



FOLKE BERNADOTTE ACADEMY



DRAFT

Summary of Topics for Discussion
& Extracts from Draft Capstone Doctrine

Workshop on the Fundamental Principles of UN Peacekeeping

Stockholm, 26-28 September 2006

Introduction

This paper summarizes and frames the topics for discussion in the respective workshop sessions and raises supportive questions, with the purpose of both triggering and focusing the discussion. Each topic summary is followed by a related extract from chapter 6 (Applying the Fundamental Principles) of the draft Capstone Doctrine.

Session Two: Consent and Impartiality

Topic for discussion: Consent

Although the consent of the main parties to the conflict remains a key condition for the deployment of a UN peacekeeping operation, how this principle plays out in practice is far from self-evident. Even when the main parties have formally consented to the deployment of a peacekeeping operation, they may still seek to prevent it from implementing its mandate. Moreover, consent at the strategic level does not necessarily translate into consent at the local level, particularly if there are “spoilers” who see the peacekeeping operation as a direct threat to the achievement of their goals and ambitions.

Given the complexity of the modern peacekeeping environment, the purpose of this session is partly to explore the meaning and nature of consent with a particular focus on the following questions:

- 1. Is the consent-based nature of UN peacekeeping operations purely a function of capability? Are there other compelling reasons for maintaining a clear distinction between peacekeeping and peace enforcement?*
- 2. Whose consent matters?*
- 3. Is the general consent of the main parties to an operation’s deployment sufficient or is their consent to its composition and mandate also required?*

4. *Should attempts by one or more of the main parties to prevent an operation from implementing its mandate be seen as a de facto withdrawal of consent?*
5. *How does one distinguish between the “main parties” and lesser “spoilers” elements whose consent is not necessarily required?*
6. *What is the most effective way of dealing with spoilers?*

Extract from draft Capstone Doctrine: 6.1 Consent

Consent of the main parties is an essential pre-condition and must be managed continually. Consent is dynamic and operates at different levels. The absence of consent from smaller, spoiler elements must sometimes be dealt with robustly.

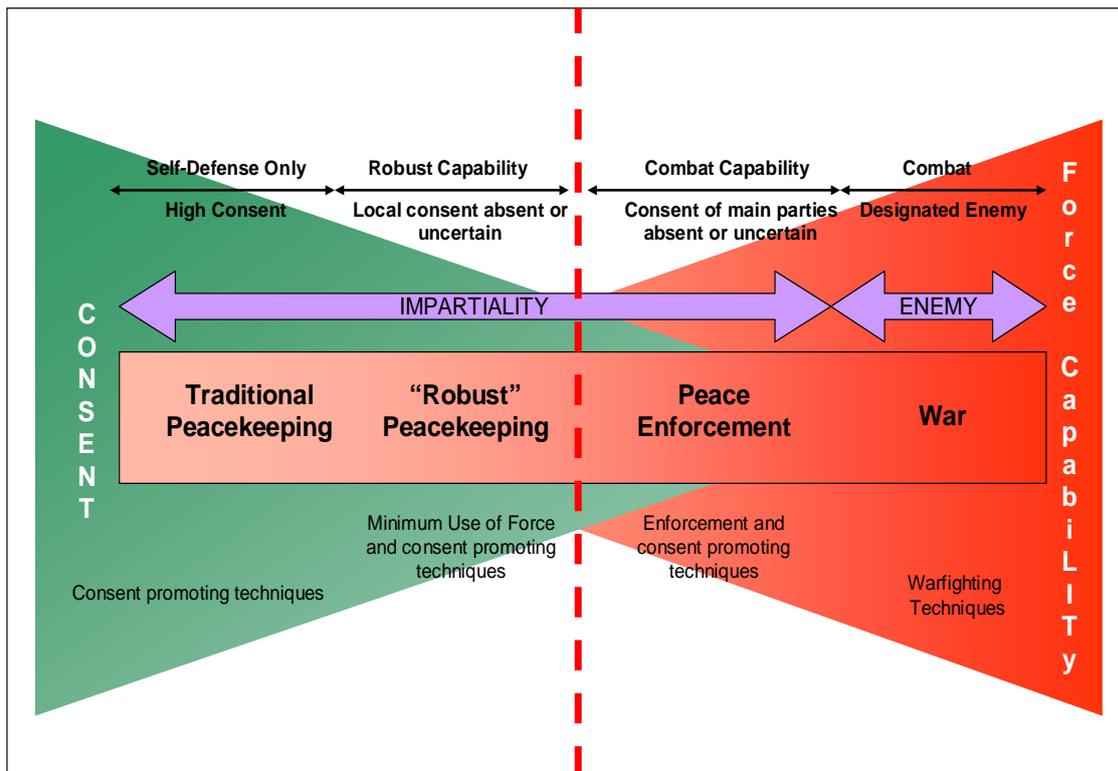
The logic of UN peacekeeping operations flows from political and military premises that are distinct from enforcement operations in so far as they require the consent and cooperation of the main parties to the conflict. This entails consent to and agreement with the peace process, consent to the deployment of the peacekeeping operation and consent to the functions and responsibilities that are assigned to it. UN peacekeeping operations are, by design, deployed to support the will of the parties.

Although UN peacekeeping operations are consent-based, consent itself may be dynamic and may vary as the situation evolves on the ground. Mission personnel must be alert to changes in the level of consent of major parties. For instance, a party that has given its consent to the deployment of a UN peacekeeping operation may subsequently seek to restrict the operation's freedom of movement on the ground, resulting in a *de facto* withdrawal of consent. Moreover, although the main parties may have given their consent at the strategic level, this does not necessarily imply or guarantee that there will also be consent at the local or tactical level, particularly if the main parties are internally divided or have weak command and control systems.

If a peace operation is deployed in a highly volatile setting, possibly involving armed elements or “spoilers” not under the control of any of the parties, universality of consent in the area of operation becomes less probable. While the UN must rely on the main parties to communicate their consent to lower levels and to the general populace, and to support the UN operation in building consent among key constituencies, a peacekeeping operation must also be resourced and equipped to deal robustly, especially at the outset, with the local breakdown of consent where the potential for opposition exists.

Since UN peacekeeping operations are deployed with the consent of the main parties to support the implementation of a cease-fire or peace accord, they are neither designed nor equipped to enforce the peace against the will of the parties. The limits of UN peacekeeping must therefore be understood by the mission's leadership especially when a mission is working close to such limits. As the figure below demonstrates, in contrast to peace enforcement operations, there is a consent line that UN peacekeeping operations do not cross. In determining how to deal with spoilers, the mission must therefore be careful to avoid being drawn into an escalatory dynamic that may lead to a wider confrontation with the main parties and jeopardise its very existence.

The Limits of UN Peacekeeping



Topic for discussion: Impartiality

A key lesson drawn from the mid-1990s was that for UN peacekeepers impartiality should not be confused with neutrality and that clear violations of the peace by any party must be dealt with accordingly. Nevertheless, recent experience suggests that managers and staff in the field still find it difficult to distinguish between impartiality and neutrality and have, in some cases, been reluctant to denounce spoiler behaviour, particularly when it involves one of the main parties, for fear being seen as partial to one side. Consequently, further clarity is required on the following questions:

1. *What does it mean to be impartial and how does impartiality differ from neutrality?*
2. *How should the leadership of a UN peacekeeping deal with repeated attempts by one or more of the main parties to undermine or block the peace process be dealt with?*
3. *How does the need to remain impartial affect a UN peacekeeping operation's ability to deal with spoilers that are not connected to the main parties?*
4. *What is the best way for a UN peacekeeping operation to maintain its image of impartiality?*

Extract from draft Capstone Doctrine: 6.2 Impartiality

For UN peacekeepers, impartiality means that the mandate must be applied without favour or prejudice to any party. Clear violations of the peace should not be ignored under the guise of impartiality.

Since experience has shown that consent can be manipulated in a variety of ways, impartiality for UN peacekeeping operations must mean adherence to the principles of the UN Charter. Impartiality does not mean inactivity or neutrality. Impartiality means that the mandate must be applied without favour or prejudice to any party. Where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the UN can in the best case result in ineffectiveness and in the worst may amount to complicity. Thus, on occasion the UN will proscribe parties, sometimes with armed force, if those parties are working against the context of the agreement underpinning the mandate. In essence, the transparent exercise of impartiality in support of the mandate strengthens the legitimacy of the operation, helps build consent and cooperation and improves the long-term prospects of peace.

Session Three: Use of Force in UN Peacekeeping Operations

Topic for discussion: Use of Force

The trend towards more “robust” peacekeeping, witnessed most notably in the DRC, represents a major shift away from the traditional the principle of non-use of force except in self-defence. Increasingly, there is an expectation that peacekeepers will not only use force to defend themselves but will also use force in “defence of the mandate”, or to physically protect civilians. While a distinction can still be made between peacekeeping, which is a consent-based conflict management technique, and peace enforcement, the boundary between the two has become increasingly blurred.

Drawing on current and past UN experience, the aim of this session is to explore the dilemmas associated with the “robust” use of force in UN peacekeeping operations in order to ensure that the capstone doctrine provides clear answers to the following key questions:

- 1. Where is the line between peacekeeping and peace enforcement and how do we know when we have gone too far?*
- 2. When should force be used and for what purpose?*
- 3. Should the use of force in UN peacekeeping operations always be a measure of last resort or are there instances where the pre-emptive use of force may also be justified?*
- 4. How much force are peacekeepers entitled to use? Should the use of force be “minimal”, “proportional”, “calibrated” etc. and what do these terms mean in practice?*
- 5. Is it legitimate UN peacekeepers be engaged in offensive operations alongside national security forces? If so what are the conditions that should govern such engagement?*
- 6. Is it acceptable for UN peacekeeping operations to conduct operations that may result in civilian casualties?*

Extract from draft Capstone Doctrine: 6.3 Minimum Use of Force

UN peacekeepers are entitled to defend themselves and their mandate. Where mandated, force may be used to preserve the peace process and protect civilians. The use of force should be a last resort. It should be minimal, calibrated and precise and always conform to the ROE and international humanitarian law.

The United Nations will use force, as necessary, to protect itself, its mandate and the people embraced by it. Its use of force should always be calibrated in a precise, proportional and appropriate manner, within the principle of the minimum force necessary to achieve the desired effect. This effect will be rooted in the political mandate. It is this political justification that distinguishes the UN's use of force in peacekeeping operations from the use of force in conventional military operations, which are focused on an enemy and his neutralization or destruction.

The UN has no enemy. The UN's use of force is therefore principally defensive and protective. It is not retaliatory. But where the lingering forces of war and violence threaten a fragile peace or continue to prey fatally upon a vulnerable population, the UN may have to resort to the use of force to ensure compliance to the mandate. In doing so, the aim is not to destroy or eliminate spoilers but to contain and restrain them. The use of force will always be a last resort, will be governed by Rules of Engagement (ROE) bestowed by UN HQ and will conform to international humanitarian law. In the volatile and potentially dangerous environments into which contemporary peacekeeping operations are often deployed, ROEs should be sufficiently robust to ensure that United Nations contingents are not obliged to cede the initiative to their attackers.

There may be rare occasions where the UN has to use force preemptively as part of its duty to protect. Such decisions need to be made at the highest political level within a mission and will depend on a combination of factors including mission capability and the level of national and local support for such action.

Session Four: Credibility and National Ownership

Topic for discussion: Credibility as a Fundamental Principle in Contemporary Peacekeeping Operations

UN peacekeeping operations are ultimately judged by their performance on the ground. Increasingly, missions deployed in volatile, post-conflict environments, are expected to respond decisively to challenges on their authority as well as threats against the civilian population. Failure to do so can result in a loss of confidence and support from the local population and ultimately jeopardise the entire operation. Recent experience also demonstrates that a failure to maintain the highest standards of professional conduct and discipline can seriously undermine a mission's local and international standing.

Given the expectations created by the deployment of a large and complex UN peacekeeping presence, the first half of this session aims to explore the various dimensions of credibility in contemporary operations with a particular focus on the following questions:

- 1. What makes a UN peacekeeping operation credible?*
- 2. Is the conduct of individual peacekeepers and the mission's adherence to international norms and standards as important as its military capability and posture?*
- 3. Does the credibility of a UN peacekeeping operation affect its legitimacy and if so, how?*

Extract from draft Capstone Doctrine: 6.4 Credibility

UN peace operations deployed in a volatile environment are likely to be tested for weakness. The early establishment of a mission's credibility is vital. To be credible, a mission must be professional, maintain a confident posture and earn the respect of the parties and the population.

UN peacekeeping operations are increasingly deployed in volatile, highly stressed environments characterized by the failure or collapse of state structures, enmity, violence, polarization and distress. In such environments, the mission will be tested for weakness and division. This is more true the less benign and consensual the environment. For a peacekeeping operation to be credible it must deploy rapidly and adopt a confident and capable posture. The early establishment of a credible presence can help to deter spoilers and diminish the likelihood that a mission will need to use force to assert its authority. The availability of a reliable and rapidly deployable reserve capability for emergency situations is also crucial to maintaining a mission's credibility. To be credible and effective a peacekeeping operation must function as an integrated unit reflecting the will of the international community while managing the expectations of the local community. This requires an inner strength which comes from a clear and deliverable mandate, with resources and force levels to match, a sound mission plan communicated and understood at every level and a confident and professional competence.

Topic for discussion: National Ownership – Definition and Challenges

Beyond their traditional peacekeeping functions, multi-dimensional UN peacekeeping are deployed to help the parties rebuild a functioning state capable of responsibly exercising its sovereignty. In exceptional circumstances this may even require temporarily assuming certain state-like security and administrative functions until the capacity of the State to manage its own affairs is developed or restored.

The promotion of national ownership is crucial to the attainment of the objectives of contemporary UN peacekeeping operations. However, experience has shown that the deployment large numbers of international military, police and civilian personnel inevitably leads to a “crowding out” of national capacities. Moreover, UN peacekeeping operations are mandated to uphold international norms and standards such as human rights and the Rule of Law and may therefore be required to override the wishes of a government whose actions are in contradiction with these values. This tension reflects a normative debate around the notion of sovereignty as the foundation of the current international system.

Session four's second half aims to examine the validity of national ownership as a guiding principle for contemporary UN peacekeeping operations by seeking answers to the following questions:

1. *Should the principle of national ownership play a part in determining the size or footprint of a UN peacekeeping operation?*
2. *What are the limits of national sovereignty?*
3. *What is the appropriate balance between national ownership and the promotion of international norms and standards, such as human rights, Rule of Law, good governance etc?*

4. *How does a UN peacekeeping operation reconcile the need to produce results quickly with the need to develop local capacity and involve national stakeholders in the mission's key activities?*

Extract from draft Capstone Doctrine: 6.5 National Ownership

Multi-dimensional Peacekeeping Operations are designed to help post-conflict states exercise full and responsible sovereignty. Missions must seek to promote national ownership and leadership while ensuring that minimum standards are met.

One of the principal functions of the UN's multi-dimensional peacekeeping operations is to help build the foundations of a functioning state in countries emerging from protracted internal conflict. As noted above, in some instances state capacity may be so weak that the mission is required to assume certain state functions, either directly or in support of the State, on a temporary basis. Other situations may require a less intrusive form of intervention. The posture adopted by a particular operation will ultimately depend on the gravity of the situation on the ground, the level of resources the international community is willing to invest and the degree of intervention national counterparts are willing to tolerate. Each of these variables is likely to change throughout the course of an operation's lifetime.

Although UN peacekeeping operations have taken on important state-building functions these functions must be carried out with the aim of restoring the capacity of the country concerned to exercise its full sovereignty, with due respect for international standards. The promotion of national ownership does not mean therefore that a peacekeeping operation should be captive to the will of a government whose decisions and actions violate the terms of the peace agreement it has signed-up to or the universally accepted norms and standards that a UN peacekeeping operation is bound to uphold.

Despite the pressure to produce results quickly, an effort should be made to involve national stakeholders, as far as possible, in the planning and execution of the mission's core programmes and activities and help them develop the capacity to take these forward when the mission eventually withdraws. All personnel should be aware of the potential for their presence to undermine national authority and responsibility. National capacities should be encouraged and developed throughout the life of the mission. Any displacement of national capacity should be highly circumscribed and always serve the objective of restoring national ownership as quickly as possible.