Conjuring Spirits from the Vasty Deep:

A User's Guide to Proposals for Strengthening UN Civilian Capacity in Peace Operations

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GLENDOWER
I can call spirits from the vasty deep.

HOTSPUR:
Why, so can I, or so can any man;
But will they come when you do call for them?

– William Shakespeare
Henry the Fourth, Part I, Act III, Scene 1, 52-54

EXECUTIVE SUMMARY

Although civilian specialists in peace operations have been in short supply, the same cannot be said of proposals to alleviate the problem. Governments, non-governmental organizations, think tanks, and even the United Nations itself have issued reports to address the civilian deficit in peace operations. Most of these papers acknowledge that there has been halting improvement over time, but express concern over a wide array of gaps and shortages in response capacity. Almost all agree that demand will continue to outrun supply. Almost all warn that failure to close the gaps and address the shortages will call into question the credibility and legitimacy not only of international peace operations but also of the fragile national and local institutions that these operations hope to build.

Beyond agreement on this point, the reports abound with proposals and recommendations. Most emphasize the importance of 'rapid deployment,' but use the term to connote different things. Various proposals use different words to describe the same deployment capacity or the same word to describe different kinds of capacity. This paper hopes to help policy makers and the attentive public make sense of the sometimes bewildering array of options.

For the most part, we do not wrestle with the merits of specific proposals. Instead, we seek to add value in four specific ways. First, we point out that some of the reports suffer from a lack of prioritization about the kinds of capacity that are needed, and we emphasize that security and protection are the top needs in civilian deployment. Second, we point out that most of the reports ignore the importance of good diagnosis in rapid deployment, and that the key is not to get lots of warm bodies into the field, but rather the right expertise that suits the needs of a given case. Third, we insist that proposals for development of large-scale standby capacity are not a substitute for the most important need, which is standing capacity within the United Nations, and expendable funds aimed to promote civilian security and protection. Fourth, we believe that policy makers should be skeptical about the promise of large-scale standby arrangements, and ask hard questions about their predictability, timeliness, and reliability.

It follows from these points that if any proposal is to realistically strengthen UN civilian response in peace operations, it must address how the appropriate expertise will deploy early; how it will strengthen UN standing civilian capacity; how it will ensure that standby capacity meets standards of predictability, timeliness, and reliability; and how funds will be allocated to pay for crucial civilian activities early in a mission. We put forward a package of four proposals to meet these tests.

Analysis

Any assessment of a given proposal for developing civilian capacity for United Nations peace operations should consider that:

- the establishment or restoration of security and protection must be addressed early on. There is a limited "window of necessity" for this first order priority;

- within the broad array of civilian capabilities, the identification and deployment of specialty police as well as judicial and corrections personnel present particularly difficult challenges;

- an early and effective presence is required. When such a presence is not established, prospects for success are diminished, all the more so in the most difficult implementation environments. An early presence is also necessary for engagement with national and local actors;

- the focus on rapid deployment must be matched by appropriate preparedness measures – particularly, the development of a diagnostic capacity that provides an understanding of the conflict dynamics of the host country. Such a capacity will provide a framework to address the risks and obstacles of peace implementation and engage meaningfully with national and local actors;

- under the general rubric of "rapid deployment" there are quite distinct solutions and tools that give a significant variation in response;

- assuming a diagnostic capacity in preparedness, the effectiveness of response will be a function of the three factors of predictability, timeliness and reliability – will anybody come (predictability), when will they come (timeliness), and do they have the appropriate skills, experience and training (reliability);

- collaborative partnerships between the UN and a host of other actors – bilateral and multilateral - are important and desirable. However, such partnerships must be continuously assessed in terms of predictable support for the UN and should not be used as a reason to deny resources to the UN in meeting its core responsibilities;

- there is a need for more flexible and rapid funding mechanisms to support national and local institutions for security and protection.

Recommendations

1. The UN should task the new Mediation Support Unit in the Department of Political Affairs with building the diagnostic capacity to design early civilian response to meet the specific requirements of different peacebuilding efforts. There should also be continuity in terms of UN officials involved in mediation/diagnostic functions and the establishment of a UN field mission.

2. The standing capacity of the UN must be enhanced. Specifically, the expansion of the Standing Police Capacity must be realized, as must the establishment of a Rule of Law Standing Capacity.

3. The standing capacities of the UN should be buttressed by a new mechanism of enabling standby capacities provided by partnerships comprised of Member States from both the North and the South.

4. Even assuming enhanced preparedness and response capabilities of the UN, there will remain the need for rapid and flexible funding mechanisms to support civilian security and protection institutions. Initial projects for rehabilitation of basic infrastructure of police, judicial, and corrections institutions should be legitimate charges against the assessed peacekeeping budget and a new financial mechanism for quick disbursement to non-state actors and institutions should be created.

INTRODUCTION

This report examines the civilian capabilities that must be deployed early in a United Nations peace operation. All too often, analysts emphasize expansive civilian inputs into multi-dimensional peace operations at the expense of meaningful identification of which inputs are truly critical in the immediate aftermath of war. This report focuses on what we consider to be a first-priority responsibility: the establishment or restoration of basic standards of security and protection for citizens of the host country. This specific focus will be placed within the wider debate over the ability of the United Nations to provide appropriate levels of skilled civilian personnel and financing in a timely manner.

The debate continues with some acknowledgement of improvement over time but mostly with concern over the wide array of "gaps" and "deficits" in response capacity.[1] There are two recurrent themes of the debate on enhanced UN capacity. First, demand will continue to outrun supply. Second, failure to close the gaps and address the deficits will call into question the credibility and legitimacy not only of international peace operations but also of the fragile national and local institutions that the operations attempt to support.

Analysts, think tanks, and governments have put forward numerous proposals and recommendations, but many of these are too vague and general to be useful. A common proposal is the need for "rapid deployment," a term that needs precision and one to which we will return. The term suggests, quite rightly, the notion of urgency. There have been

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[1] See Rahul Chandran, Bruce Jones, and Natasha Smith, <u>Recovering from War: Gaps in early action</u> (New York: NYU Center on International Cooperation, July 2008)

various metaphorical representations offered to capture the sense of urgency. The most common representation is "window of opportunity," suggesting that the window will shut quickly but the word opportunity, in some measure, implies a matter of choice. A particularly novel expression for post-conflict situations is "the golden hour," suggesting that time is limited but the adjective golden seems somehow inappropriate taking into account the realities of a war-ravaged society and the often woeful international response. The phrase "window of necessity" is the most appropriate, suggesting again that the window will close but also rendering the need for action into an imperative.[2]

No time since the Brahimi Report has been more opportune for reflection on the challenges for the UN in peace operations, whether it be within the Secretariat or among Member States. An overstretched system that is far overreaching its capacities is, in the view of many, nearing a breaking point. A report by the Norwegian Government paints a bleak picture: "What seems clear, however, is fear that UN peace operations will face both political and operational overstretch in the time ahead, if the demands continue to grow but the system continues to resist change."[3]

Obstacles to change are illustrated by efforts to implement the following approach endorsed by Heads of State and Government in the 2005 World Summit Outcome: " We urge further development of proposals for enhanced, rapidly deployable capacities to reinforce peacekeeping operations in crises."[4] Various proposals were considered to

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[2] Bruce Jones, Carlos Pascual, and Stephen John Stedman, <u>Power and Responsibility: Building International Order in an Era of Transnational Threats</u> (Washington, D.C.: Brookings Institution Press, 2009), p. 188.
[3] Norwegian Ministry of Foreign Affairs, <u>Implementing United Nations Multidimensional and Integrated Peace Operations: A report on findings and recommendations </u>(Oslo: Norwegian Ministry of Foreign Affairs, May 2008), p. 12
[4] United Nations, <u>Resolution adopted by the General Assembly: 2005 World Summit Outcome</u>, A/RES/60/1, 24 October 2005, para. 92.

provide a response, primarily but not exclusively the military component, to support UN peacekeeping missions in crisis, including the use of capabilities from regional entities, and negotiated arrangements with Troop Contributing Countries for deployment of additional forces. After three years, the conclusion was reached that though the requirement remains, implementation is not viable at present. More promising was the World Summit's endorsement of "the creation of an initial operating capability to provide coherent, effective and responsive start-up capability for the policing component of the United Nations peacekeeping mission and to assist existing missions through the provision of advice and expertise."[5] In fact, a Standing Police Capacity was established with 25 officers. This was an important breakthrough, although those involved with UN civilian police operations believe it to be only the first of many steps required for improved performance.

A recent iteration of the gaps and deficits in peace missions came in May 2008 when the United Kingdom prepared a concept paper – "Post Conflict Stabilization: Peace After War" – for an open debate in the Security Council. The concept paper identified these critical gaps: leadership on the ground; rapidly deployable and skilled civilian capacity; more rapid and flexible funding.[6]

Appropriately, Lakhdar Brahimi was asked to make a contribution to the debate, and posed some difficult questions. Overall, Brahimi offered a rather grim assessment: "It is clearly not good enough that, in some cases, we have entered host countries to the sound of population's cheers, only to bow our heads in disbelief and embarrassment in

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[5] Ibid.
[6] United Nations, Post-conflict peacebuilding letter dated 2 May 2008 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council, S/2008/291.

the face of the same population's disappointment, anger and even hostility a few months later because we have been unable to deliver tangible peace dividends."[7] He provided a critique of current peacekeeping and peacebuilding practices but highlighted one point: "We must avoid putting together 'template' missions that set out complex and ambitious tasks for imagined armies of expert civilians who are to carry out the same laundry list of tasks in dramatically different post-conflict settings."[8] On the gap in rapid funding, he said: "The most complex operations, from Haiti to the Sudan, from the Democratic Republic of the Congo to Afghanistan, have peacebuilding activities at the very core of their mandates, ranging from police reform and the strengthening of judicial institutions to elections and the refurbishment of prisons, yet they have no allocations in their budgets for those activities. That creates a huge gap at a time when the greatest risk exists of relapse into conflict."[9] Taken as a whole, Brahimi's comments help to set a bar for judging the utility of competing proposals to bolster UN civilian capacity.

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[7] United Nations, Security Council: 5895th meeting, S/PV.5895, 2 May 2008, pg. 11
[8] Ibid, p.10.
[9] Ibid.

SECURITY AND PROTECTION IN THE AFTERMATH OF WAR

When weighing the value of any proposal to improve civilian capacity in peace operations, policy makers should acknowledge the most critical gap lies in meeting the essential security and protection needs of the citizens of a host country emerging from conflict. Indeed, meeting these needs is the most obvious "peace dividend." If this dividend is not paid in a timely manner – or if the perception sets in that efforts to do so are lacking because of limited capacity and commitment on the part of international and national actors – the confidence generated by a peace agreement will evaporate. The argument here is not to deny the legitimacy of competing demands in the aftermath of war. Rather, it is to argue that there are first order priorities that must be met and failure to do so can jeopardize the viability of other efforts. It is also to argue that within the larger debate over civilian capacities and financing, we should ensure that, at the very least, we get the critical pieces of security and protection right.

Our choice of words – security and protection – requires a brief explanation. Security is meant in a common-sense manner – that is, the physical security of self and property. Our notion of security entails more than just public order, where the safety of self and property can be obtained with costs in terms of other important values. Thus, added to security we propose the phrase protection. There are several strands of practice that explain the choice of this phrase. One is the "responsibility to protect," an emerging norm that highlights that a state's responsibility to protect its citizens lies at the heart of responsible sovereignty. Once there is a peace agreement that provides the basis for a Security Council mandated UN peace mission, then there is a shared and mutual

objective of international and national actors to restore the ability to the host state to adhere to the responsibility to protect. Also, the mandates increasingly given by the Security Council to provide "protection to civilians" can be as important in the aftermath of conflict as it was when war still raged. In summary, the objective of international and national actions should be the change from the rationale of police, judicial and corrections institutions being the security of the state (or, more to the point, a particular regime) to the protection of citizens.

The concerns of security and protection are very much central to two analytical approaches – rule of law and security sector reform. Yet both approaches are so broad in conceptualization that a clear path for establishing priorities in the immediate aftermath of war is rarely evident. Indeed, complex formulations can impede simple yet urgently required actions. A document prepared by the Executive Office of the Secretary-General concluded "that the notion of the 'rule of law' itself, while helpful as an umbrella for conceptualizing the importance of a wide range of different institutional and legislative processes needed to ensure a well-functioning polity, has proven less valuable in terms of building actual in-house capacity because it is so broad and all-encompassing."[10]

It should be acknowledged that progress has been made. A decade ago, the number of officials at UN Headquarters responsible for civilian police was less than a handful. Today, the Office of Rule of Law and Security Institutions within the Department of Peacekeeping Operations represents a significant enhancement of capacity at UN Headquarters. A decade ago, the role of UN civilian police was mainly monitoring

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[10] Executive Office of the Secretary-General, "Inventory: United Nations Capacity in Peacebuilding" (New York: United Nations, September, 2006), pp. 46-47. On rule of law and security sector reform approaches, see Charles T. Call, "Introduction," in Constructing Justice and Security after War, edited by Charles T. Call (Washington, D.C.: United States Institute for Peace, 2007), pp 6-7.

and mentoring of local police and there was reluctance to even speak of UN civilian police as a part of a broader rule of law capacity, for fear that some Member States would deem this to be beyond the narrowly construed mandate of peacekeeping operations and, thus, not a legitimate charge against the assessed budget. Now there is an awareness in principle, if not always in practice, of the necessary linkages among police, judicial and corrections institutions.

Constant throughout all of these changes remains the question of quality. Those charged with responsibility for UN policing are painfully aware of the need for standards and training. Yet, as the number of UN police has grown exponentially over the last decade, increased attempts to maintain standards and establish training are continually challenged by the sheer magnitude of numbers. Equally, there is an increased requirement for highly skilled specialist police officers. It has always been difficult to identify and recruit such officers and becomes all the more difficult as the number of missions and responsibilities grows.

EFFECTIVE EARLY RESPONSE REQUIRES EARLY DIAGNOSIS

The current preoccupation with rapid deployment, while warranted and necessary, risks ignoring the most essential rapid preparedness measure: enhanced diagnostic capacity. Without an enhanced UN diagnostic capacity it will remain difficult to tailor appropriate responses to two critical challenges in establishing security and protection in the aftermath of war. The first challenge is understanding and confronting threats to peace implementation as a consequence of the causes and conduct of the war. The second challenge is establishing the basis for meaningful engagement with national and local actors to promote security and protection.

Understanding the Implications of Causes and Conduct of War

There are certainly some common characteristics of war-torn societies that underline the difficulties of promoting security and protection: large numbers of ex-combatants; proliferation of small arms; severely damaged infrastructure and economy; significant civilian casualties, far greater than combatant casualties; gender-based violence; massive displacement; and contagion effects across borders.

Other characteristics of civil wars could be added, but the above list demonstrates some common elements and highlights how demanding the task is to restore or establish security and protection. But these characteristics clarify little in terms of policy perspectives or capacity requirements. They are symptoms of quite different causes. A deeper understanding of causes is the basis for developing approaches for the promotion of security and protection.

Questions must be asked about the war-torn state that can explain, in part, the onset of war. Issues of state capacity and legitimacy must be addressed. Some war-torn states possess capable institutions such that it is possible to speak of "restoring" institutions. Other states are notable for the weakness of institutions with limited ability to provide public goods. Still others can be characterized as predatory where even the pretense of providing public goods is neglected.

Legitimacy, of course, is linked in some measure to capacity. Yet, there is also the distinctly political element of inclusiveness to be considered. If a state is conceived of being for and essentially comprised of one group, the excluded group(s) will not view state institutions as legitimate. There are also regional variations. A state can be reasonably legitimate at the center but pursue policies that lead to the marginalization and exploitation of peripheral areas, thus forfeiting overall legitimacy and, potentially, inviting regional and separatist rebellions.

Beyond state capacity and legitimacy, consideration must be given to the causes of internal conflict as well as the conduct of the war. Wars of exclusion, such as ethnic cleansing, entail a different conflict configuration than wars of control for central power. In wars of exclusion where mass displacement on the basis of identity is the very purpose of the war and not its mere by-product, there is no meaningful distinction between combatants and civilians. The logic of wars of control entails the need for the respective parties to maintain control of populations, not only for obvious war purposes – provision of food, manpower, and other resources – but also as a basis for claiming legitimacy in an attempt to strengthen their negotiating positions. Wars with predatory causes also have a

different configuration, where the control of territory and population is less important than the control of lootable resources and markets.

There is no consensus on whether identity versus economic motives pose greater difficulties for peace implementation. Some see identity conflicts as more difficult. Stromseth, et al. maintain that "conflicts driven by weak institutions and disputes over resources and political power may be more amenable to resolution through externally driven arrangements than conflicts that center on national identity."[11] Nitschke and Studdard, however, argue that conflicts with strong economic dimensions "seem to pose different – and at times greater – challenges."[12] What is clear is that the variable nature of war economies presents particular challenges for security and protection. Andreas, on the basis of his study of the war in Bosnia, notes: "In general, the more criminalized the conflict the more criminalized the state, economy, and society that emerges from the conflict."[13]

Understanding The Potential and Possible Pitfalls of National Ownership

There is a consensus that peacebuilding must go beyond power-sharing among parties to the conflict and military stability to encompass a broader transformative agenda and that a critical and pressing priority is the provision of security and protection in the immediate post-conflict period. There is also a consensus that transformative efforts to

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[11] Jane Stomseth, David Wippman, and Rosa Brooks, Can Might Make Rights? Building the Rule of Law after Military Interventions (Cambridge: Cambridge University Press, 2006), p. 8
[12] Heiko Nitzchke and Kaysie Studdard, "The Legacies of War Economies: Challenges and Options for Peacemaking and Peacebuilding," International Peacekeeping, 12, no. 2 (Summer 2005), p. 235.
[13] Peter Andreas, "The Clandestine Political Economy of War and Peace in Bosnia," International Studies Quarterly, 48 (2004), p. 49.

establish and maintain peace will be sustainable only if there is meaningful engagement

and commitment of national and local actors, commonly known as "national ownership."

The importance of "national ownership" is, at a certain level of generality, self-

evident; after all, the goal of any peace operation should be a peace that can survive long

after international actors leave. The challenge for all UN peace missions is to find the

balance between international support and national commitment to build self-sustaining

peace. Hansen and Wiharta argue persuasively for the normative goal of national

ownership and, at the same time, describe the many challenges in achieving this goal.[14]

International actors tend to have high legitimacy at the outset of an operation,

given that their very presence is often the outcome of a negotiated settlement that entails

some degree of consent by the parties to the conflict. Yet challenges to the legitimacy of

international actors can come quickly, not the least because nominal consent embodied in

a peace agreement does not necessarily translate into compliance with the terms of an

agreement. Multiple gaps in security emerge. Public order threats are often not

adequately managed at the moment of greatest expectations, due to a lack of international

commitment and/or capacity.

If there is a consensus that national ownership is the desired end state, there is

equally a consensus that the immediate post-conflict environment presents significant

challenges in realizing this end state. The absence of a clean break in the early period

gives rise to this question: who owns "national ownership?" Rubin provides this

proposition: "Almost by definition, international statebuilding operations begin under

conditions in which states lack not only capacities to provide security and services but

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[14] Annika S. Hansen and Sharon Wiharta, <u>The Transition to a Just Order - Establishing Local Ownership</u>
<u>after Conflict</u> (Sandöverken, Sweden: Folke Bernadotte Academy, 2007).

also legitimacy."[15] The proposition leads to the question as to how one finds an early

path to realize a consistency and an alignment between policies and preferences between

internal and external actors.

Also, as our concern is the establishment of security and protection, whose

security is to be given priority? Rubin notes that, "The term *security*, like *peacebuilding*,

contains an embedded political claim.   Consistent with the use of technocratic language

that obscures political issues, debates over security often neglect to define whose security

is at stake and for what purpose."[16] Rubin draws some important conclusions: "In a

society barely emerging from civil war, the transformation of the institutions of violence

and coercion constitutes the main arena for power struggles. Actors devise and evaluate

such proposals based not on their effectiveness – though they will use such arguments

when they seem useful – but on the degree to which they maintain their power and their

own security, not necessarily that of a politically neutral, inclusive – and elusive –

'public.'"[17]

Yet it is precisely this elusive public where one will most likely find

constituencies for change. International actors will, for the most part, remain enamored

with elite buy-in, as they must given the ability of contending elites to derail a peace

process. But the initial focus on elites still does not adequately address the question of

who owns "national ownership." There is a distinction between an interim or provisional

government after a peace agreement and a government that has at least some formal

validation through elections. The conventional wisdom is now that early elections can

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[15] Barnett R. Rubin, "The Politics of Security in Postconflict Statebuilding," in <u>Building States to Build Peace</u>, edited by Charles T. Call (Boulder: Lynne Rienner, 2008), p. 34.
[16] <u>Ibid</u>., p. 30.
[17] <u>Ibid</u>., p. 37.

result in threats to the implementation of a peace process, with the victory of Charles

Taylor in Liberia and the victory of strong nationalist parties in Bosnia being prime

examples. There are complex trade-offs at play. As de Coning argues: "External actors

find it difficult to identify credible internal actors with whom they can enter into a

meaningful partnership, especially in the stabilization and transitional phases before

elections are held. This is because the parties emerging out of conflict typically represent

ambiguous constituencies, and there are often conflicting claims of ownership and

support."[18] The management of the partnership between international and national actors

can be highly challenging. It remains a point of great contention, for example, whether

the UN Transitional Administration in East Timor (UNTAET) relied too little or too

much on CNRT (the acronym for an umbrella organization of resistance movements) in

the two years before elections in August 2001. Poor management of the transition

between an interim government and a government established following elections can

also weaken the credibility of international actors, as has been argued was the case of the

UN Mission in Burundi.[19]

What is invariably presented as a self-evident good – national ownership –

appears, on examination, to be highly problematic in implementation. To say this is not

to contest that this is the objective. Rather, it is to say that the very use of the phrase

"national ownership," much like "post-conflict," is a figure of speech that disguises, or at

least implicitly minimizes, the risks and dangers of choices made by both external and

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[18] Cedric de Coning. "The Coherence Dilemma in Peacebuilding and Post-Conflict Reconstruction Systems," African Journal on Conflict Resolution, 8, no. 3 (2008), p. 102.
[19] Laurent Banal and Vincenza Scherrer, "ONUB and the Importance of Local Ownership: The Case of Burundi," in Security Sector Reform and UN Integrated Missions: Experience from Burundi, the Democratic Republic of Congo, Haiti, and Kosovo, edited by H. Haangi and V. Scherrer (Geneva, Switzerland: Geneva Centre for the Democratic Control of Armed Forces, 2008), p. 54.

internal actors. There is a need for a greater understanding of the demands and receptivity of different constituencies in the host country. Indeed, the demand for security and protection is there, even if its articulation is difficult to perceive initially by international actors. No post-conflict situation is a blank slate: there are cultural representations and historical legacies that must be understood. Also, there must be a recognition of non-state providers of security and protection, whether these are customary institutions or mechanisms created because of the collapse of state institutions. Stromseth highlights a number of initiatives that should be taken: "Those that focus on strengthening supportive civil society institutions; those that focus on legal education, including law clinics; those that seek to link formal institutions to informal and customary law practice; and those that focus on transferring law-related skills to non-lawyers, including paralegals and trained mediators."[20]

Indisputably, national capacity is crucial, but one needs to think not only of the state but also of society as well. If the focus is on those who are in charge of formal institutions – police, justice and corrections – this indicates one set of owners. However, if the focus is on the consumers of public goods – security and protection – this indicates quite a different set of owners. Both are needed. With this perspective one can meaningfully speak of a nationally driven process of peacebuilding.

The Bottom Line: Diagnosis before Rapid Civilian Deployment

Different post-conflict situations call for different approaches. In broad terms, a high risk of continued political violence will entail a different response than a high risk of

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[20] Stromseth, et. al., Can Might Make Rights? p. 329.

crime. Intact police and judicial institutions with some degree of legitimacy will call for a different approach than situations where such institutions no longer function or lack legitimacy. Different situations require different specialty skill-sets. A situation where control of illicit goods, such as opium and diamonds, has resulted in the effective destruction of state institutions will require highly skilled criminal investigators. If there are contagion effects of conflict then border control and customs experts are required. Wars of exclusion often require specialists in property restitution and compensation. Conflicts where rape was used as a tool of war will require police gender specialists.

The matching of skills to different situations is essential for the credibility of peace missions. But this must be combined with a meaningful engagement with national and local actors. Such engagement also requires an early presence. Brahimi has said that if he could return to Afghanistan in 2001 to do things differently it would be to give priority to rule of law. For Brahimi, this was not a technical issue but one of political leverage: "We should have played a stronger and more proactive political facilitation role in uniting the various national actors behind a common vision and a national plan for strengthening the rule of law in the country."[21]

Assuming that the UN will have the capability of deploying skilled and experienced police, judicial and corrections professionals, sight should not be lost that their deployment is part of a peace implementation operation. In the abstract, this is obvious. In practice, it often is not. The Panel of Experts report on the Standing Police Capacity argues that, "The Chad deployment highlighted the difficulties associated with deploying a rapid deployment capability when similar arrangements are not available and

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[21] United Nations, Security Council: 5895th meeting, p. 11.

in place for other mission components" and indicts "the larger system's difficulties in appointing senior mission leaders" as a critical factor that "limited what could have been a model case of early deployment of a complex integrated mission."[22] This example indicates that the absence of mission leadership meant that the political leverage for the promotion of security and protection was not available.

A certain level of tension will exist between the political objectives of a mission and the seemingly more technical components of a mission, particularly the police, justice and corrections components. This tension is not one that lends itself to easy resolution but one that must be managed carefully. International support for police, judicial and corrections institutions tends to be justified in terms of restructuring, rebuilding and reforming these institutions. Different actors attach quite different meanings to these words. The word "reform" is particularly ambiguous. There is a technocratic perspective on reform that stands in contrast to a political perspective. One sees reform in professionalization, while the other sees reform in transformation. Based on a number of case studies, Call provides this analysis: "… efforts to professionalize and restructure police and judicial institutions often served as a ready substitute for deeper transformation of organizational cultures… International police officers tend to identify with their local counterparts and seek to meet the latter's wishes, which often lie in the status quo… It is always easier to provide training ('professionalization') than to modify administrative and operational systems to ensure that good training is not wasted."[23] In the absence of deep analysis and understanding of the context of a specific host country

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[22] United Nations, <u>Report of the Panel of Experts on the Standing Police Capacity's First Year of Operation</u>, A/63/630, 19 December 2008, para 34.
[23] Call, "Conclusion," in <u>Constructing Justice and Security after War</u>, pp. 391.

and in the absence of political engagement with national and local actors, there will be a vacuum that will not surprisingly be filled by standard templates.

INCREASING CIVILIAN CAPACITY IN UN PEACE OPERATIONS

In his presentation to the Security Council in May 2008, Brahimi deployed a particularly clever phrase: "imagined armies of civilian experts." This raises what might be called the UN's 'Glendower moment:' whether the civilian experts from the vasty deep will come when they are called. Just as Glendower had no answer, nor can it be claimed that international actors can say with any degree of certainty that elaborate proposals for thousands of experts on standby are more than just that – elaborate proposals for thousands of experts on standby.

Proposals for increasing UN civilian capacity should meet three tests. First, recommendations for response must be judged in terms of predictability, timeliness and reliability, i.e., will anybody come (predictability), when will they come (timeliness), and do they have the right skills, experience and training (reliability). Second, beyond all the attention that is given to standby arrangements, proposals must answer the basic question, what must be invested in the United Nations in terms of standing preparedness and response capabilities? Third, proposals should consider to what degree civilian response is more than a problem of capacity and may be hampered by the lack of funding to promote security and protection.

Rapidly Deployed Standby Forces: An Oxymoron?

The current debate on civilian capacity emphasizes "rapid deployment." However, there are considerable differences in the use of the term. Various proposals use different words to describe the same deployment capacity or the same word to describe

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different kinds of capacity. This is evident from a review of three rapid deployment

proposals – the Center on International Cooperation (CIC) study on rapid deployment of

civilians,[24] the Stimson Center report on United Nations capacity for policing and rule of

law,[25] and the United States government proposal for a civilian response corps.[26]

The proposals share a concern for far greater predictability in deployment, an

element noticeably missing in current ad hoc approaches. Each proposal contains the

premise of expandability leading to greater levels of deployment over time. Each also

contains a first level of deployment characterized as "standing" or "active" capabilities.

The two terms are interchangeable in that they are both based on the availability of staff

members specifically recruited (and trained) to be deployed quickly and often – in short,

this is their "day job." Beyond these points, the rest of the proposed solutions and

mechanisms seem to be going in different directions.

The U.S. Civilian Response Corps model and the CIC proposals each use the

phrase "standby" to indicate a second-level response capacity. The U.S. model, however,

contains its standby capacity entirely within the federal government. The features in this

case that distinguish "standby" from "standing" are larger numbers, later deployment and

longer notice. The CIC approach provides several proposals for standby. One proposal

is for the creation of "multiple, sector-specific teams of pre-existing, internal staff based

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[24] Rahul Chandran, Jake Sherman, and Bruce Jones, Rapid Deployment of Civilians for Peace Operations:
Status, Gaps, and Options (New York: NYU Center on International Cooperation, April 2009).
[25] Joshua G. Smith, Victoria K. Holt, and William J. Durch, Enhancing United Nations Capacity to Support
Post-Conflict Policing and Rule of Law (Washington, D.C.: The Henry L. Stimson Center, November
2007).
[26] See Nina M. Serafino, Peacekeeping/Stabilization and Conflict Transitions: Background and
Congressional Action on the Civilian Response/Reserve Corps and other Civilian Stabilization and
Reconstruction Capabilities (Washington D.C.: Congressional Research Service, February 5, 2009).

at the UN and World Bank deployable to the field on an as-needed basis."[27] It is

indicated that sector-specific teams could be comprised of standing personnel, standby

personnel or a mixture of the two, yet the distinction between the two is unclear except

for potentially larger numbers and later deployment. The term "reserve" figures in all

three approaches. The Stimson Center approach speaks of "reserve" employing two quite

distinct methods: The UN Police Reserve and the UN Senior Reserve Roster. The UN

Police Reserve comes closest to the commonly understood meaning of "reserve,"

entailing as it does commitments from contributing member states to place on reserve for

rapid deployment specific officers, who are certified and trained accordingly to UN

standards. The U.S. Civilian Response Corps has a third layer of deployment – the

Reserve Component, comprised of civilians from state and local governments as well as

the private sector who possess expertise and skills not readily found in the federal

government. The CIC study proposes creating a Rapid Response Civilian Corps as one

possibility, although few specifics are provided. The CIC study does note, however, that

while such a Corps "might allow for the fastest deployment of personnel to the field, in

practice it means large numbers of diverse experts at high maintenance costs."[28]

     While the concept of standing capacity is straightforward, the same cannot be said

for standby and reserve. First of all, some mechanisms that assume the label "standby"

can best be described as "maybe standby" if the element of choice is a prominent feature

of the mechanism, either in terms of individuals choosing whether to respond when called

or an organization choosing to deploy to one situation but not another. From this it

follows that a certain standard of predictability, timeliness and reliability must be met to

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[27] Center on International Cooperation, <u>Rapid Deployment of Civilians</u>, p. 10.
[28] Ibid, p. 11.

qualify as standby. These three factors can result in a limited number of combinations and permutations. For example, a mechanism may have a high degree of predictability and timeliness but have low reliability (skills and training), making it a dubious asset. Or a mechanism can have a medium level of predictability and timeliness but a high level of reliability in scarce skills, making it a potentially useful asset. Finally, standby capacity should not be seen simply as a follow-on to deployment of standing capacity. There are certain standby capabilities and assets that must be available from the beginning in support of the deployment of standing capacity personnel.

The reality, insufficiently recognized in the debate on rapid deployment, is that standby or reserve systems that are small and focused have a greater likelihood of achieving a predictable response. Also, proposals for hundreds and even thousands of persons on standby – few, if any, of which have been meaningfully tested after some years of discussion – may be diverting our attention from what is necessary and possible. The challenge is finding the balance between the right level of persons on standby or in reserve and the costs of maintaining large numbers in a deployable status when they may not be needed on a regular basis. The standard for judging the predictability of standby and reserve arrangements is whether civilians are indeed deployable – in short, if you do call will they come? Keep in mind that the operative phrase for military reserves is "call up." A required element is a clear commitment from volunteers to deploy when they are called. If the rate of return on call-up drops below a certain level, then it is no longer possible to speak of standby or reserve capacities. These capacities are exceedingly difficult to maintain and can be labor intensive and expensive. If deployment is

infrequent or small in number called-up as compared to a large pool of volunteers, the system will lose credibility and quickly atrophy.

Finally, rosters are invariably mentioned in terms of solutions for rapid deployment. Here the discussion becomes confused as a roster as such is not a solution but rather a tool in search of a solution. A roster can be a tool for standby arrangements and reserve arrangements or nothing more than a tool – and often an imperfect one – for recruitment of staff. Efforts within the UN to develop an in-house rapid deployment capacity using rosters "have met with limited success because of insufficient commitment to the mechanism which undermined its credibility and efficiency."[29] Nonetheless, in recent years there has been a continued proliferation of civilian rosters established by governments, intergovernmental agencies, regional organizations, non-governmental organizations and professional associations. Many of these rosters are more of a recruitment tool than a rapid deployment tool. There is a relationship between staff recruitment and rapid deployment – particularly within the UN where recruitment is limited to direct application and where the use of seconded or gratis personnel is effectively excluded – but the two mechanisms are quite distinct. The use of rosters as an effective recruitment tool has been problematic, although hope is often expressed that the next software package, the next more powerful search engine, will improve the situation. The reality is that the focus on rosters diverts attention from the deficiencies of United Nations recruitment mechanisms.

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[29] Catriona Gourlay, "Lessons Learned Study: Rosters for the Deployment of Civilian Experts in Peace Operations" (New York: United Nations Department of Peacekeeping Operations, February 2006), p. 1.

Standing in the Shadows

What is clear is that standing capacity, by definition, provides the greatest level of predictability and timeliness. Indeed, it is predictability that approaches an automatic response, in that personnel have a primary function to be deployed. For this reason alone, the UN should invest in expanded standing capacity. But there are other important arguments for standing capacity.

A standing capacity allows civilian experts (including police) to train as a team, to practice for various scenarios and to conduct post-action reviews, all of which contribute to reliability of response. Also, this capacity allows for full integration into the UN, at least opening the possibility for a better linkage across the continuum from conflict through mediation and on to peace implementation.

The review of the first year of the Standing Police Capacity (SPC) concluded that capacity must constitute the initial police leadership for a new mission. This is a shift from the original assumption that the deployment should last on average four months pending the arrival of the longer-term leadership structure. This four-month timeframe will not be met, owing to delays in recruitment. There is also an important substantive argument for this shift: "The aim of the Standing Police Capacity is to make the police component more effective at implementing its mandate sooner. This involves not only office set-up and equipment for the Standing Police Capacity, but also nurturing relationships within the mission and with the host Government. Such relationships take time to build; rapid rotation of the United Nations personnel involved not only dilutes capacities, but it may lead national officials to reason that they should not 'invest their

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time' until the arrival of regular contingents of United Nations police personnel. Such outcomes may undermine the purpose of the Standing Police Capacity."[30]

Conceived in such terms, standing capacity becomes something more than just rapid deployment but rather a mechanism for effective and timely mission start-up. It is not deployment for assessment and planning but rather an operational capacity. This is critical for at least two important reasons. It allows for early engagement with national and local actors. It also establishes a platform for the UN to establish priorities for security and protection programs and thus engage bilateral and other actors to achieve some degree of coherence of purpose. Absent an early operational presence, such coherence will be difficult to realize later.

Whether it be preparedness capacities or response capacities, there is the perpetual uncertainty as to how much is to be invested in the UN or how much can be provided by the capacities of Member States, regional organizations and other international organizations. Typical of the uncertainty is the 2007 Report of the Special Committee on Peacekeeping Operations: "The Special Committee notes that a key challenge facing the United Nation in establishing and conducting peacekeeping operations is how to create the most effective and efficient mix of components recognizing that the resources of the international community are finite, with many competing demands upon them... United Nations peacekeeping should be complemented by bilateral or regional assistance and assistance provided by specialized agencies of the United Nations system."[31] Aside from the obvious point that resources are limited and demands are great in a peace mission, not

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[30] United Nations, Report of the Panel of Experts, para 12.
[31] United Nations, Report of the Special Committee on Peacekeeping Operations and its Working Group on the 2007 substantive session, A/61/19 (Part II), 5 June 2007, para. 122.

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much of an operational nature can be derived from such a general statement other than that complementary assistance is a good thing. Some clarity on the balance between what the United Nations can and should do is provided in various UN documents. The Secretary-General's Report on UN support for the rule of law noted that the very absence of UN expertise has led to calls for non-UN actors to fill the gaps. However, the report states: "An over-reliance on outside capabilities at the expense of building and retaining institutional capacity within the Organization may undermine our goal of ensuring high quality, accountable and predictable expertise to Member States."[32] The last sentence is more than just a self-serving statement. Rather, it goes to the crux of the matter: how long can the issue of institutional capacity be deferred in anticipation that help will come from the outside?

Complementary assistance from within the wider UN-system also raises questions. A document on UN capacity in peacebuilding noted that a number of UN entities are involved in security and protection activities but that "they are mostly engaged in these issues in a related, supportive way rather than as part of their core activities."[33] This recalls the quote attributed to a former UN senior manager who noted that the UN spends an incredible amount of time coordinating capacities it does not have. The Norwegian study on integrated peace missions indicates that the problem of "strategic hubris" must be confronted "in order to ensure that the entities designated to perform tasks at the strategic level actually have the capacity to deliver."[34]

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[32] United Nations, Uniting our Strengths: Enhancing United Nations Support for the Rule of Law, A/61/636-S/2006/980, 14 December 2006, para. 21.
[33] Executive Office of the Secretary-General, Inventory, p. 47.
[34] Norwegian Ministry of Foreign Affairs, Implementing United Nations Multidimensional and Integrated Peace Operations, p. 20.

Collaborative and supportive arrangements between the UN for assistance from bilateral and regional actors can have great value. However, it is important to assess such arrangements for assistance to the UN in terms of competence, appropriateness, and predictability. There is a multitude of Memoranda of Understanding outlining arrangements between the UN and Member States, other inter-governmental institutions and regional organizations. Such arrangements do not commit parties much beyond cooperation, coordination and consultation. None of the arrangements include enabling capacities that provide any degree of predictability in support of the UN to meet its core obligations in a peace operation. Indeed, after years of discussion there is little indication that other actors are willing to provide their capacities under various UN proposals for standby arrangements. There may be good as well as bad reasons for this unwillingness, but it serves no purpose to pretend that willingness is there or will soon appear in the face of evidence to the contrary.

The latest initiative on a bilateral basis is the proliferation of proposals from Western governments for national civilian response arrangements. As time has passed with varying degrees of actual implementation, some skepticism has emerged. The CIC study on rapid deployment sees a broader problem: "Processes underway point to the emergence of an uncoordinated and irrational system of national and multilateral deployable terms. Absent a coordinated structure (and therefore a coordinating structure) the gap between supply (teams created bilaterally, not on the basis of demand, nor linked to multilateral structures) and demand (the need for broad, global talent to serve mission needs) will be perpetuated. The inability of the UN and other multilateral institutions to utilize seconded or gratis personnel… further verifies the inutility of bilaterally built,

uncoordinated activity."[35] The CIC study urges that civilian capacities "must be global"

and "reach across countries at all stages of development."[36] Moreover, as some Western

proposals for national civilian capacities are justified as a way of freeing military forces

to return to their core functions and as a necessary counterpart to anti-insurgency

campaigns, their utility for multilateral peace operations is necessarily compromised.

This points to a larger paradox in mounting multilateral peace operations: In order for

powerful Member States to commit political leverage and financial resources to a peace

operation it must be justified in terms of national interests. Yet, when this is the

justification, many Member States find grounds for questioning the legitimacy and

impartiality of an operation.

Beyond bilateral initiatives to establish civilian capacity, great emphasis has been

placed on cooperation and coordination between the UN and various regional entities in

peace operations. Progress has been made and further progress will represent a

significant contribution to international peace and security. The establishment of the

African Standby Force is encouraging and has engaged UN support, but deployment and

sustainability of the Force in non-UN operations will continue to be dependent on donor

contributions. Also, the development of the civilian component lags behind the military

component. The European Union is developing, as part of the European Security and

Defense Policy, a civilian rapid-reaction capacity, with priorities on police, rule of law,

civilian administration and civilian protection. The EU initiative is more advanced than

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[35] Center on International Cooperation, <u>Rapid Deployment of Civilians</u>, p. 10.
[36] <u>Ibid</u>.

more recent bilateral attempts to develop large civilian rapid-deployment capabilities, but

attempts to realize the stated goals have encountered a number of challenges.[37]

There are two issues that need to be addressed in assessing the relationship

between the UN and regional entities. First, the differences in terms of mandates and

capabilities for peace operations among various regional (and sub-regional)

organizations, arrangements, and groupings are greater than are the similarities.

The second issue is whatever expectation the UN may have of assistance in terms

of civilian capacity from a regional entity it remains uncertain that the expectations will

be met. This is so not least because such civilian capacity is severely limited. The

European Union does have an increasing civilian capacity but there are legitimate

concerns about predictability in response to the needs of the UN. Tardy identifies an

unequal "supply versus demand" relationship: "What the EU is ready to bring is the result

of an internal EU decision-making process and does not necessarily match what the UN

would like to get."[38] Also, Tardy makes a broader political point: "If, to put it bluntly,

the EU does crisis management where, when and how it wishes while the UN does what

others do not want to do, wherever and whenever, then the UN-EU relationship does not

develop on a sound basis."[39] We would broaden this critical point as follows: if a

regional entity can pick and choose among crises to which it will respond on the basis of

political/strategic interests, geographical proximity, internal deliberation among its

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[37] See Peter Viggo Jakobsen, "The ESDP and Civilian Rapid Reaction: Adding Value is Harder than Expected," European Security, 15, no 3 (2006)
[38] Thierry Tardy, "UN-EU Relations in Crisis Management: Taking Stock and Looking Ahead," Revised version of a background paper presented at the conference on "Partnership. The United Nations, the European Union and the Regional Dimensions of Peace Operations: Examples of Cooperation within the Framework of Chapter VIII of the UN Charter," October 2008, p. 14.
[39] Ibid., p. 13

member states, and domestic public pressure, then a response of support for the UN will rarely be predictable.

Capacity without Funding for What Matters

Assuming that an early presence can be established through enhanced UN standing capacity and enabling standby capacity, there still will be a missing element – funds to initiate rehabilitation of national and local, state and non-state institutions for security and protection. This remains a major problem, often commented upon but still not remedied. The Norwegian study on integrated missions focuses on the immediate needs for funding and the consequences of the failure to provide quick disbursement of funds: "A major problem in current multidimensional missions is the need to secure reliable and up-front funding to address immediate challenges to peace… The lack of resources can prevent missions from seizing windows of opportunity for stabilizing the situation, and as a result security requirements and costs can increase."[40]

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[40] Norwegian Ministry of Foreign Affairs, <u>Implementing United Nations Multidimensional and Integrated Peace Operations</u>, p. 35.

A WAY FORWARD?

To summarize thus far, we have attempted to provide policymakers with a users guide to evaluating current and future proposals to strengthen civilian response in peace operations. The key 'takeaways' include:

- The establishment or restoration of security and protection must be addressed early on. There is a limited "window of necessity" for this first-order priority.

- Within the broad array of civilian capabilities, the identification and deployment of specialty police as well as judicial and corrections personnel present particularly difficult challenges.

- An early and effective presence is required. When such a presence is not established, prospects for success are diminished, all the more so in the most difficult implementation environments. An early presence is also necessary for engagement with national and local actors.

- The focus on rapid deployment must be matched by appropriate preparedness measures – particularly, the development of a diagnostic capacity that provides an understanding of the conflict dynamics of the host country. Such a capacity should provide a framework to address the risks and obstacles of peace implementation and engage meaningfully with national and local actors. To overcome conceptual and institutional discontinuities in peace implementation, officers involved in mediation and diagnosis activities should constitute the core of a political team attached to the SRSG.

- Recent proposals on rapidly deployable civilian capabilities represent an important initiative, yet it must be recognized that under the general rubric of "rapid deployment" there are quite distinct solutions and tools that give a significant variation in response.

- Assuming a diagnostic capacity in preparedness, the effectiveness of response will be a function of the three factors of predictability, timeliness and reliability – will anybody come (predictability), when will they come (timeliness), and do they have the right skills, experience and training (reliability).

- Collaborative partnerships between the UN and a host of other actors – bilateral and multilateral – are important and desirable. However, such partnerships must be continuously assessed in terms of predictable support for the UN and should not be used as a reason to deny resources to the UN in meeting its core responsibilities.

- There is a need for more flexible and rapid funding mechanisms to support national and local institutions for security and protection.

What follows from these points is that worthy proposals for strengthening civilian response in peace operations should ensure that the right expertise based on the specific needs of a country gets deployed quickly; that UN standing capacity in police and rule of law is strengthened; that any standby arrangement be predictable, timely, and reliable; and that funding is available to build national and local civilian capacity to provide security and protection.

In what follows we put forth a package of four proposals that if pursued in their entirety could provide the minimum of what is needed with the maximum feasibility of being adopted.

1. *Create a diagnostic capacity for preparedness and response in the United Nations Mediation Support Unit*

Early presence and rapid deployment must be based on a diagnostic capacity that provides a contextual analysis of threats and obstacles to peace implementation as well as an understanding of the opportunities for national and local engagement and commitment. Countries emerging from war differ in important ways, and it is crucial that those civilians who are deployed have the appropriate skills and knowledge to meet the needs of the specific case.

Where to build such a diagnostic capacity? International engagement in internal conflicts is divided into phases: conflict prevention, mediation, peacekeeping, peacebuilding, early recovery, and the list goes on. The notion of phases has it merits to the degree they might indicate responsibilities among various actors. Yet the notion of phases also introduces conceptual and institutional discontinuities. Linkages that are necessary for preparedness are not made.

Peacebuilding should not be conceived of as a commitment to a range of activities in the aftermath of violent conflict but rather as an approach that begins with the onset of fighting, if not earlier. The critical link between early peacebuilding efforts and the implementation of a peace agreement is mediation. But this is precisely where the necessary linkage often breaks down. Mediation in which the UN has a role must be informed by in-house political analysis. In turn, mediation and the resulting peace

agreement must inform implementation strategies. The flow should run in the other direction as well – implementers of various sectors of a peace operation should advise mediators on what is practical in terms of resources and capacities. It is a demanding endeavor to establish and maintain these linkages but failure to do so has severe consequences. Thus, those officials engaged in mediation should be available as part of the mission's political team at the beginning of a peace operation. Most observers identify insufficient resources as the essential problem. Thus, resources for mediation and analysis must be significantly enhanced. There have been some modest improvements over the last several years, but compared to the costs of a peacekeeping force and later recovery endeavors, the amount invested in mediation and analysis remains truly negligible.[41]

There have always been concerns among some Member States that an enhanced UN capacity for political analysis can represent an infringement on national sovereignty. This is not a persuasive argument. Few, if any, internal conflicts remain purely internal. There are immediate contagion effects making such conflicts a threat to international peace and security. Also, once a conflict has evolved into a situation where the conflicting sides request, or agree to, third-party mediation, with some prospect of a UN peace mission being the product of a peace agreement, international involvement is established. The issue is no longer whether there is international engagement, but whether that engagement is sufficiently well-informed and effective to contribute to peace. Finally, we have analyzed above the two challenges to peace implementation – the challenge of risks inherent in the conflict history and the challenge of ensuring

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[41] See United Nations, Report of the Secretary-General on Enhancing Mediation and Its Support Activities, S/2009/189, April 8, 2009.

national and local engagement. Peace missions can and do flounder when the necessary

knowledge to address these challenges is absent. Thus, the need for the essential element

of preparedness – a diagnostic capacity to understand the specific context of conflict

situations.

One promising remedy would be for the UN to task the new Mediation Support

Unit in the Department of Political Affairs (DPA) with building the diagnostic capacity to

design early civilian responses to meet the specific requirements of different

peacebuilding efforts. In order to overcome current institutional and conceptual

discontinuities, this capacity should be established as a service provider for the whole UN

system, akin to the Mine Support Unit within DPKO or the Electoral Support Unit within

DPA.

2. ***Enhance the standing capacity of the UN through expansion of the Standing Police Capacity and the establishment of a Rule of Law Standing Capacity***

To recapitulate our argument: UN standing capacity is essential to provide the

necessary predictability, timeliness and reliability (assuming the right skills, experience

and training) for early deployment to assist in the establishment or restoration of security

and protection in a peace operation. This is especially so if rapid deployment is

conceived as an operational mission start-up leadership function with sufficient time in

country to build sustainable relationships with national and local partners rather than as a

stop-gap measure pending the arrival of regular staff. The case for UN standing capacity

also rests on the recognition that there are certain UN responsibilities that cannot be met

from outside.

The proposal for an expanded Standing Police Capacity must receive support from the Member States and must be considered as a priority for implementation by the UN Secretariat. It is disappointing and perplexing to note that endeavors to develop a complementary UN standing capacity for civilian experts on judicial and corrections issues remain at a seminal stage. Only recently has the UN Secretariat provided an informal note on Rule of Law Standing Capacity. The note has its merits in terms of recognizing contextual differences and the need for qualified experts in civil, common and Islamic law, but it is rather stronger on the statement of principle than on the specification of operational modalities. This indicative staffing level is probably insufficient, if indeed the Rule of Law Standing Capacity is to ensure effective mission start-up. We would add that such a capacity should also include expertise to engage with non-state providers of justice and conflict resolution, for example, customary law institutions.

In practice, police remain privileged over judicial and corrections experts in the early phase of a peace operation. Issues relating to judicial institutions and legal reform are sometimes seen as a medium to longer term undertakings that can be deferred. If the focus, for example, is on a complete revamping of the criminal code and criminal procedure code, then this must involve meaningful political engagement and commitment of national and local actors, a process that can take time. If the focus, however, is on support to national and local institutions to establish even the most rudimentary standards of procedural rights and due process, then the early presence of judicial and corrections experts is required.

3. Buttress the standing capacities of the UN with enabling standby capacities provided by partnerships comprised by states from both the North and the South

The extent of standing capacity will necessarily be limited to core functions of the UN in a peace operation. Prudent financial considerations will always be a factor. What comes after an initial civilian deployment through standing capacity (assuming this capacity exists) remains an unanswered question. Even with increased standing capacity, there will continue to be a gap in required personnel in terms of predictability, timeliness and reliability.

New alternatives must be explored if the expectations placed on the UN to support efforts for the establishment and restoration of security and protection are to be met and we propose a mechanism based on partnerships between North and South Member States who are willing to anchor new standby arrangements. We preface the proposal with a reminder that a constant theme in the analysis on policing and peace is the inability to deploy highly specialized police officers, a requirement that standard force generation mechanisms seem unable to provide. Also, it remains difficult to identify and deploy skilled and experienced legal, judicial and corrections experts, a requirement that standard recruitment practices seem unable to provide.

The essence of the proposal is a system whereby a limited number of Member States develop standby mechanisms that will provide enabling capacities to the UN. The premise of such a system is that it must be a North/South endeavor, exemplifying the principle of international burden sharing. There is a good political reason for this as well as a sound operational reason. The political reason is that the current divide between Northern Member States as the primary funders of peace operations and Southern Member States as providers of troops and police is not sustainable. If Northern Member

States are perceived as having privileged access to civilian positions in UN peace operations, the divide will only widen. The sound operational reason is that if the desire is to have a breadth of expertise across civil, common and Islamic traditions, as well as knowledge of customary law practices, this desire can only be realized if the participation in the security and protection component of a UN peace operation is widened. If it is desirable to have officials with an understanding of the causes and consequences of a civil conflict in a country with weak institutional capacity and limited resources, then expertise must also be drawn from those parts of the world where similar circumstances pertain.

Our approach focuses on enabling capacities Member States can provide to enhance the predictability, timeliness and reliability of special skills police officers as well as judicial and corrections experts.[42] The starting point is that enabling capacities should be based on existing mechanisms and institutions with proven expertise, rather than on the assumption that new institutions need to be created from scratch. The enabling capacities should be provided by partnerships comprised of a limited number of Member States from the North and the South. The emphasis is on a limited number of states to avoid replicating the complex decision-making processes of regional and sub-regional arrangements. Participation of Member States in any given partnership should be predicated on proven commitment to and participation in multilateral peace operations. Participation of Member States from the North would be predicated on a proven commitment to building capacity in the South for peace operations.

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[42] The approach is somewhat similar to the proposal of the CIC study to establish Centers of Capacity.

We emphasize partnership over the concept of "lead nation" for two reasons. First, to assume that a lead nation would be the sole (or even primary) funder for standby mechanisms on behalf of the UN might not generate many volunteers. Moreover, the mechanism may be more palatable if funding were provided by more than one government. Second, it is preferable to think in terms of an "anchor state" – that is, one state with resources that would be capable of maintaining and managing standby mechanisms.

Any given partnership would need to possess the range of skills of the three elements of security and protection – specialized police, judicial experts and corrections officials. This will most likely call for variable geometry – some states may have all three while others may have only one or two. The point is that the system be structured so that all participating states are able to make some predictable and reliable contribution. Reliability would be the important consideration. The personnel comprising these enabling capacities would need to be vetted and trained according to (still emerging) UN standards.

There are three illustrative examples of how standby mechanisms for enabling capacitates could be built.

Australia, for example, is unique in that the Australian Federal Police established an International Deployment Group in 2004, primarily to contribute to stability and security in the Oceania region. The Group, however, is also available for deployment beyond the region in support of multilateral peace operations. In addition, there is a declared purpose to work with other Departments of the Australian Government to

support rule of law and justice capacity building efforts in peace operations.[43] This could

serve as a platform for building a coalition involving some Oceania states as well as

Southeast Asian states. There is a significant precedent in Southeast Asia for trans-

regional cooperation in a peace operation. The 2005 – 2006 European Union's Aceh

Monitoring Mission solicited and received bilateral contributions of personnel from

Malaysia, Thailand, and the Philippines. It is also noteworthy that Indonesia, a leader of

the Nonaligned Movement and G-77, is becoming more engaged in UN peace operations.

In the Western Hemisphere, one could look to both Canada and Brazil as anchor

states for a partnership of enabling capacities. Canada has long been a supporter of and

contributor to UN peace operations. Canada has also played an important role in

supporting capacity building in Africa for peace operations. Brazil has been a central

actor in the efforts of the UN mission in Haiti to restore security and protection. The

combination of Canada and Brazil, together with a select group of Latin American and

Caribbean states, could provide a significant contribution to UN efforts.

A third model could be based on the Europe-Africa axis. There are existing

mechanisms that could provide the foundation for a more institutionalized and reliable

standby mechanism. The Training for Peace project, funded by the government of

Norway, is an established program for providing training to African police forces for

multilateral peace operations. This project already has established institutional linkages

as it is a partnership with two institutions in South Africa – the Institute for Security

Studies and the African Center for the Constructive Resolution of Disputes – and with the

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[43] Australian Federal Police, "The Senate Standing Committee on Foreign Affairs, Defense and Trade Inquiry into Australia's Involvement in Peacekeeping Operations – The Federal Police Submission, March 2007."

Kofi Annan International Peacekeeper Training Centre in Ghana. On the basis of these institutional arrangements, a matching nation system could be developed between a small number of European and African countries. In addition to having available skilled police officers, AFDEM (African Civilian Standby Roster for Humanitarian and Peace Building Missions) could be used to develop a genuine standby capacity for judicial and corrections experts. This model would function best if there were several European states involved. One state, however, should serve as the anchor in the management of the system.

The proposal essentially represents a middle ground between the necessity of establishing standing UN capacity (which will be limited) and the uncertainty of present administrative practice in terms of predictability, timeliness and reliability. The implementation of the proposal may produce varying degrees of predictability and timeliness, but it does have the merits of enhancing reliability (quality and training) and ensuring a broader international engagement in UN peace operations. The difficulties in implementing the proposal should not be underestimated. Yet it should be noted that the UN Secretary-General has recently called for a review, together with Member States, on ways "to broaden and deepen the pool of civilian experts." The review will give "particular attention to mobilizing capacity in the Global South, as well the potential for developing partnerships."[44]

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[44] United Nations, Report of the Secretary-General on peacebuilding in the immediate aftermath of conflict, A/63/881-S/2009/304, 11 June 2009, para. 68.

4. *Make initial projects for rehabilitation of basic infrastructure of police, judicial, and corrections institutions charges against the assessed peacekeeping budget and create a new financial mechanism for quick disbursement to non-state actors and institutions*

It is ironic to note that the greater emphasis placed on building state institutions and capacity building priorities for peace operations is not matched by a commitment to provide early and flexible funding to rehabilitate institutions or provide equipment. The current situation, where funds are immediately available for foreign technical assistance salaries but not for assistance to national and local actors, must be remedied.

There is no persuasive argument why initial projects for rehabilitation of basic infrastructure of police, judicial and corrections institutions are not a fully legitimate charge against the assessed UN peacekeeping budget. There may, however, be resistance to extending assessed budget funding to non-state institutions and actors. This being the case, a new and focused funding mechanism is required that will maximize quick disbursement and quick delivery. The Human Security Trust Fund should be used for this purpose. Failure to address the issue of immediate funding will make the hope of the "peace dividend" of security and protection all the more elusive and, thus, compromise the legitimacy and credibility of peace operations.

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