

9 Revitalising UN Collective Security

A Modest Proposal

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The collective security system embodied in the UN Charter has come under intense scrutiny for failing to live up to its original promise. The idea behind collective security is that an attack by a member of the group will be resisted by all other states. It is similar to collective defence in the sense that an attack on one will be treated as an attack on all, but in a collective defence system, the expectation is that the attack will come from outside the group, whereas a collective security system is designed to deal with threats from within the group.

The scheme embodied in the UN Charter, even as designed, is not an ideal collective security system (Roberts 2016: 353). To begin with, a collective response to aggression or threat to the peace is not obligatory; the UN Security Council must decide in each case. Second, the system has built into it the certainty that UN Security Council–authorised action will never take place against one of the five permanent members of the Council (P5).¹ Third, it leaves open the possibility of military action in self-defence without UN Security Council authorisation.

Nevertheless, the Charter does set out a system for collective measures to be taken in response to acts of aggression and threats to or breaches of the peace. The system is rooted in Chapter VII. The key provisions are Article 39, which is the threshold for Chapter VII action, and Articles 41 and 42, by which the UN Security Council can impose sanctions or authorise military action. Articles 52 and 53 are also important, as they allow regional organisations to address security threats within their regions on the understanding that any enforcement action they undertake must be approved by the UN Security Council.

Yet Chapters VII and VIII have never functioned as intended. There are at least two dormant provisions of Chapter VII. Article 43 stipulates that military action under Article 42 is to be taken by member states who provide forces pursuant to ‘special agreements’ negotiated with the Security Council. Article 47 states that a Military Staff Committee, composed of the Chiefs of Staff of the P5 and others they may invite to join, shall provide strategic direction to military operations. Because of the superpower rivalry during the Cold War, no Article 43 agreements were ever reached, and the Military Staff Committee has never been used as designed. The United States and the USSR started negotiating ‘special agreements’, by which each would place tens of thousands of troops on call to the Security Council. But by 1947, those discussions came to an abrupt halt. Pulling together any kind of military operation under UN auspices requires member states to volunteer. And while regional organisations such as the African Union, European Union, North Atlantic Treaty Organization (NATO), the Organisation for Security

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and Co-operation in Europe (OSCE), and various sub-regional African organisations have been important actors in managing peace and security, the Security Council has often called on ‘coalitions of the willing’ to undertake operations instead. The end of the Cold War seemed to present an opportunity to reinvigorate the UN-based collective security system, for example, by reviving negotiations on Article 43 agreements. Indeed, Secretary-General Boutros-Ghali proposed exactly that in *Agenda for Peace*, but for reasons outlined in the conclusion, the proposal was not taken up by UN member states.

Thus, both conceptually and as a matter of practice, Chapters VI to VIII of the UN Charter fall short of an ideal collective security system. While that has been clear from the start, Russia’s invasion of Ukraine has brought new attention to the seeming dysfunction of the UN Security Council. It is tempting to blame that dysfunction entirely on the veto power, but the point must not be overstated. The threat of a Russian veto is not what prevented a more militarily forceful reaction to the invasion: the United States and its allies could have mounted a full-scale defence of Ukraine on the basis of Article 51. Nor should we assume that the geopolitical tensions associated with Russia’s forcible annexation of parts of Ukraine—a breach of the most fundamental norm of world order (Brunk and Hakimi 2022: 689)—means the Council is completely paralysed. Even in 2022, it continued to renew the mandates of peace operations, extend sanctions regimes, address the proliferation of weapons of mass destruction, debate counterterrorism in Africa, and discuss Security Council reform.²

Yet multiple factors suggest that the time is right for a sober second look at the collective security scheme embodied in the UN Charter. The central argument of this chapter is that the current geopolitical climate does not lend itself to radical reforms now, but the level of dissatisfaction suggests there is scope for modest reform in the short term, paving the way to more far-reaching reforms in the future. It starts from the understanding that we are better off working with the institutions we have rather than abandoning those institutions and starting again from scratch. All of the factors that make reform of the UN peace and security architecture difficult would make rebuilding from the ground up even more difficult.

The remainder of this chapter is divided into four sections. In the next section, I identify multiple challenges facing the Charter-based collective security system. In the third, I provide a brief review of the conflict management tools the Council has developed, focusing on those that fall within Chapter VII. In the fourth section, I offer a modest (though politically difficult) proposal for institutional reform: an International Standing Civilian Protection Service. In the conclusion, I consider how that proposal could lay the political, if not operational, foundation for more radical reform. Specifically, I suggest revitalising Article 43 by negotiating ‘special agreements’ with member states that are prepared to lead peace operations or enforcement action and/or the creation of regional or sub-regional standby forces ready to deploy on short notice. In making these proposals, I recognise that none of the challenges identified in the first section can be resolved through institutional fixes. Yet, at a minimum, debate about concrete institutional reforms can concentrate the mind about what is politically feasible and what is not. At a maximum, it can shift the narrative and help to create the political conditions for those reforms.

Challenges to the Charter-Based Collective Security System

Contemporary challenges to the UN collective security system can be clustered into two categories: geopolitical tensions and the evolving nature of conflict and security threats.

Geopolitical Tensions

As noted, Russia's invasion of Ukraine is a shock to the system, but not in the way sometimes assumed. The structure of the United Nations has built into it the impossibility of authorising military action against any of the P5. Article 2(4), the prohibition against the use of force, applies to all members of the United Nations, of course, but the veto power means that violations of that prohibition cannot be met with UN Security Council-authorized enforcement action. Sometimes dismissed as the 'original sin' of the UN Charter, it is nevertheless the case that the United Nations would not have come into existence without the special status the veto affords the great powers at the end of World War II (not least because, out of concern for U.S. sovereign prerogatives, the U.S. Senate would not have ratified the Charter without it).³ Moreover, without the involvement of those great powers in the United Nations, it was thought that the ability of the organisation to manage international peace and security would be seriously compromised, as was the case with the League of Nations. Indeed, the UN Security Council is not designed to prevent the P5 from using force but rather to *enable* them to do so if and when they decide it is necessary for the maintenance of international peace and security. This extraordinary grant of authority was thought to be necessary to avert another world war. It was quickly put to the test with the outbreak of the Cold War when P5 unanimity was rare, but the Council was not completely paralysed and managed, for example, to establish a number of peacekeeping operations in the context of international and internal conflicts (Johnstone 2016: 773).

That being said, current tensions among the P5 are deeply concerning. The risk of a great power war is real. As of the time of this writing, Russia has not shown signs that it is prepared to back down in its campaign in Ukraine. Its use of a tactical nuclear weapon is not off the table. That or a direct attack on a NATO member may leave the United States with no choice but to get more directly involved. Meanwhile, tensions with China over Taiwan could grow in the years ahead, leading to unforeseen and perhaps unintended consequences. And other conflicts that do not directly involve the great powers could escalate to include them.

These great power tensions have not yet paralysed the Security Council, but they have started to have an impact on its work in other areas. Russia recently abstained on the extension of the UN peacekeeping mission in the Central African Republic (MINUSCA). The Russian Wagner mercenary group is complicating peace processes there and in Mali, from where France recently withdrew its counterterrorism forces. While the use of the veto since 1990 is at a slower pace than in the Cold War era, it is starting to see an uptick. Between January 1991 and December 2023, the United States vetoed 19 resolutions, mainly on Israel-Palestine. Russia cast its veto 35 times and China 15 times. Russia has used its veto eight times since December 2021, joined by China on three of those. The US vetoed two resolutions in the period.

These current tensions have compounded the sense of a loss of leadership in conflict management that characterised the Trump years. Multipolarity is now a fact of global life, which could have benefits for international peace and security (Grossman 2022),⁴ but if the world's great powers are unable or unwilling to use their diplomatic weight to help manage and resolve conflicts, they will fester and escalate. This vacuum of leadership is exacerbated by the nationalist form of populism that has taken hold in many countries, global and regional powers alike. An inward-looking, 'my country first' foreign policy translates into a lack of support for multilateral institutions. That lack of

support translates, in turn, to less effective institutions, resulting in a downward spiral that generates a loss of faith in global multilateralism. Of course, nationalist populism is not the only political force in the world. Indeed, European Union solidarity in response to Brexit and the Ukraine War suggests otherwise. However, the global multilateral institutions established in the wake of World War II, including the Bretton Woods institutions, are under considerable strain. Rival institutions are emerging (such as the Asian Infrastructure Investment Bank and the New Development Bank), as are new informal groupings of states (such as the G20 and Brazil, Russia, India, China, and South Africa (known as BRICS)). Most of these institutions are oriented towards economic relations and development, but some have security mandates, such as the Quad (the United States, India, Japan and Australia) and AUKUS (Australia, the United Kingdom and the United States).

Changing Nature of Conflicts and Security Threats

The second cluster of challenges concerns the changing nature of conflict. By some measures, war is less common and less lethal than in the past. The number of large-scale interstate conflicts has been relatively low since the end of the Cold War, and, Russia's invasion of Ukraine notwithstanding, it is not expected to rise again (IISS 2022).

However, that rosy picture is misleading for a number of reasons. First, the Uppsala Conflict Program Database defines war as 'a state-based conflict or dyad which reaches at least 1,000 battle-related deaths in a specific calendar year'. In 2021, 54 state-based conflicts were recorded in 35 countries, resulting in nearly 85,000 battle-related deaths (Palik, Obermeier and Rustad 2022). In 2022, among the 32 countries at war, three recorded more than 10,000 battle deaths (Myanmar, Russia and Ukraine), 14 between 1,000 and 10,000, and 15 with fewer than 1,000 (World Population Review 2023). While the number of people killed in combat declined between 2014 and 2020, there was an uptick in 2021 and 2022 due to the wars in Yemen, Ukraine and Ethiopia.

Moreover, many civil wars are 'internationalised', with neighbouring or other states involved on one side or the other. Between 2015 and the end of 2021, more people were killed per year in internationalised civil conflicts than in civil conflicts without international involvement (Palik, Obermeier and Rustad 2022). In 2022, Syria, Ethiopia, Yemen, Libya, the Democratic Republic of the Congo, Mali, Burkina Faso, and Somalia were among the conflicts that fit that description.

In addition to these state-based wars, the number of conflicts between non-state actors (i.e., the use of armed force between organised groups, none of which is the government of a state) has risen. Seventy-six non-state conflicts were recorded in 2021, a significant increase from 2012 when there were 49 such conflicts (Palik, Obermeier and Rustad 2022).

Second, there is an increasing range and diversity of non-state armed groups involved in conflict. Some are insurgents seeking political power. Some are violent groups with ideological aspirations that are not necessarily related to political power or territorial gain (jihadists, for example). Some are gangs who have an interest in controlling territory for criminal, not political gain. In many places, political, ideological, economic, and criminal agendas are intertwined, as in the Central African Republic and Colombia, for example. In Haiti, criminal gangs have their own motives for violence but have also been instrumentalised by political actors.

Third, while today's wars are of lower intensity, other consequences of war have become more dire. Sexual and gender-based violence is prevalent, with rape being used as a weapon of war. Famine has also become a weapon of war—for example, in Ethiopia

(de Waal 2018). More people are dying from indirect consequences of war, such as starvation and disease, than on the battlefield (Watson Institute of International and Public Affairs 2022). Economic disruption caused by the war in Ukraine has produced acute levels of food insecurity, not only in the conflict zone but also around the world. These indirect causes are felt disproportionately by women and children.

Mass displacement caused by war is on the rise. At the end of 2022, more than 100 million people were forcibly displaced (United Nations 2022). In September 2022, 7.5 million Ukrainians were refugees and another 7 million internally displaced. In mid-2022, the numbers for Syria were 6.8 million refugees and 7.2 million IDPs. Afghanistan had 3.5 million IDPs, while 2.8 million were still refugees. Ethiopia and the DRC both had over five million IDPs (UNHCR 2022).

Fourth, there is a growing range of drivers of conflict and new types of security threats. In addition to economic, political and ideological causes of war, nationalism and religious extremism seem to be making a comeback. We may see more resource wars in the future. Climate change and pandemics are now viewed as security threats, which, if not the cause of conflict, can exacerbate its impacts. The taboos against the use of weapons of mass destruction (nuclear, chemical and biological) are being eroded. The weapons of war now include autonomous weapons, hypersonic missiles and cyberattacks. Other disruptive technologies that may impact international peace and security in the future are artificial intelligence, biotechnology and quantum systems (Caves and Carus 2021). One cannot properly measure the costs of conflict without accounting for the risk of wars fought with weapons of mass destruction. Even if technological developments make it easier to avoid civilian deaths, they can generate instability and thereby increase the chances of escalation to nuclear war with catastrophic consequences.⁵

The Security Council's Chapter VII Conflict Management Tools

Although the UN Charter collective security scheme has never functioned as intended, there are a wide range of tools available to the Security Council to fulfil its responsibilities for the maintenance of international peace and security (UN Security Council Conflict Management Handbook 2023). These fall within Chapters VI, VII and VIII, either explicitly or implicitly. So, for example, Chapter VI contemplates 'negotiation, enquiry, mediation, conciliation, arbitration, [and] judicial settlement' as dispute settlement techniques. Chapter VII contemplates economic sanctions and military enforcement action. Neither chapter says anything about peacekeeping. Peacekeeping, described by Secretary-General Dag Hammarskjöld as falling within Chapter VI-and-a-half,⁶ was invented by the UN precisely because the various techniques listed in the Charter either could not be acted upon due to the superpower rivalry or were not suitable to address the sort of challenge peacekeepers were deployed to undertake.

That the United Nations could improvise in that way was affirmed by the International Court of Justice (ICJ) in the 1946 Advisory Opinion on *Reparations*. In that case, the Court stated that the United Nations could bring an international claim on behalf of one of its agents who suffered injuries in the performance of his duties (ICJ 1949). Since the United Nations must often rely on agents to carry out missions, and since those missions are often dangerous and politically sensitive, the United Nations must have the right to bring a claim on the agent's behalf in order that the functions may be carried out efficiently and without interference. The Court applied the so-called functional limitation

test: ‘Under international law, the Organization must be deemed to have those powers which, though not expressly provided by the Charter, are conferred upon it by necessary implication as being essential to the performance of its duties’ (ICJ 1949). This implied-powers doctrine was later drawn on in the *Certain Expenses* Advisory Opinion when the ICJ declared the United Nations could establish peacekeeping missions (ICJ 1962.)

This chapter focuses on Chapter VII, but it is important to understand that many of the conflict management tools available to the UN Security Council are not under Chapter VII, either implicitly or explicitly. Thus, it can authorise fact-finding, mediation and political or peacekeeping missions under Chapter VI. It can call for ceasefires, demand humanitarian access, insist on respect for human rights, and encourage conflict parties to negotiate settlements. It can coordinate with the Peacebuilding Commission on peacebuilding strategies or with the World Health Organization in addressing infectious disease outbreaks. It can work with regional organisations in handling peace and security matters that are appropriate for regional action (Article 52). It can adopt thematic resolutions that provide normative guidance on everything from the role of women in peace processes to counterterrorism to climate change (Security Council Report, 2023).

The range of Chapter VII tools at its disposal is also broader than the words of the Charter suggest. The starting point for Chapter VII action is a determination that a threat to the peace, breach of the peace or act of aggression exists (Article 39). The UN Security Council has wide discretion in making that determination and in deciding what to do in response. Articles 40–42 list provisional measures, sanctions and military action as the options available to the Council. But each of those Articles has been interpreted broadly and, indeed, the Council has often acted in a manner that does not fall neatly within any of them. In the remainder of this section, I will briefly review the tools the Council has used.

Military Enforcement Action

Article 42 states the Council ‘may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security’. These operations were meant to be undertaken by forces put at the disposal of the Council on the basis of ‘special agreements’ reached under Article 43. Because no such agreements have been concluded, full-scale enforcement action (as opposed to ‘robust peacekeeping’—see below) authorised by the UN Security Council has been undertaken by coalitions of the willing, and it has been quite rare. The closest it came during the Cold War was in 1950, when the Council *recommended* that states furnish such assistance to South Korea as necessary to repel the attack from the North, essentially giving the U.S.-led coalition the right to fight the North under the UN flag. In response to Iraq’s invasion of Kuwait in 1990, the Council authorised another U.S.-led coalition to take military action to drive Iraq out of Kuwait following the former’s invasion of the latter (Resolution 678). That resolution, plus Resolution 687 (1991) and Resolution 1441 (2002), was later invoked by the United States and the United Kingdom as legal justification for a second war in Iraq, a highly contested interpretation of those resolutions (Johnstone 2004: 813). In 2011, the Security Council authorised (with five countries abstaining) military action to protect civilians against Libyan government forces.

Interdiction of Vessels

A Chapter VII tool that involves military action of a sort, though not the use of force, is authorisation to interdict ships and other vessels suspected of carrying internationally prohibited items or goods. In its Resolution 1929 (2010), the Security Council called upon all states to inspect ships to and from Iran if the state had reasonable grounds to believe the cargo contained prohibited items. The Council also allowed states to request inspections of vessels on the high seas with the consent of the flag state if there was information that the vessel was carrying prohibited items. By Resolution 2182 (2014), the Council authorised member states or multinational naval partnerships to interdict vessels in Somali territorial waters and on the high seas that may be carrying Somali charcoal (a sanctioned item) and weapons destined for Somalia. By Resolutions 1874 (2009) and 2094 (2013), the Council authorised the interdiction and inspection of vessels to or from North Korea suspected of carrying material that could be used in a nuclear programme. It adopted similar resolutions relating to Libya (in 2014) and Yemen (in 2015).

Sanctions

Article 41 reads:

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions. ... These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

On the basis of that article, the UN Security Council has imposed multiple sanctions regimes. The earliest were against white-minority regimes in Rhodesia and South Africa. In the aftermath of the Gulf War, it imposed comprehensive sanctions on Iraq (Resolutions 661 and 687). Despite the exemptions that were built into that sanctions regime, the dire humanitarian consequences spelt the end of comprehensive economic embargoes. Since then, the Council has leaned towards more targeted or ‘smart’ sanctions:

- arms embargoes
- commodity restrictions (for example, on oil, diamonds or timber)
- financial sanctions (prohibiting any dealings with banks in a country)
- asset freezes of individuals and firms
- travel bans on countries (e.g., no flights in or out)
- travel bans on designated individuals
- diplomatic sanctions (denial of the right to participate in the General Assembly)

These sanctions have been applied to support peaceful transitions, deter non-constitutional changes of government, constrain terrorism, protect human rights, and promote nonproliferation. While the record of success of these sanctions is low if measured by the change of behaviour of the target state (Biersteker, Tourinho and Eckert 2016: 11–33),⁷ it is important to remember that sanctions have other purposes. Sometimes they are designed to *signal* condemnation of conduct and to stigmatise the target. Sometimes the purpose is to deter, not the target, but others contemplating similar action. It may be to create the conditions for diplomacy. Or to lay a foundation for military action: sanctions

as a first step that, if not successful, makes it easier to mobilise support for military action. Or the purpose may be to pacify domestic constituencies, who demand that ‘something be done’, a default policy option when words of condemnation and diplomacy do not seem to be enough, but when military action is not possible.

‘Robust’ Peace Operations

In its origins, peacekeeping was a Chapter VI enterprise. This was true for virtually all Cold War operations (with the exception of ONUC in the Congo, although it was not explicitly authorised under Chapter VII). However, with the end of the Cold War era, the nature of conflicts changed, and the nature of the missions changed. The conflicts were mainly internal, characterised by humanitarian crises and human rights abuses, sometimes a complete breakdown in law and order. Peacekeeping missions were deployed to monitor and provide extensive support to a peace process, often but not always based on a comprehensive peace agreement. Sometimes, these missions were deployed in permissive environments where the parties were truly committed to peace (such as El Salvador and Mozambique). More often, there was no reliable peace to keep, and so the operations had to be more militarily robust. Specifically, they were authorised to use force beyond self-defence for limited objectives, such as the protection of civilians. The mandates were either partially or fully on the basis of Chapter VII. Importantly, however, these missions were deployed with the ‘strategic consent’ of the host government, which is what distinguishes them from enforcement action (war), and they are not authorised or expected to defeat a designated enemy (United Nations 2008).

Robust peacekeeping straddles Chapters VI and VII or sometimes blends the two. It is not unusual to find resolutions authorising peace operations primarily under Chapter VI but with one or more paragraphs under Chapter VII. This began with Resolution 1270 (1999), in which the peacekeeping operation in Sierra Leone was authorised to

take the necessary action to ensure the security and freedom of movement of its personnel and, within its capabilities and areas of deployment, to afford protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone.

That was a compromise in the Council between those who wanted an entire Chapter VI mandate (to limit the degree of commitment the Council was making to guarantee security in the countries) and those who wanted a Chapter VII mandate because they thought the peace agreement reached was very fragile. The effect was to send a signal that the missions would act robustly but only for the specified purposes of protecting UN personnel and civilians, and only ‘within their capabilities’, thereby lowering expectations.

Another example is Mission des Nations Unies pour la stabilisation en Haïti (MINUSTAH) (prior to the earthquake in Haiti), which was deployed mainly under Chapter VI (because it had the consent of the government with a mandate to assist that government), but one long paragraph was under Chapter VII in order to give it authority to act robustly if necessary to provide a ‘secure and stable environment’. Other resolutions that straddle the chapters (and fudge the distinction) include UNMIL in Liberia and UNMISS in its early days in South Sudan (until 2013). Both operations were entirely under Chapter VII yet firmly consent-based, the main purpose of which was to assist the

legitimately established governments in each. In 2022, four UN peace operations had Chapter VII mandates in the Democratic Republic of Congo, the Central African Republic, South Sudan, and Mali.

While the practice of peacekeeping evolved, so did the doctrine. A turning point was the publication of the Brahimi Report in 2000, which endorsed a more forceful approach to peacekeeping in order to deal with so-called spoilers and to protect civilians (United Nations Department of Peacekeeping Operations 2000: paras. 21, 51, 62). In reacting to the Report, the Security Council requested the Secretary-General to prepare a ‘comprehensive operational doctrine for the military component of UN peacekeeping operations’ (United Nations Security Council 2000). The Special Committee on Peacekeeping (a General Assembly body with broader membership than the UN Security Council) was less enthusiastic and did not encourage the Secretary-General to launch into a new doctrinal exercise. Developing countries, the main contributors to UN peacekeeping operations, had two concerns. First, they worried that the new attention being given to peace operations would distract attention (and resources) from development. Second, a related but unspoken fear was that more robust peacekeeping or ‘peace enforcement’ was a Trojan horse for intervention by the Global North in the Global South.

Nevertheless, the Capstone Doctrine of 2008 did articulate more expansive interpretation of the ‘holy trinity’ of peacekeeping principles, in effect doctrine for robust UN peacekeeping (United Nations Department of Peacekeeping Operations 2008: 31–36). Like the Brahimi Report, it acknowledged that consent is often unreliable and may be withdrawn in a variety of ways. It distinguished the consent of *the main parties*, which was a defining feature of peacekeeping, from that of minor spoilers, whose consent and continuing cooperation were not deemed essential. Impartiality was defined to mean ‘impartial in their dealings with the parties to the conflict, but not neutral in the execution of their mandate’. With UN Security Council authorisation, force could be used beyond self-defence ‘to deter forceful attempts to disrupt the political process, protect civilians under imminent threat of physical attack, and/or assist the national authorities in maintaining law and order’.

Finally, it is important to note that the UN Security Council often assigns robust mandates to operations by regional organisations and coalitions as opposed to UN peacekeeping missions. Examples include the Unified Task Force in Somalia in the early 1990s, the Implementation Force (IFOR) in Bosnia in the late 1990s, the International Force East Timor (INTERFET) in 1999–2000, the Kosovo Force (KFOR) from 1999 to 2022, the International Security Assistance Force (ISAF) in Afghanistan from 2001 to 2015, and the African Union Mission in Somalia from 2007 to the present.

WMD Inspection Regimes

In addition to the imposition of sanctions, the Council has established inspection regimes to constrain the proliferation of weapons of mass destruction. In the aftermath of the 1991 Gulf War, Resolution 687 required Iraq to accept the destruction and long-term monitoring of its nuclear, chemical, biological, and long-range ballistic missile programmes (Johnstone 1994). The International Atomic Energy Agency was assigned primary responsibility for nuclear programmes. Because no comparable body existed for chemical and biological weapons, or ballistic missiles, the UN Security Council created the UN Special Commission (UNSCOM) to deal with those programmes in Iraq.

UNSCOM, later converted into the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), was established as a subsidiary organ of the Security Council under Article 29 of the Charter. It reported directly to the UN Security Council, not the Secretary-General, and in that sense was an unusual organisation, essentially a staff that worked directly for the members of the Security Council.

In Iran, following the signing of the Joint Comprehensive Plan of Action (JCPOA), the UN Security Council endorsed a monitoring programme that consisted of three tiers: (a) Iran's original safeguards agreement with the IAEA, (b) the Additional Protocol to that agreement and (c) additional verification measures that are unique to the JCPOA.

In 2013, an Organisation for the Prohibition of Chemical Weapons (OPCW)-UN Joint Mission for Eliminating Syria's Chemical Weapons was established in response to Syria's use of sarin, killing as many as 1,400 people in Aleppo. The mechanism succeeded in destroying most of Syria's declared weapons in a year, but lingering suspicions that it preserved some sarin and VX nerve agent—and its apparent use of chlorine gas as a weapon (a chemical that was not covered by the earlier mechanism)—prompted the dispatch of a new mission in 2015. The United Nations-Organisation for the Prevention of Chemical Weapons-Joint Investigative Mission (UN-OPCW-JIM) UN-OPCW JIM was established to identify who was responsible for the use of chlorine and other toxic chemicals as determined by an OPCW Fact-Finding Mission which had been set up by the OPCW in February 2015. The JIM functioned until November 2017 when renewal of its mandate was vetoed by Russia.

Quasi-Judicial and Quasi-Legislative Acts

In the early 1990s, the UN Security Council established under Chapter VII of the UN Charter two *ad hoc* international criminal tribunals, one for former Yugoslavia and one for Rwanda. ICTY was created in 1993 in response to widespread and systematic murder, rape and 'ethnic cleansing' in Bosnia. Its temporal jurisdiction extended into the future, so, in addition to the Yugoslav wars of the early 1990s, ICTY had jurisdiction over crimes committed in Kosovo in the late 1990s. ICTR was set up in 1994 after the genocide in Rwanda ended. Its temporal jurisdiction was limited to one year: January 1 to December 31, 1994. The Rwandan government, though initially supportive of the ICTR, did not cooperate with it fully, largely because it objected to its jurisdiction extended to the end of 1994 and because of its inability to impose the death penalty.

These two *ad hoc* tribunals stimulated international efforts to establish the International Criminal Court (ICC), whose Statute entered into force in July 2002 after 60 states had ratified it. The Statute empowers the Security Council to refer 'situations' to the ICC, a power it has used twice: Darfur in 2005 and Libya in 2011.

Finally, the UN Security Council has adopted several 'quasi-legislative' resolutions under Chapter VII. These resolutions are 'legislative' in that they impose general obligations on all states in a broad issue area for an indefinite period. This is qualitatively different from the Council's normal crisis management role, which entails action targeted at a particular state. The first of these was Resolution 1373, adopted a few weeks after the 9/11 terrorist attacks. By a unanimous vote, under Chapter VII of the UN Charter, the UN Security Council decided, among other things, that all states shall 'prevent and suppress the financing of terrorist acts', 'freeze financial assets of persons who commit

terrorist acts, and deny safe haven to those who finance, plan, or support terrorist acts'. The Council did it again in April 2004 when it adopted Resolution 1540, which requires all states to adopt laws designed to prevent weapons of mass destruction from falling into the hands of terrorists. And then again ten years later with Resolution 2178 (2014) on the movement of foreign terrorist fighters.

This descriptive account of the Council's conflict management tools raises many questions about efficacy that go beyond the scope of this chapter. Are coalitions of the willing authorised by the UN Security Council but with minimal oversight able to fulfil collective purposes, or do they simply serve the interests of the most powerful members of the coalition? How well do 'smart sanctions' targeting individuals work? Has the Security Council adequately addressed the due process concerns they raise? (Johnstone 2008). Do 'robust' peace operations squeeze out the search for political solutions?⁸ Are the quasi-legislative actions of the Council tantamount to 'hegemonic law' (Alvarez 2003; Vagts 2001)? On the one hand, the Council's ability to adapt and innovate (interpreting the Charter as a 'living tree') is laudable. On the other hand, an expansive application of its implied powers opens the door to abuse.

A Modest Proposal: International Standing Civilian Protection Service

As the previous section highlights, the UN Security Council has been innovative in acting on its Chapter VII powers, yet it has fallen well short of the vision of the UN founders. There was a brief post-Cold War period when the end of the relative paralysis of the Council generated hopes for a 'new world order'. The response to Iraq's invasion of Kuwait in 1990 seemed to vindicate those hopes when the Security Council imposed sanctions and authorised military action. The enforcement action was undertaken by a coalition of the willing, led by the United States, not by a UN force. (The United Nations lacked the capacity to muster, let alone manage, a force of more than 500,000 troops). While there was little objection to 'sub-contracting' enforcement action at the time, it later became a source of great controversy when the United States and United Kingdom claimed the authority to intervene in Iraq again in 2003, based in part on the UN Security Council resolutions dating back to 1990 and 1991.

Meanwhile, hopes for more effective conflict management by the Council foundered in the wake of the tragedies of Bosnia, Somalia and Rwanda in the early 1990s. While the Council has remained active ever since, recent events in Ukraine, Iran and Ethiopia have generated the sense that the Council is facing a new existential crisis. This crisis is rooted in part on how the UN Security Council has acted to maintain international peace and security. Equally, if not more important, is its failure to act. There is a real risk that, through inaction, the Council will fade into irrelevance.

In this section I make a proposal for the creation of an International Standing Civilian Protection Service (ISCPS). I do so not because I believe it answers the central challenges the United Nations faces in managing international peace and security; the proposal is too modest for that. My purpose rather is to suggest an ambitious yet possible avenue for reform that, if it proves its worth, can lay the foundation for more extensive reform or, at a minimum, generate debate and concentrate the mind on what is feasible. I begin the section by outlining why an ISCPS is needed. A brief review of past proposals for a standing UN peace force follows. I then outline the proposed functions and structure of the Service. In the conclusion of the chapter, I consider what more ambitious proposals might look like.

Why Is a Standing Civilian Protection Service Needed?

First, the protection of civilians has become a priority for peace operations.⁹ There is widespread political, legal and moral support for that proposition. Virtually every UN peacekeeping mission established since 1999 has been given that mandate; African Union operations engage in protecting civilians; the European Union has deployed emergency operations solely for that purpose; NATO is developing a policy on it.

Moreover—and this is equally important—it is now well understood that a holistic ‘whole-of-mission’ approach is needed to effectively protect civilians (United Nations Department of Peacekeeping Operations 2018). Physical protection through the use of military force is sometimes necessary, but often active police patrolling, human rights monitoring, and community engagement will be more effective.

Second, there are obstacles to operationalising protection in peace operations. Existing approaches tend to be more reactive than preventive, and the United Nations and regional organisations have struggled to craft techniques that are tailored to the circumstances where operations are deployed. There are often logistical constraints, such as a lack of mobility. A lack of contextual knowledge and situational awareness that effective protection requires is also a problem.

Third, the future of large-scale military peace operations is in doubt. There has been a slow decline in the number of UN peacekeepers deployed around the world since 2014. Several of the United Nation’s largest missions have been terminated in the last four years, including in Côte d’Ivoire, Haiti, Liberia, Darfur, and Mali. Others are scaling down—for example, in the Democratic Republic of the Congo. And no major new UN operation has been established since the mission in the Central African Republic in 2014, whose mandate extension Russia recently abstained on.

Yet the need for civilian protection continues. Sudan illustrates the point. UNAMID, the joint UN-African Union peacekeeping operation, was terminated in December 2020. It was replaced by a much smaller, entirely civilian, mission called UNITAMS. Yet understanding that the threat to civilians in Sudan remained, UNITAMS was given a protection-of-civilians mandate to be carried out in a very different manner from how UNAMID operated. While the demand for large-scale multidimensional operations will not disappear, alternative mechanisms for protection in high-threat environments must also be developed.

Past Proposals for a Standing UN Force

Proposals for a UN standing army have a long history. As noted, the UN Charter itself calls for armed forces to be put at the disposal of the UN Security Council on the basis of ‘special agreements’ to be signed by the UN Security Council and member states (United Nations 1945: art. 43). In the immediate post-War period, the United States was prepared to offer over 300,000 troops, a large naval force, 1,250 bombers, and 2,250 fighters (Urquhart 1993: 3). The USSR, insisting that the great powers must all make equal contributions, was unwilling to commit to a force of that size. The Cold War intervened in 1947, and negotiations between the United States and USSR on the special agreements ground to a halt. With the world’s two most militarily powerful states unable to take the first step, no agreements were ever signed.

Since then, other ideas have surfaced, starting with Trygve Lie’s proposal for a UN Guard of 5,000 in 1948. It was envisaged not as a substitute for Article 43 forces but

rather to perform more limited functions, such as administering truces and providing security for plebiscites (Lopez-Claros, Dahl and Groff 2020: 155). That was seen as far too ambitious by the Soviet Union, and even the United States, United Kingdom and France had reservations. All were concerned about empowering the United Nations to take military action, reflected in the reaction of the U.S. representative that it ‘did encroach somewhat on the military theme’ (Roberts 2008: 102). In the end, even a scaled-down force of 800 was not accepted.

In 1993, Sir Brian Urquhart, who had just retired as the United Nations’s most distinguished and experienced peacekeeping official, revived Trygvie Lie’s idea (Urquhart 1993). Having witnessed UN peacekeeping struggles in Cambodia, Angola, Somalia and especially Bosnia, he proposed a ‘volunteer force’ of about 5,000, costing about \$380 million per year (in 1993 dollars), which compares favourably with the \$1.4 billion peacekeeping budget and \$950 billion in global military expenditure at the time. It would not take the place of peacekeeping or large-scale enforcement action but rather fill a ‘peace enforcement’ gap identified by Boutros-Ghali in *Agenda for Peace* (Boutros-Ghali 1992: para 44). Under the authority of the UN Security Council and the day-to-day command of the Secretary-General, its volunteers would be trained in the techniques of peacekeeping and negotiation ‘as well as in the more bloody business of fighting’ (Boutros-Ghali 1992). In a variation on the theme, Urquhart later proposed an armed UN Humanitarian Security Police Force to protect United Nations and non-governmental organisation (NGO) personnel engaged in UN humanitarian operations (Childers and Urquhart 1994: 118). He argued that such a force would have been useful in Eastern Zaire after the Rwanda genocide to provide security for refugees and workers in the refugee camps, which were controlled by the former Rwandese forces and militia that had committed the genocide.

Grenville Clark and Louis Sohn (1966) had a much more ambitious vision. In *World Peace Through World Law*, first published in 1958, they set out a blueprint for reform of the United Nations through amendment of the UN Charter or, if that proved to be impossible, creation of a new organisation. About the invention of nuclear weapons, Sohn (1955–56) wrote,

For the first time in its history, mankind is confronted by a threat of total annihilation. It is characteristic of the human mind that it does not bow to the inevitable but is willing to gamble on the possibility of finding a solution in time to prevent the catastrophe.

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This belief translated into the edifice of *World Peace Through World Law* (WPWL), whose core elements included the elimination of all national armed forces within 12 years and a UN peace force of 200,000–600,000 personnel, as well as supranational powers for the UN General Assembly and a new Executive Council.

Augusto Lopez-Claros, Arthur Dahl and Maja Groff (2020) picked up on and elaborated on that idea in 2020, proposing an International Peace Force of 800,000, with double that number in reserve (168–78).¹⁰ Cognisant that this would be a complex undertaking, they nevertheless sought to de-mystify the proposal by identifying some of the practical considerations that would need to be borne in mind in order to make it operational (Lopez-Claros, Dahl and Groff 2020: 169). With a mission to ‘enforce certain decisions made by the Security Council in service of international peace and security, and

to generally ensure compliance with Charter obligations and international law', Lopez-Claros and his collaborators provide impressive detail about technical aspects, such as the recruitment of personnel, terms of service, administration of the force, its budget, logistics, types of weaponry, and disciplinary jurisdiction. And while the cost is high (estimated at \$150 billion per year), they point out that this sum is dwarfed by global military expenditure (which had reached \$2.1 trillion by 2022).

A middle ground between the 5,000 suggested by Lie and Urquhart and the more ambitious proposals of Clark/Sohn and Lopez-Claros, Dahl and Groff is Peter Langille's (2015) call for a UN Emergency Peace Service of 13,500 military, police and civilians. This multidimensional force would perform four primary roles: prevention of armed conflict and mass atrocity crimes, protection of civilians, prompt start-up of demanding peace operations, and addressing humanitarian needs. It would be capable of diverse assignments with specialised skills for security, humanitarian and health and environmental crises. It would not replace existing UN or regional peacekeeping forces but rather serve as a first, rapidly deployable responder. Langille estimates start-up costs of about US\$3 billion, with annual recurring costs of approximately \$1.5 billion and incremental costs for field operations of approximately \$1.2 billion.

The notion of a UN standing army (or police force) of any size bumps up against a deep reluctance to empower the organisation in that way. The principle of state sovereignty is still clung to by most member states, from the Global North and Global South equally. The world is not ready for a standing force of even 5,000 let alone 800,000.¹¹ Nevertheless, there may be a willingness to entertain less ambitious proposals.

The Structure, Composition and Functions of an ISPCS

The ISPCS would be a standing service established under the auspices of the United Nations designed to provide an integrated, well-trained, highly mobile, elite capacity for the holistic protection of civilians. The total size would be about 2,400 personnel, composed of 20 Joint Protection Teams of approximately 120 civilians, police and military each. Depending on the circumstances, anywhere from one to ten teams could be deployed to a particular conflict-affected state. Normally, they would be tasked with reinforcing an existing UN peacekeeping or political mission. The teams could also be made available to regional organisations that lack adequate capacity for civilian protection.

A typical Joint Protection Team would consist of the following elements, with indicative numbers suggested for each:

- A leadership unit (10 people)
- Civilians with expertise in mediation, civil affairs, human rights, sexual violence, child protection, etc. (about 50 people)
- Lightly armed or unarmed civilian police (24 officers)
- One formed police unit (24 officers)
- Two special forces units (12 military personnel each)
- Two transport helicopters and crew (8 people)

They would be based in six to 10 hubs scattered around the world. At those hubs, they would be trained in generic protection-of-civilian tasks, as well as the particular dynamics and context of conflicts to which they could be deployed. The teams would establish liaison arrangements with regional organisations and NGOs. That would enable them to

acquire the necessary knowledge and situational awareness to maximise their effectiveness when and where deployed. By creating this standing capacity, the teams would train together, acquire generic expertise on civilian protection, and rapidly acquire context-specific expertise when it became apparent that they were about to be called on.

The precise tasks the Joint Protection Teams would undertake would depend on context, but the overarching concept of operations is a multidimensional approach to civilian protection that is tailored to the particular conflict environment. The teams would be capable of performing a range of protection functions in high-threat environments, including the following:

- Dialogue and community engagement
- Negotiating conflict resolution at the local level
- Support for community-based early warning
- Advising and supporting local law-enforcement institutions
- Proactive support to vulnerable groups, such as women collecting firewood
- Active patrolling to create a deterrent presence
- Temporarily securing key sites
- Arrest and detention of perpetrators of violence against civilians (if mandated by UN Security Council)
- The use of force to provide physical protection when needed

Such small teams would not be tasked with the full range of protection functions. For example, they would not be expected to engage in what the UN Department of Peace Operations calls the third tier of protection—namely, ‘establishing a protective environment’ (United Nations Department of Peacekeeping Operations 2018: 16–17). That entails high-level political engagement to get at the root causes of conflict and longer-term activities such as security sector and justice sector reform. The Joint Protection Teams would perform more targeted interventions to deal with protection crises, leaving the political process management and peacebuilding to other actors.

Conclusion

From the point of view of the security challenges the world faces, this is a modest proposal. From the point of view of the practical and political realities of multilateral institution-building today, the proposal is ambitious. It would require not only political will but also financial and human resources, and managerial capacity to stand up and sustain such a service. It is not unreasonable to imagine this capacity could be built in the United Nations over time. If the political will for an ISCPS can be mustered, and the concept proves its worth through a record of accomplishment, it could generate momentum for more far-reaching future reforms to the Chapter VII architecture.

What might those more far-reaching reforms entail? Two possibilities can be envisioned. The first is to revitalise negotiations on Article 43 special agreements. As noted earlier, negotiations between the United States and USSR came to an abrupt halt in 1947. The idea lay dormant throughout the entire Cold War period until 1992, when Secretary-General Boutros-Ghali stated in his *Agenda for Peace* that the time may be right to revisit the idea. He wrote that the function of Article 43 forces would be to respond to acts of aggression, not necessarily a threat from a major army, but rather from a ‘military force of a lesser political order’. The forces would be ‘on call’ on a permanent basis,

meaning that member states who had entered into the agreements would be obliged to provide them if called upon by the Security Council (Boutros-Ghali 1992: para. 43). That the idea did not gain traction at the time is partly the result of uncertainty about the direction Russia would take following the breakup of the Soviet Union and partly because the members of the Council were occupied in trying to manage conflicts on a case-by-case basis (in Iraq, Bosnia, Somalia, Angola, Mozambique, El Salvador, Cambodia, and elsewhere). The 'new world order' heralded by Presidents Bush and Gorbachev was being constructed incrementally, one piece at a time; the political will to engage in a more far-reaching reform did not exist in the early 1990s. Moreover, as noted earlier in the context of peacekeeping reform, many countries in the Global South were sceptical about the idea of peace enforcement.

Is the moment right now? The United Nations has still not developed adequate capacity for rapid reaction despite building what was first called the UN Standby Arrangements System (UNSAS), later supplemented by the Standby Forces High Readiness Brigade (SHIRBRIG) and later re-named the Peacekeeping Capability Readiness System (PCRS). Moreover, these are not 'standing' forces. UN member states voluntarily put a designated number of troops on standby for use in peacekeeping operations within an agreed response time. They can facilitate speedier deployment, but governments retain the final say as to whether their troops that are part of the system will be deployed in a particular case. At the time of the Rwanda genocide in 1994, 19 governments had signed on to the standby system, and all of them said no when asked to contribute troops to reinforce the mission. A year later, when the United Nations was seeking 5,000 troops to provide security in the refugee camps in what was then Zaire, 60 countries were asked—many, part of the system—and all of them said no.

Meanwhile, enthusiasm for large-scale peacekeeping operations is on the decline, but the need for quick deployment of highly capable forces to deal with an emergency remains. If a handful of states were prepared to commit a limited number of military and formed police (say 1,000 of each), it could help to nip crises in the bud before they escalate to full-scale conflict or genocide, as occurred in Rwanda. The advantages would be many. It would be more reliable than a voluntary, standby system and would not be subject to the 'ebb and flow' of national politics; it would enable speedier deployment; it would be a credible tool in the hands of the Security Council; if parties to a conflict knew a well-trained force was ready to move at a moment's notice, it might even serve as a deterrent; it would be seen as more impartial than 'coalitions of the willing' since it would not depend on an interested state volunteering to take the lead; and it would alleviate command and control and interoperability problems, given that the troops and police could train together.

The UN membership is not ready to countenance this today for a variety of reasons. It would be expensive. It would empower the Security Council at a moment when its legitimacy is being questioned. It would pose selectivity problems since potentially multiple crises would have to be addressed simultaneously, meaning that the force would be used selectively, adding ammunition to those who complain about double standards. There is the risk of 'mission creep': it could quickly be overwhelmed and, as a result, draw member states into a conflict to rescue it. None of those problems are insurmountable, however. If geopolitical circumstances change and faith in the United Nations is restored, it is not inconceivable that a small-scale Article 43 'on-call' force could be established.

Another option—not necessarily mutually exclusive—is to establish regional standby forces for service in UN missions and/or UN-authorized missions. Loosely modelled on

the African Union's (not fully functional) African Standby Force (ASF), the idea would be for each region of the world to dedicate a set number of troops, police and perhaps civilians who train according to a common doctrine and procedures. The regions would pledge to put the personnel on standby, deployable at the request of the Security Council. The ASF is meant to be composed of 15,000 troops, 3,000 from each of five African sub-regions.¹² The global equivalent could be 10,000 personnel from each of ten regions. Where a regional organisation with a security mandate exists, the standby forces could be established by the regional organisation. Where no such organisation exists, they could be established by a regional coalition of states. Adopting a modular approach, with different units available to be deployed to meet different contingencies, they could be used in a variety of scenarios: purely political tasks; Chapter VI-style observer missions; more robust peacekeeping; large-scale peace enforcement; and post-conflict peacebuilding.

Even these more ambitious proposals are not a full response to the challenges posed by rising geopolitical tensions and the increasing risks of conflict with catastrophic consequences. Yet it is precisely because those tensions are so high that radical institutional reform is not politically feasible: there are no easy institutional fixes to geopolitical problems. On the other hand, geopolitics are not an immutable reality beyond the reach of human agency. The practical challenge for reformers, therefore, is not to imagine some ideal world order and hope for the best but to identify achievable steps that can lead to realisation of that ideal. Such incrementalism may be frustrating, especially given the magnitude of the risks we are facing. But if addressed with a sense of urgency, incremental steps of the sort proposed here can change the normative and political climate, generate momentum and open the door to deeper reforms that currently seem out of reach.

Notes

- 1 Sometimes described as the 'original sin' of the UN Charter, the veto power is clear evidence that the major powers were unwilling to give up a core attribute of sovereignty by subjecting themselves to the possibility of collective military action authorised by the Security Council. Indeed, Cord Meyer (1947), a member of the U.S. delegation to the San Francisco Conference, claimed this state of affairs, plus the accumulation of arms by the major powers, meant 'war was not only possible, but inevitable'.
- 2 High-level meeting of the UN Security Council organised by India during its presidency, December 2022.
- 3 I am grateful to Augusto Lopez-Claros for highlighting the point about Senate ratification.
- 4 Grossman argues that India's positioning on Russia's invasion of Ukraine, neither condemning nor supporting it, is actually a stabilising force. As he puts it, 'India appears to be seeking to enter this new multipolar world by avoiding great power competition entirely—instead forging its own, nonaligned path. Although India's nonalignment is viewed by many in Washington as fence-sitting, its position may actually be stabilizing for today's international system: With India in no one's camp, the grand strategic prize that no bloc can win diminishes each side's collective power against the others and thereby dampens the prospects for conflict. This, too, seems a net positive for upholding the international order' (Grossman 2022).
- 5 I am grateful to Richard Falk for this insight.
- 6 Hammarskjöld literally called it that as a shorthand way of connoting the idea that peacekeeping falls somewhere between Chapters VI and VII. If the UN Charter used Arabic numerals, Dag's words would be 'Chapter 6.5'.
- 7 According to Biersteker *et al.* (2016), if the purpose of UN sanctions is to coerce or constrain behaviour, they succeed 22 per cent of the time.
- 8 This concern was expressed by the High-Level Independent Panel on Peace Operations (United Nations Department of Peacekeeping Operations 2015: paras. 43–48).
- 9 This section draws extensively on my blog post.

- 10 Lopez-Claros *et al.* (2020) model their proposal on Clark and Sohn's (1966) proposal for a UN Peace Force of 200,000 to 600,000.
- 11 Shortly after producing his 1993 article, Brian Urquhart said in an interview that he did not think his idea of a volunteer force was ever practical. His idea in writing the article was 'to try highlight the fact that national governments have reached the limit of sending their own armies into situations that are dangerous and not of genuine national concern. And that therefore, unless you begin to think about an international capability, you are not going to be able to do much to prevent or stop these conflicts' (Urquhart and Rieff 1997).
- 12 Originally conceived in 2004, the ASF is still not fully functional—for both operational and political reasons.

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