

The US Army War College Quarterly: Parameters

Volume 25
Number 1 *Parameters* 1995

Article 6

7-4-1995

War, Peace, a and Interventional Armed Conflict: Solving the Peace Enforcer's Paradox

Michael H. Hoffman

Follow this and additional works at: <https://press.armywarcollege.edu/parameters>

Recommended Citation

Michael H. Hoffman, "War, Peace, a and Interventional Armed Conflict: Solving the Peace Enforcer's Paradox," *Parameters* 25, no. 1 (1995), doi:10.55540/0031-1723.1727.

This Article is brought to you for free and open access by USAWC Press. It has been accepted for inclusion in The US Army War College Quarterly: Parameters by an authorized editor of USAWC Press.

War, Peace, and Interventional Armed Conflict: Solving the Peace Enforcer's Paradox

MICHAEL H. HOFFMAN

© 1995 Michael H. Hoffman

The situation demanded international action. Some of the toppled hierarchy were hostages; others had been murdered by the new regime. The Western world recoiled when jails became abattoirs, their floors slippery with the blood of hundreds of priests, nobles, dissidents, and street criminals hacked, stabbed, shot or clubbed to death as enemies of the state. It was Paris in August 1792.¹ The French Revolution, a clear threat to international peace and security, had to be stopped.

The King of Prussia's armies were already moving into France that month to put down the threat. By September their uncertain advance stopped for good at Valmy where, thanks to innovative military technologists in service to the revolution, they were exposed to the most intense cannonade yet seen in the history of warfare. The vigorous resistance from men imbued with a new patriotic fervor proved too much for them. The Duke of Brunswick and his befuddled Prussians left the field light on casualties, but heavy with the conviction that they had been beaten. The revolution was saved.

Peace enforcers can be viewed as modern counterparts of those Prussian invaders, dispatched to put down a new order of things. The Duke of Brunswick had crossed into France to crush an ideological and military threat to the European monarchies and the social and political order backing them. Peace enforcers today are sent across borders to put down threats to the modern nation-state structure and the humanitarian values intensely championed since 1945.

What is Peace Enforcement?

The absence of agreed international terminology for post-Cold War military intervention operations conducted in the name of peace continues to pose problems for policymakers, planners, and commanders.² The US Army has taken a valuable step forward by defining peace enforcement as “The application of military force, or the threat of its use, normally pursuant to international authorization, to compel compliance with resolutions or sanctions designed to maintain or restore peace and order.”³ This definition is useful, but politics often militate against a clear statement of the scope of operations conducted under the heading of peace enforcement.

The peace enforcer’s problem is particularly acute in situations which often, almost by definition, carry a high probability of armed conflict in at least the low to mid range of the spectrum of violence. This circumstance is complicated because some of the strongest advocates of peace enforcement activities are found in the leadership of humanitarian organizations. Many in those organizations find it difficult—given personal and institutional commitments to nonmilitary solutions—to concede that some interventions will inevitably have a military, rather than a humanitarian, foundation. In the worst case, the two perspectives can become irreconcilable.

Policymakers may be reluctant to address peace enforcement as requiring a conventional application of military force, lest domestic opposition disrupt their plans. Other resistance may come from leadership in the state that is the destination of the intervention force. Objections to characterizing an intervention operation as a military action may include the appearance of submitting to an occupation force or a requirement to recognize the intervening troops as belligerents under the laws of war.

Peace enforcers themselves may be tempted or required to deny the operational reality before them. Conceptual haze can seep into the planning process and deny policymakers and planners a realistic operational model. Peace enforcement, an obscure concept, is still a new tool of statecraft; its operational antecedents, however—combat and military occupation—are anything but obscure.

It has been observed that peace enforcement operations “demand the highest type of leadership directed by intelligence, resourcefulness, and ingenuity. [They] are conceived in uncertainty, and conducted often with precari-

Lieutenant Colonel Michael H. Hoffman (USAR) is the International Humanitarian Law Officer for the American Red Cross in Washington, D.C. He is a judge advocate in the Army Reserve, and advises the American Red Cross on public international law issues pertaining to the law of war, refugee law, international human rights law, and related fields. All opinions expressed in this article are those of the author and not necessarily the opinions of the American Red Cross.

ous responsibility and doubtful authority, under indeterminate orders lacking specific instructions.”⁴ When those observations were published in 1940, the authors had in mind 45 years of American experience with intervention operations in the Philippines, China, and the Caribbean. Peace enforcement was recognized neither in concept nor in practice. The Marine Corps called these interventions “small wars.”

Operations by the Army and the Marines before World War II frequently were conducted to establish political stability and a foundation for long-term nation building. It was well understood, and accepted by all involved, that peace enforcement is a form of war.

Origins and Constraints

Contemporary peace enforcers are yoked to a massive paradox. They deploy to defend a system—the international legal system and the values it promotes—which never anticipated and consequently makes no allowance for their work. There is a poor fit between the operational realities of peace enforcement and the uncertain powers vested in commanders of such operations.

Peace enforcers seek to protect the vision of a 17th-century Dutch scholar, Hugo Grotius, honored as the father of modern international law, whose treatise “On the Law of War and Peace” contained a vision of an impartial international legal system, structured with states as the players. Grotius proposed a law of peace with consistent rules for international dealings, and a separate law of war that offered moral parameters for the conduct of war.⁵

That vision was reinforced when the Thirty Years War ended in 1648. The Peace of Westphalia marked the beginning of the modern, state-centered concept of world order. It gave the Holy Roman Empire’s formerly subservient members the right to forge their own alliances. From that beginning comes our concept of world order, predicated on the existence of stable nations, with governments in control of their own territory and engaged in peaceful, cooperative relationships with other states. Since 1989, however, the number of fragile and collapsed states has increased significantly, threatening the Grotian-Westphalian order. Meeting that threat is an important motivation for peace enforcement.

Peace enforcers also deploy to protect the more recent phenomenon of an international human rights structure. Mass murder, extreme brutality toward captives, and other massive violations of humanitarian norms by the Axis Powers during World War II were recognized as a threat to the international legal system that had been built up by the 1930s. Those trauma eventually produced an unprecedented international system of human rights treaties and an international structure for their enforcement.

Change began with the adoption of the UN Charter in 1945, followed in 1948 by the UN General Assembly’s adoption of the “Universal Declaration of Human Rights” and the “Convention on the Prevention and Punishment of

the Crime of Genocide.” Other landmarks include the General Assembly’s adoption, in 1966, of the “Covenant on Economic, Social and Cultural Rights” and the “Covenant on Civil and Political Rights.” These were followed in 1984 by the “Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment.” Treaties, new international tribunals, diplomatic debate, official resolutions, and heightened press coverage have elevated human rights to unprecedented importance in world attention. Private initiatives, reflected in the worldwide proliferation of private volunteer organizations (PVOs) dedicated to humanitarian activities, have mobilized many able, articulate champions in the cause.⁶ Military professionals should be aware of these powerful new intellectual, political, and operational developments, because they drive many peace enforcement missions.

While UN-sanctioned coalition operations in Korea and the Persian Gulf were the international community’s response to naked aggression, contemporary Chapter VII operations are frequently spawned by challenges to human rights and humanitarian standards. Neither Somalia nor Haiti were strategic prizes or of significant interest to most of the participants. Nonetheless, an aroused international community authorized peace enforcement operations under Chapter VII of the UN Charter to end a massive humanitarian relief crisis in one and human rights depredations in the other.⁷ Conversely, human rights violations elsewhere—Ngorro-Karabach, Afghanistan, and Sudan by way of example—did not elicit comparable reactions. War in the former Yugoslavia illustrates the full range of behavior to which the international community has declared itself opposed, by law and custom, since the end of World War II.

Enter the United Nations

When conducted by nations for their own strategic purposes, intervention operations are easy to categorize under traditional rules of international law. Forces engaged in these missions are looking after their own state interests, usually at the expense of other states. Participants are belligerents, bound by the law of war embodied in the Hague Conventions of 1907 and the Geneva Conventions of 1949.

From the earliest days of the UN’s interest in peace enforcement, however, it has been argued that military operations conducted under the authority of Chapter VII of the UN Charter are not covered by the Hague or Geneva Conventions. Because the UN is not a state, it is ineligible to adopt those treaties. It follows that military forces are not traditional parties to a conflict when operating under UN Security Council resolutions based on Chapter VII. Forces committed to a Chapter VII operation do not take sides in any conflict; in principle they are intervening in a state or region to end a threat to international peace and security. Because they are not parties to a conflict, they are held not to have a vested interest in how it ends. Consequently,

military forces committed to peace enforcement under Chapter VII are not covered by the law of war. These arguments have been raised as an objection to applying the law of war in any peace enforcement operation.⁸

Theoretical as they may appear, the foregoing constraints have direct and immediate consequences for those who plan and carry out peace enforcement operations. Ambiguous mandates and uncertain authority create real operational problems for Chapter VII peace enforcement commanders. It is useful to recall that international coalitions under US leadership and control in the Korean and Persian Gulf wars, sanctioned by the Security Council, were governed by the law of war.

The Law of War Does Not Sanction Peace Enforcement

The father of peace enforcement seems to have been Mo Tzu, a leading philosopher of China's turbulent Warring States era. During his lifetime, the fifth to fourth centuries B.C., China was fragmented; control was scattered among incessantly warring kingdoms. Even as Mo Tzu exhorted the rulers of these kingdoms to avoid the evils of aggression, he was sending his own followers to rescue small states that were under pressure from their neighbors. His vision did not outlive him.⁹

Two millennia later, the Peace of Westphalia enjoined all parties to settle differences peacefully, and bound them all to make war together against any one of their number that resorted to force. That call to arms was never invoked, but this treaty contains the first hint of peace enforcement as a tool of statecraft.¹⁰ The modern law of war evolved in the following centuries, in a form not entirely compatible with contemporary notions of peace enforcement.

The law of war derives in essence from the customary behavior of soldiers. By the late 1700s a sophisticated system of unwritten practices of war was well known to the armies and navies of Europe. Civilians were generally spared from depredations, while enlightened self-interest tended to ensure that prisoners of war were treated reasonably. Armies of the time were small and relied heavily on a mix of aristocrats and mercenaries. Each group could identify with counterparts on the other side. This well-ordered, closed system began to unravel toward the end of the century, however, when people's armies replaced royal armies. A soldier's anger was harder to control in wars fueled by ideology than in the wars of kings.

By the 1860s early effects of strategic warfare became apparent as the Union Army began to target civilian infrastructure in the Confederacy. The legal structure to cope with the implications of such changes, measured in historical time, developed rapidly. Prodded by the founders of the International Committee of the Red Cross, states agreed in 1863 to establish a network of National Red Cross Societies to aid wounded and sick soldiers. The first Geneva Convention for wounded soldiers, adopted by a diplomatic conference just one year later, marked the beginning of our present network of treaty-based

protection and Red Cross services for victims of war. Such efforts to alleviate the suffering of war are sometimes referred to as "Geneva Law."

The first Geneva Convention applied only to international conflict. It would have been unimaginable at the time for any state to commit itself to international standards for handling a domestic insurrection. In 1868 another piece was added to the modern law of war matrix when a diplomatic conference adopted the Declaration of St. Petersburg, renouncing the use of explosive bullets, thereby starting the modern system of arms control treaties.¹¹ Two major peace conferences subsequently were held at The Hague; the second, in 1907, produced conventions that still regulate means and methods of maritime and land warfare. The conventions, still applicable only to conflict between states, had no standing in any other form of conflict. They are described as "Hague Law."

Rejection of rules for internal wars was made express at the International Red Cross Conference of 1912, where a US proposal to extend the reach of Red Cross services to internal warfare was firmly rejected by state representatives.¹² States at war then, as now, were considered belligerents. This status gives rise to the duties falling on nations at war, and the protection due from both sides to nationals of enemy warring states. States not parties to the conflict were expected to keep out, and elaborate laws of neutrality regulated their behavior. Nothing in this matrix of custom and treaty anticipated the appearance on future battlefields of neutral, international armed forces fielded by nonstate organizations—forces charged to compel compliance by belligerents with the wishes of the international community.

Against this backdrop of Hague, Geneva, and neutrality law, Britain, France, and Italy formed small international units to police plebiscites after World War I. In 1921 an allied force of 20,000 patrolled the Upper Silesian plebiscite. As the participants all represented the former Allied powers, their credibility as an impartial international force was not compelling. The League of Nations fielded only one military force. From 1927 to 1930 it maintained a small Railway Guard of French, English, and Belgian troops in the Saar; its size and composition changed in the mid-1930s to a force of 3200 composed of British, Dutch, Italian, and Swedish contingents.¹³ These examples provided a narrow base of experience for the ambitious vision set forth a decade later in the UN Charter.

A new, replacement Geneva Convention for wounded and sick soldiers was adopted in 1929, along with a new treaty protecting prisoners of war. Both applied only in international conflicts. In the 1930s a convention for civilians was under discussion in international Red Cross circles, but World War II prevented further development of this initiative.

The Geneva Conventions of 1949 reflected a major reappraisal of Geneva Law, with two new, updated conventions for the protection of wounded, sick, and shipwrecked soldiers and sailors and one for prisoners of war, and an

entirely new convention for civilians. While the conventions remained broadly applicable only to conflict between states, there was one significant change from previous practice. The delegates adopted Common Article III, a condensed statement of protections for internal armed conflicts. Sometimes referred to as a mini-Geneva Convention, Common Article III binds states and those in insurrection alike to a general prohibition against murder, mistreatment, torture, taking of hostages, and denial of due process. All sides are similarly bound to humane treatment of captives, wounded, and noncombatants.

Common Article III was an extraordinary stretch for many states. It still represents the outer conceptual boundary for the application of the law of war, addressing as it does conflicts within, as opposed to between, states. Geneva Law and Hague Law define the law of war in place today.¹⁴

A sophisticated set of rules governs interstate wars, generally referred to as international armed conflicts. A much smaller set of rules applies to intrastate wars, generally referred to as internal armed conflicts. This system does not anticipate nor does it address military interventions launched or sanctioned by international organizations for purposes impartial to the issues in dispute among warring parties. This is the first half of the peace enforcer's paradox: there is no place in the law of war as presently construed for peace enforcement.

The Law of Peace Does Not Sanction Peace Enforcement

The law of peace offers no more support for the commander of a peace enforcement operation. For example, peace enforcers may have to exert some degree of civil authority in their area of operations. If the law of war is the accepted model, then the rules for military occupation apply. If the law of war does not apply, then the law of peace offers the only alternate models.

There are three basic models for extraterritorial control in peacetime, only one of which remains extant. Each model assumes that normal functions of a state, including enforcing laws, assuring public protection, and carrying out other civic responsibilities, never existed or have ceased in the region in question. These three models have been the large exceptions to a general rule, namely, that states have no right to assert such power beyond their own border.

- The oldest model, colonial domination, is unacceptable in the modern world. The prime legal model of this form derives from the Berlin Conference of 1885, at the high water mark of collective international land-grabbing. The conference generated a treaty protecting freedom of trade in the Congo basin and bound its signatories to stamp out the slave trade. As the desired end state for peace enforcement operations these seem plausible objectives, but there was more to this treaty.

With Article 35 the signatories also pledged their recognition of "the obligation to ensure the establishment of authority in the regions occupied by them on the coasts of the African Continent sufficient to protect the existing

rights, and, as the case may be, freedom of trade and of transit under the conditions agreed upon.”¹⁵ This model offers no guide to peace enforcers. They are not sent to conquer, and no sensible Chapter VII force commander would expect to assume, even briefly, the powers of a colonial governor.

- The second model, involving a system of temporary protectorates, was crafted for the Covenant of the League of Nations. “Mandates” were established to help former provinces and territories of the vanquished Central Powers acquire statehood. As set forth in Article 22 of the League of Nations Covenant, tutelage was furnished to those peoples considered as “not yet able to stand by themselves under the strenuous conditions of the modern world.”¹⁶ The League of Nations mandates were designed to protect regions and peoples as they established their right to admission to the Grotian order of nation-states.

The mandates were broken into categories. Class A mandates, in the Middle East, were scheduled for independence after a brief, developmental phase. Class B mandates, the central African territories wrested from Germany, were thought to be further away from the kind of national identity that would establish them as nation-states. Class C mandates, which included Southwest Africa and many Pacific Islands, had no identity separate from that of the states charged with their governance.¹⁷ Timetables for admission to the nation-state system were never established by the League of Nations. Most of the mandates were still in place when the League disbanded in 1945.

- The third model for peacetime control over foreign soil is found in the UN trusteeship system, established by Chapter XII, Article 76, of the UN Charter. The UN Charter replaced the League’s mandates with a system of trust territories, administered in the interest of international peace and security, to promote the advancement of the inhabitants of those territories and to encourage respect for human rights. Contrary to the practice under the League Covenant, the UN Charter also expressly tasks trustee states to promote “progressive development towards self-government or independence as may be appropriate.” The UN has never shown the League’s penchant for long-term governance, rather than independence, for the territories and peoples under its protection.¹⁸

The historical and contemporary legal models available for conducting peace enforcement operations do not fit the tasks faced by peace enforcers. This outcome highlights the other half of the peace enforcer’s paradox: the law of peace provides no legal basis for any state or organization to assert authority over the population of a failed or weakened state in peacetime. Commanders are left with no legal framework for their authority and no guidelines for exercising it.¹⁹

Conclusions

In the first decades of this century, the United States applied the law of war where it fit during operations in the Caribbean, without regard to the

formal divisions of subject matter in international law. Quoting once again from the *Small Wars Manual*:

The fact remains that the commander must govern and he must utilize military form of control. Therefore, he will be justified in adopting any reasonable measures necessary to carry out the task or mission that has been assigned him. The commander's policy should be to enforce the laws of war but only to such extent as is absolutely necessary to accomplish his task.²⁰

Commanders of peace enforcement operations are on the horns of a dilemma. They are not colonial satraps, nor do they possess the authority of the governor of a UN trust territory. And unless the United Nations were to establish that a fragile or collapsed state had been made a de facto trust territory for the duration of the operation, then the law of peace would offer commanders no guidelines for dealing with armed resistance nor the authority or means to assert control over territory or populations in peacetime. The presence in Somalia and in the former Yugoslavia of a personal representative of the UN Secretary General has done little to help commanders escape their dilemma.

Conversely, the law of international armed conflict has not been applied to peace enforcement operations because such operations are assumed to be uniquely impartial and internationalized. Furthermore, the law of internal armed conflict applies only to warring factions within a state, not to foreign military elements that deploy there. Consequently, nothing in the law of war guides or empowers the commander in peace enforcement operations. As operations in Somalia and Bosnia demonstrate, that commander therefore has:

- no power to detain or try common criminals, members of opposing forces, or other individuals that pose a security risk to the nation or the intervention force;
- no authority to regulate any aspect of civil life for the good of the population of the country; and
- no privileged combatant status to protect wounded or captured peace enforcers.

Operation Restore Hope and the follow-on UN operation were bedeviled by the absence of a legal framework for action. Captured Somalis could not be held under the law of war, but there was no authority to hold them under the law of peace. Civilian communities were not regulated under the law of war, but there was no authority to intervene in any aspect of civilian life under the law of peace. Crimes of rape, murder, and pillage in Somalia went unpunished because there was neither an effective police force nor a functional judiciary in the country—and the military commander lacked the legal authority to intervene in civil matters.

Operational guidance was equally obscure in Operation Uphold Democracy in Haiti. The international armed intervention to control a politically explosive situation, accomplished by the threat of force, was not expressly

conducted under the law of war. As in Somalia, deployed units lacked a clear operational context. If they were not considered invaders and occupiers under the law of war, then what status did they have under the law of peace?

The following conclusions seem to be supported by experience in so-called peace enforcement operations:

- Peace enforcers are expected to uphold humanitarian standards in conditions of hostility, imminent or actual conflict, political disintegration, and both active and passive opposition to their mission. They lack a legal basis to do so.

- The UN has the power to correct this situation in any resolution that establishes the terms of reference for a peace enforcement operation. The first measure required is to acknowledge that the operation is an armed intervention, undertaken with full appreciation of the risks and costs inherent in intruding militarily in any state's affairs. The second should specifically authorize the application of the laws of war during execution. Another option may be to declare a failed or failing state as a de facto trust territory for the duration of the operation. If this can't or won't be done, then the law of war needs to be applied—nothing else is available to aid the peace enforcer.

- Understanding that peace enforcement constitutes an armed intervention, potentially involving combat, will bring much-needed clarity to our strategic and operational planning. We ought not to send troops on such missions, regardless of what we call them, if we cannot accede to that reality. When that reality is denied, lives are lost in consequence.

- In the absence of extraordinary revisions to the law of war and peace, commanders can only assert the legal authority they need to control the civilian population in a failed or weakened state through an army of occupation. Substantial responsibilities accompany the power to control. Our officers and their civilian counterparts in armed interventions will have to be educated in those responsibilities if the UN invokes the law of war.

- Once on the ground in an armed intervention operation the peace enforcer is a combatant. Recent attempts to slide UN forces into Bosnia with a mission somewhere between passive peacekeeping and more aggressive peace enforcement defy all knowledge of human behavior on the battlefield. It is not in the nature of things for an indigenous belligerent force to accept peacekeepers as military observers one day and gracefully allow them to obstruct its operations the next.

Interventional Armed Conflict: A Way Ahead

In December 1994 the UN General Assembly adopted the Convention on the Safety of United Nations and Associated Personnel.²¹ Ratifying states commit to protecting United Nations and associated personnel deployed on UN operations against crimes of violence, and to punishing those who commit

such crimes. Article 2 provides that the Convention will not apply to Chapter VII enforcement actions where “the law of international armed conflict applies.” However, UN member states have yet to concede that the law of international armed conflict applies in lower-intensity peace enforcement operations authorized under Chapter VII. While the Convention might be applied—albeit awkwardly—in de facto combat environments, doing so could advance the misleading notion that peace enforcement is akin to law enforcement. The Convention, which addresses the security of UN personnel in a law enforcement context, doesn’t reach the military heart of the matter.

Neither advanced technology, characterized by current interest in “less-lethal” means of violence,²² nor the best intentions of those who hope to transform a failed or weak state through personal commitment to humanitarian goals or nation-building, will alter the experience of centuries of conflict. Untested peace enforcement concepts and techniques will not, in the foreseeable future, cause the harsh realities of war—the most likely environment of armed intervention operations—to conform to personal visions of a peaceful world.

Peace enforcement has been marked by continuous, overt antagonism, sporadic hostilities, ambiguous civil-military relationships, deceit, and the type of adversary characterized in Ralph Peters’ “The New Warrior Class.”²³ These conditions were familiar to those who examined US small wars before World War II. Peace enforcement troops are not parties to an internal armed conflict, and they do not qualify as belligerents under the rules of international armed conflict. They should maintain their status in a law of war category of their own, operating by a set of rules developed especially for them. That category can well be described with a term coined here, “interventional armed conflict.” Specifically:

- In all engagements with organized military forces during the execution of a Chapter VII operation, peace enforcers will operate in accordance with the law of war as applied in international armed conflict.

- Whenever Chapter VII forces attempt to control a zone populated by civilians, or to detain belligerents or civilians, such activities will be carried out in accordance with the law of war as applied in international armed conflict.

- Drawing on the precedent of Common Article III of the Geneva Conventions, adopted in 1949 for internal armed conflicts, the international law of armed conflict could be applied in full, or adapted to the particular circumstances of interventional armed conflict. By way of practical example, UN forces do recognize and honor the right of the International Committee of the Red Cross to carry out its impartial humanitarian work in peace enforcement environments.²⁴

The peace enforcer’s mission often demands measures that are recognized in any other context as conventional military operations. We should stop denying that reality. Facing the military facts of peace enforcement operations will clarify behavior appropriate to armed intervention forces, enhance the peace enforcer’s privileged status as a combatant, and provide the

legal basis for commanders to implement the terms of the authorizing Security Council resolution. Only with a strong law of interventional armed conflict can we solve the peace enforcer's paradox.

NOTES

1. Simon Schama, *Citizens: A Chronicle of the French Revolution* (New York: Alfred A. Knopf 1989, pp. 632-39).

2. Timothy L. Thomas, "Peace Operations: The Terminology Challenge Before the International Community in a Period of post-Cold War Cooperation," US Army Combined Arms Command, Foreign Military Studies Office, Fort Leavenworth, Kans., 1993.

3. See FM 100-23, p. 111. "Peacekeeping," as that term is usually understood, generally can be accommodated in the existing legal structure, as it requires first an end to a conflict, then the consent of all parties to the role of the peacekeepers, and finally a passive role for the peacekeepers themselves. While peacekeeping missions frequently take place in hostile and dangerous environments, they are analogous to peacetime deployments under a status-of-forces agreement. Peacekeeping operations are viable only as long as the consensus for them continues among all parties to a conflict. While that consensus remains, peacekeepers will not be considered belligerents.

"Peace enforcement," however, is much harder to accommodate under the existing framework of international law. Chapter VII of the UN Charter furnishes a legal basis for "Action With Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression." Article 42 specifically empowers the Security Council to authorize "such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such actions may include demonstrations, blockade, and other operations by air, sea or land forces of Members of the United Nations." Peace enforcement units operate under Chapter VII, at the behest of the world community. They do not represent the interests of a single state, and participants are not accorded belligerent status; their mission is not to join a conflict, but rather to end one.

4. US Marine Corps, *Small Wars Manual* (rpt. of 1940 ed.; Washington: Headquarters, US Marine Corps, Dept of the Navy, 1987), para. 1-6.

5. Arthur Nussbaum, *A Concise History of the Law of Nations* (rev. ed.; New York: Macmillan, 1954), pp. 111-14.

6. See Peter J. Spiro, "New Global Communities: Nongovernmental Organizations in International Decisionmaking Institutions," *Parameters*, 25 (Spring 1995), 43-54; and in the same issue, Andrew S. Natsios, "The International Humanitarian Response System," pp. 68-81.

7. UN Security Council Resolution 794 (3 December 1992) and Security Council Resolution 940 (31 July 1994).

8. D. W. Barnett, *United Nations Forces: A Legal Study* (New York: Praeger, 1964), pp. 500-01.

9. Cyrus Lee, *Mo Tzu The Great Educator and his Educational System* (Taipei, Taiwan: Universitas Series No. IV, 1969), pp. 90-93.

10. Nussbaum, pp. 116-17.

11. Dietrich Schindler and Jiri Toman, eds., *The Laws of Armed Conflicts* (Dordrecht, The Netherlands: Martinus Nijhoff Publishers, 1988), pp. 101-02.

12. Andre Durand, *From Sarajevo to Hiroshima: History of the International Committee of the Red Cross* (Geneva: Henry Dunant Institute, 1984), pp. 18-20.

13. Barnett, pp. 8-11.

14. Sometimes Geneva Law is also known as international humanitarian law. Some argue that international humanitarian law covers Hague Law as well, but there is no agreement on that point.

15. Fred L. Israel, ed., *Major Peace Treaties of Modern History 1648-1967* (New York: Chelsea House, 1967), II, 1098.

16. For pertinent extracts from the Treaty of Versailles see Green Hayward Hackworth, *Digest of International Law* (Washington: GPO, 1940), I, 103-04.

17. *Ibid.*

18. See Charter of the United Nations, Ch. XII, International Trusteeship System, Article 76(b).

19. See S. L. Arnold and David T. Stall, "A Power Projection Army in Operations Other Than War," *Parameters*, 23 (Winter 1993), 4-26; F. M. Lorenz, "Law and Anarchy in Somalia," *Parameters*, 23 (Winter 1993), 27-41; and Walter S. Clarke, "Testing the World's Resolve in Somalia," *Parameters*, 23 (Winter 1993), 42-58.

20. *Small Wars Manual*, paras. 13-25.

21. General Assembly Resolution 49/59 (9 December 1994).

22. Frederick M. Lorenz, "'Less-Lethal' Force in Operation United Shield," *Marine Corps Gazette*, September 1995, pp. 69-76.

23. Ralph Peters, "The New Warrior Class," *Parameters*, 24 (Summer 1994), 16-26.

24. UN forces in Somalia, for instance, gave the ICRC full access to detainees under their control. This pragmatic adaptation was made without regard to the legal ambiguities surrounding that mission.