexander Gilder (2019)Increasingly, UN peace operations are aimed at stabilizing the countries to which they are sent. No UN-wide definition of the word exists despite the use of the phrase in the mission names of three of the four main operations presently deployed and stabilization efforts being included in the mandates. Instead, depending on the objective, mandates may involve a variety of tasks grouped under the topic of "stabilization." Parallel to these stability efforts, Western military hardware has strengthened its logistical capabilities, counterterrorism rhetoric has crept in, operations with host state forces have been emphasized, and terminology like "strong posture" and "active patrolling" has been used. Legal implications of these changes are examined in this article. With opposing interests arising as a result of the process of stabilization, it is urged that the UN Security Council's mandates be clarified and standardized in order to protect the quest for long-term peace.

Charles T. Hunt (2020) the role of UN police in peacekeeping missions has changed dramatically since they were initially deployed in the UN Operation in the Congo in 1960. Previously, as part of peace negotiations, UNPOL (United Nations police) were assigned to watch and oversee national law enforcement agencies. But UNPOL's increased involvement in reform, restructuring, and reconstruction has seen it progressively shift towards a development role. UNPOL has continued to offer operational assistance to host-state police as well as temporary replacements in addition to these development operations. 1 As a result of a breakdown in the rule of law, UN peace operations are often deployed. It is now a requirement for mission transitions and a cornerstone of their departure plans that criminal justice institutions be restored to their pre-crisis state. 2 UNPOL's job has become more the fulfillment important as of peacekeeping missions has grown dependent on reformed and stronger national security organizations.

Troels Gausla Engell (2019) Scholars concerned about the possibility of unintended repercussions have paid close attention to the trend toward a more robust use of force in UN peacekeeping missions. Political considerations now take precedence in all UN peace operations after the findings of the High-Level Independent Panel on Peace Operations In the context of the UN's political missions, the unintended implications of this priority of politics have gotten much less attention. The article examines how the UN's political role was applied in a particular scenario during the Burundi crisis in 2015-2016. By comparing the unintended implications of strong peacekeeping with the primacy of politics, this instance shows that there are commonalities but also differences on crucial features of both approaches.

Mauro Barelli (2022) China's involvement in UN peacekeeping has grown significantly during the last decade. Dr. Adinath Vishwanath Londhe With regard to peacekeeping, Beijing has backed and engaged in peacekeeping operations that are not totally consistent with the UN's established consensual and impartial methods. Despite the country's claim to adhere to strict interpretations of the principles of non-intervention, non-use of force, and sovereignty, China's support for aggressive and invasive operations is not unimportant. According to this article, understanding China's engagement in unconventional peacekeeping missions requires an examination of the wider process of China's foreign policy recalibration. While China's stance to UN peacekeeping has generally been equivocal, this essay outlines the potential and problems China will confront as a security supplier in the international community.

The Rule of Law and Its Role in UN Peace Operations:

Rule of law is supposedly the foundation of the United Nations' work. The preservation of peace and harmony in a society may be achieved via the establishment of order. Rule of law is a guiding concept, much as the UN's efforts to promote international peace and security. All persons, institutions, and businesses must be held accountable to laws that are freely disclosed and implemented in an equitable and impartial manner in accordance with international human rights standards, according to the United Nations. Everyone has the right to obtain justice, and the law must be implemented fairly and impartially. All parties involved must be held responsible for their conduct. To minimise arbitrariness and guarantee that the law is administered consistently, legal clarity and procedural openness must be established.

It is the UN's belief that its duty in upholding international law is to aid in the development of national legal and judicial systems. A complete rule of law system and activities includes, but is not limited independent judiciary, to, an an independent human rights agency, free elections, political power defined by law, and a security sector governed by law. There have been several peace activities throughout the 2000s aimed at assisting these areas of activity.

UN rule of law actions grew dramatically in the 2000s, after their initial attempts in Kosovo. As part of the United Nations Interim Administration Mission in Kosovo, small teams were deployed to choose judges, commence court proceedings, and lay the framework for future institutions with "chaotic" results (UNMIK). In response to the Brahma Report's suggestion that rule of law teams be deployed as part of the UN Standby Arrangement System, a criminal law and judicial advising unit was established in October 2000. The UN's civilian staff had to deal with three issues: reform of law, better adjudication, and reform of the police.

Some have argued that since "there is widespread agreement on the basic aspects of the rule of law," the UN can put the rule of law into action in a variety of legal systems in which it is engaged in its activities. Such a posture is criticised by the liberal peacebuilding agenda because it *Dr. Adinath Vishwanath Londhe* imposes Western ideals on the global South. liberal It was stated by the United Nations in 2001 that "it would not be desirable for the Secretariat to develop a model criminal code given the heterogeneity of country-specific legal systems". After UN deployments in Kosovo and Timor, East 'foreign knowledge, foreign models, and foreignconceived solutions' became less of an issue. It was a problem for UN operations since they lacked in-depth knowledge of traditional judicial processes because most UN employees were schooled in Western legal systems.

It's no secret that the United Nations believes that "more has to be done" in order to guarantee that the rule of law isn't just an afterthought when it comes to peacekeeping operations in a nation.HIPPO's 2015 report states that a mission's purpose of enhancing civilian safety is connected to its efforts to advance rule-of-law principles. The HIPPO Panel's main responsibilities include human rights advocacy, political engagement, and the protection of vulnerable populations. Human rights and the rule of law should be linked, according to one of the Panel's proposalsthe rule of law should be enforced in a way that preserves human rights during United Nations peace operations. In cases where previous transgressions have not been handled and will be a barrier to long-term peace, this eliminating impunity involves by supporting suitable systems of transitional justice.

MINUSCA will serve as a case study for how impunity has permeated many current operations, as the HIPPO Panel asserts. When it came time to restore security and public order, the UN recognized that a functional criminal justice system was "[a]n important aspect." Conflicts over water and land rights at the municipal level, as well as security and human rights concerns may be exacerbated when government restricts the the independence of the court. This has resulted in the UN peace operation's security and human overall rights objectives being connected to the rule of law and reducing impunity.Rule of law implementation has now been recognized as "essential to success" of a peace operation, even if it was previously characterized as "vague and uninstructive".

Rule of law institutions that promote human rights standards and preserve human rights, as well as rule of law institutions, are essential to ensuring human rights, peace agreements, and peaceful dispute resolution. In order to ensure that the people have trust in their government and bigger state institutions, the peace operation may reestablish rule of law. Larry May believes that in order for the rule of law to be widely accepted, the public's trust in the rule of law must be restored. The rule of law is thus essential for long-term peace building as a means of resolving conflict without the use of physical violence. Crime, work-related concerns, social vulnerability, health issues, and other factors may all contribute to a person's feeling of unease. Providing a functional legal system with an independent judiciary is another way that rule of law institutions may assist remedy Dr. Adinath Vishwanath Londhe

past wrongs and crimes. 34 As a rule of law aid, the goal is to guarantee that human rights are upheld and that a safe and fair environment is created in which the state may be rebuilt.

Institutional legitimacy of the UN:

Last but not least. UN peacekeeping operations are essential to organization's legitimacy the and trustworthiness. Since they are among the most visible manifestations of UN action, the way in which UN peacekeeping operations are carried out has implications for the organisation as a whole. United Nations image suffers and the concept of peacekeeping as a whole is called into question if peacekeeping operations fail to halt acts of violence against civilians in places like Bosnia and Rwanda or in the Democratic Republic of Congo or in Darfur. States are now questioning the need of funding peacekeeping efforts and UN capabilities to cope with the current state of civil unrest. Many people across the globe are left with the idea that international commitment to human rights and peace and security is just talk. As stated in its charter, the United Nations aims to preserve the world's future generations from the horrors of war. To avoid losing its reputation, the UN has no option but to fulfil its obligation to protect people while on the ground, and it cannot risk doing so by failing to do so.

Integration:

Beyond a ceasefire agreement tomore ambitious programmes of transitionmanagement,UNpeacekeeping

deployments have developed from just ensuring the current circumstances (such as a halt in fighting) to aiding in postconflict rebuilding or state-building. Such an Endeavour requires good coordination, which has led to repeated requests for UN to be better coordinated. resources the Secretary-guidance According to General's note of December 200014 and its 2006 revision-Note on Guidance on Integrated Missions-integrated missions are the UN's guiding principle in all conflict or post-conflict situations, whether or not they are structurally integrated, and the more recent Decision on Integration reaffirms this. "Maximize individual and collective impact of UN response" is stated as a priority in order to "maximise UN reaction's individual and collective effect" of officials (composed from the operational UN agencies on the ground).

The 2005 UN research on integrated missions outlined significant difficulties within the notion of integration, reflecting issues widely noted by personnel working in both the humanitarian and peacekeeping professions with the goal of functioning as integrated operations. Indeed, human rights and humanitarian issues are regarded as fundamental in the idea of integration. The humanitarian dilemma arises from the conflict between the impartiality required by humanitarian efforts and the bias inherent in UN peacekeeping missions' support of political transitions. As a UN agency, the UN has a responsibility to promote peace by working with individuals who may have inadequate human rights records, while Dr. Adinath Vishwanath Londhe

maintaining its function as a 'outside critic' of the same process. The human rights conundrum refers to this situation.

In the context of protecting civilian's mandates. both of these difficulties come to the fore. When the government of the country hosting an integrated operation is clearly known or acknowledged to be a belligerent or abuser, or to support (or not oppose) violent acts via proxies, these tensions are exacerbated. As a result, the humanitarian and human rights components of the mission are at conflict with the political tendency of the mission to serve as a partner with the government. According to this research, protection is a wide notion that requires cooperation and benefits from a consistent strategy throughout its 2006 revision—Note of Guidance on Integrated Missions. Even in post-conflict settings when the United Nations does not have an integrated Country Team and а multidimensional peacekeeping operation or political mission/office, integration is still the UN's primary guiding concept, as stated in the more recent Decision on Integration. 16 In order to 'maximize the individual and collective effect of the UN's response,' the decision stresses a strategic cooperation between the mission and the UN Country Team (made up of officials operational United Nations from organizations).

The 2005 UN research on integrated operations outlined significant difficulties within the notion of integration, reflecting issues widely noted by personnel working in both humanitarian and peacekeeping domains with the goal of functioning as integrated missions. Indeed, human rights and humanitarian issues are regarded as fundamental in the idea of integration. The humanitarian dilemma arises from the conflict between the impartiality required by humanitarian efforts and the bias inherent in UN peacekeeping missions' support of political transitions. As a UN agency, the UN has a responsibility to promote peace by working with individuals who may have inadequate human rights records, while maintaining its function as a 'outside critic' of the same process. The human rights conundrum refers to this situation. In the context of protecting civilians mandates, both of these difficulties come to the fore. When the government of the country hosting an integrated operation is clearly known or acknowledged to be a belligerent or abuser, or to support (or not oppose) violent acts via proxies, these tensions are exacerbated. As a result, the humanitarian and human rights components of the mission are at conflict with the political tendency of the mission to serve as a partner with the government. Protection, according to this research, is a broad notion requiring coordinated efforts and benefiting from consistency of approach across disciplines.

Securing Consent before Deployment:

The United Nations does not have a defined mechanism for obtaining hoststate approval before deploying peacekeeping operations. New U.N. peacekeeping missions approved are during Security Council-hosted discussions with their potential host Dr. Adinath Vishwanath Londhe

countries (and sometimes other parties to the conflict). It is not necessary to record this agreement in writing. For example, security council meeting tapes or other records might reveal it. Initiation of the process starts here with political discussions including the Security Council, the UN Secretariat. the government of the host state, other parties to the conflict, regional stakeholders, and potential governments supplying troops and police. When the security situation allows. the Secretariat conducts an assessment mission before deploying a peacekeeping operation. A peacekeeping operation may be the best option for a given circumstance based on these analyses and the recommendations of the Secretary-General. It is then up to the Security Council to craft and pass an official resolution outlining the new mission's duties.

Prior to the passage of a resolution of this kind, the government of the host state usually gives its permission. When the government of the host country officially asks the United Nations for help, the procedure is quite simple. After months or even years of negotiations, the host state may reject a U.N. mission because of its misgivings about accepting it. At least one year elapsed between approval of Resolution 1769, which created the African Union-UN hybrid peacekeeping operation in Darfur, and a subsequent resolution that required the United Nations Mission in Sudan to transform Darfur, which the government refused. The government of the host country may use long negotiations to alter the mission's mandate in order to better serve its own interests. A mission's design is influenced by the host state's authority and the interests and preferences of members of the Security Council, which are reflected in the mission's design. The government of Chad, for example, used the lengthy decision-making process in 2007 to impose multiple restrictions on the mandate, particularly on the mission's political role, and gradually transformed the mandate-setting "process into a race to the bottom, as France and other Council members lowered their ambitions in order to secure Chadian consent."

Once every peacekeeping operation has been revamped, there is generally another round of negotiations among all parties involved in order to establish agreement on a new mission mandate and secure the backing of their host country's government. This isn't always the case, of course. In December 2013, the mission's focus abruptly shifted from building state capacity to protecting civilians without formal consultations with the parties to the conflict due to mounting evidence that both the host state government and the opposition faction were committing grave human rights violations, including deliberate attacks on civilians. South Sudan's government was therefore unable to effectively carry out its obligations for a period of time after receiving an unclear explanation from UN forces about their new mission. 19 The UN Security Council passed Resolution 2304 in August 2016, authorising the deployment of a 4,000strong regional protection force in South Sudan to protect civilians. The force was Dr. Adinath Vishwanath Londhe

rejected because it "does not ... respect the standpoint of South Sudan," according to a South Sudanese representative at a UN Security Council meeting. 20 After a year of talks with the government on the new force's protocols were disrupted by official resistance and delays, gradual а deployment of troops began in August 2017.21 A Status of Forces Agreement (SOFA) outlines the rights and responsibilities of the host-state government and the mission in regards to a mission's ability to conduct operations on the ground. 22 SOFAs assume agreement, but they do not constitute the legal act through which it is expressed. The SOFA differs from the legal act of consent in many important ways:

- **1. Timing:** A peacekeeping missions SOFA is signed after the mission's mandate has been approved, but the act of consent usually happens before. Even though a SOFA should be finished prior to the deployment of any peacekeeping current operation, mandates contain a clause stating that until a mission-specific **SOFA** is established, a template SOFA produced by the UN Secretary-General in 1990 is legally valid.
- 2. Parties: When the UN Security Council and the host country's government negotiate, an act of consent is performed (and potentially other parties to the conflict). The Secretariat and the government of the host state negotiate the SOFA.

3. Content: Consent is required when a peacekeeping operation has a precise set of aims agreed upon by the government of the host state as well as other parties to the conflict. SOFAs currently in place are failing to fulfil its mandated responsibilities.As a result, both the mission and the host-state government's rights and obligations are clarified, as are the status, resources, benefits, and immunities of the mission and its people. They cover everything the operation needs to function on the ground, from communications and freedom of movement to governmentprovided facilities to weapons and uniforms to criminal and civil jurisdiction and dispute resolution. They're essential (for private law claims against the U.N.).

The use of SOFAs, despite the fact that they do not transmit permission, may be effective in the management of that consent they serve as a powerful signal of their respective governments' allegiance to each other, as well. They also establish particular guidelines that may be used when SOFA infractions are widespread (although they cannot on their own guarantee consistent cooperation on the ground from all parties). An early indicator that the host-willingness states to accept the mission's presence and mandate may be deteriorating is a widespread breach of a SOFA. When the United Nations General Assembly asked for a sample SOFA for peacekeeping operations in October 1990, Secretary-Dr. Adinath Vishwanath Londhe

General Ban Ki-moon submitted it to the body.

In contexts where peacekeepers are expected to take strong tactics on the ground, including some that may be in direct conflict with host-state authorities, SOFAs fail to these address the complexities of the interactions between missions existing and the host governments. Legal restrictions for U.N. peacekeepers' use of force are not included in SOFAs, for example. Additionally, they do not contain any provisions for compensatory damages or processes for resolving complaints over SOFA breaches. For the HIPPO Report, nations should be required to sign agreements with the United Nations to verify that they understand their commitments and commit completely to fulfilling those requirements.

To avoid confusion or misalignment, the compact aims to clarify political aspects of consent (such as the mandate's boundaries and roles of mission and the host-state government in implementing it) in the same way that the SOFA details the legal matters pertaining to the status of the mission's status, facilities, privileges, and immunities necessary for the implementation of the mandate. According to the HIPPO model, the agreement signed by the United Nations in the Central African Republic is different certain in areas. Donor governments may fund recovery plans to be used in conjunction with these agreements. These agreements serve as a model for a post-conflict compact that includes mission, the the host

ISSN - 2347-7075

government, as well as certain donor countries.

In order to offer incentives for adherence, it is argued that the federal government, the United Nations, and the donor community are bound by a cohesive framework of common goals and commitments, as well as principles. The United Nations Security Council's lack of involvement and difficulty in dealing with armed groups in the Central Republic African has hampered implementation. Post-deployment compacts do not address the possibility of misunderstandings arising during mandate talks between the mission and the host government.

Conclusion:

According to the findings of this thesis, if UN Peacekeeping Operations are carried out correctly, they may be an effective instrument for upholding human rights. UN peacekeeping operations or interventions would need to have a clearly defined mandate, sufficient resources and equipment to carry out its mandate, conduct itself in accordance with the principles, are properly implemented and approved by the Security Council, are properly implemented in accordance with those principles, and are focused on preventing and resolving the conflict rather than just dealing with its symptoms. Without solid support from the host country, peacekeeping operations face major dangers. As a result, peacekeepers' safety and security might be put in jeopardy, as well as their ability to depart a peacekeeping mission in a sustainable and Dr. Adinath Vishwanath Londhe

strategic manner. A host-permission state's may be maintained or even strengthened by a number of measures if the United Nations Security Council and other powerful member states are willing or able to take decisive, strategic, and early action. The Secretariat and mission commanders can learn a lot from the lessons of previous and current peacekeeping operations about how to minimise these risks and strengthen host-state consent in the future. In order to assist mission leaders understand the political sensitivities and objectives of host-state governments, the Secretariat should provide recommendations and provide induction training for mission leaders. Moreover, the Secretariat should standardize the way missions report on the status of host-state consent in order to keep the Security Council well-informed while also preventing reports from becoming politically charged. Monitor and respond firmly to SOFA violations; ensure that the mission's political strategy is informed by an analysis of whether consent is strong, weak, or compromised; set up mechanisms for coordination with the host-state government to reduce misunderstandings; and ask for diplomatic support to address consent challenges when necessary.

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