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# Legal Issues in Peace Operations

GLENN BOWENS

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The legal paradigm in peace is significantly different than in war. During Operation Desert Storm, the lead brigade crossing into Iraq was not concerned in the least with passports, visas, and customs. But in December 1995, when the lead brigade crossed into Hungary on its way to Bosnia for Operation Joint Endeavor, these types of issues were prominently in mind.[1] In peace operations, unlike war, the law and jurisdiction of the host nation are not displaced. Absent an agreement with the host nation, the military force and other US personnel are fully subject to the laws and jurisdiction, both criminal and civil, of the host nation and its courts.

Political settlement, not victory on the battlefield, is the ultimate measure of success in peace operations.[2] The purpose of this article is to identify the strategic and legal basis for peace operations and raise awareness of legal issues that can occur in contemporary, complex, multinational peace operations. Policymakers and military commanders alike need to understand the legal basis for the mission, the scope of authority for accomplishing the mission, rules of engagement, status of forces agreements, funding of the operation, and the applicability of the law of war.

## Strategic and Legal Basis for Peace Operations

The legal basis for US participation in peace operations ultimately begins with the National Security Strategy. Under the Constitution, the President, in conjunction with the Congress, is responsible for the conduct of foreign affairs and the national security of the United States. The President's National Security Strategy, which is promulgated yearly in accordance with federal law, and the National Military Strategy both provide for the use of peace operations to achieve national security and foreign affairs objectives.[3] In 1996 the Clinton Administration expounded on its National Security Strategy by defining what was to be accomplished by the enlargement element of the "engagement and enlargement" strategy.[4] Enlargement emphasizes fundamental American values such as individual freedom, liberal democracy, respect for human rights, and open-market economies.[5] Participation in peace operations significantly furthers each of these values.

Presidential Decision Directive 25 (PDD-25) provides the context and the answer to the fundamental question of why the United States participates in peace operations: because it is in the national interest to do so. The directive does this by affirming that the primary mission of the US armed forces is to be prepared to fight and win the nation's wars, while also recognizing that peace operations are useful tools in preventing and resolving conflicts before they pose a direct threat to national security.[6] Participation in peace operations fundamentally supports "US foreign policy objectives for the peaceful resolution of conflict, reinforce[s] the collective security efforts of the US, our allies, and the other UN Member States, and enhance[s] regional stability." [7]

PDD-25 also establishes criteria that will be considered in deciding whether US personnel will participate in a peace operation.

- Participation advances US interests.
- Both the unique and general risks to American personnel are considered acceptable.
- Personnel, funds, and other resources are available.
- US participation is necessary for the success of the operation.
- The US military's role is tied to clear objectives.
- There is an identifiable endpoint for US participation.
- There is domestic and congressional support for the operation, or such support can be obtained.

- The command and control arrangements are acceptable.

When the peace operation is likely to involve combat, the following factors must also be considered:

- There is a determination to commit sufficient forces to achieve clearly defined objectives.
- There is a plan to decisively achieve those objectives.
- There is a commitment to reassess and adjust the size, composition, and disposition of US forces, as necessary, to achieve our objectives.[8]

The considerations in PDD-25 help define the applicable body of law, the scope of the mission, and the permissible degree of coalition command and control over US troops.[9] They also influence other matters, such as the rules of engagement, the extent of US support to other nations, and the overall legal arguments for the legitimacy of the operation.[10]

Once there has been a determination through PDD-25 to commit US assets to a peace support operation, the provisions of a 1997 Presidential Decision Directive, "The Clinton Administration's Policy on Managing Complex Contingency Operations," come into play. This document, known as PDD-56, contains policy for managing the US government's interagency process when dealing with complex contingency operations once a decision to intervene has been made. The interagency process is key because of the important functions it performs. The central feature of PDD-56 is preparation of the political-military (pol-mil) implementation plan, the primary purposes of which are to designate a lead agency within the US government and to coordinate all aspects of the US government's response to what has already been identified as a complex contingency operation. Objectives of the interagency process include identification of issues, development of strategy, integration of all components of the US response, directing action on funding and personnel issues, and planning and implementing the civilian aspects of the response.[11]

The United Nations Charter is the overarching international legal authority for both the use of force and peace operations.[12] A fundamental tenet of international law, codified in the UN Charter, is the prohibition against intervention in the affairs of other sovereign states.[13] Contrary to popular belief, the UN Charter does not specifically provide for the conduct of traditional interposition-type peacekeeping operations.[14] In fact, the word peacekeeping does not even appear in the Charter. The use of military forces in peace operations evolved out of the Security Council's desire to facilitate the "adjustment or settlement of international disputes or situations which might lead to a breach of the peace." [15]

While traditional peacekeeping is based upon the consent of the parties to the conflict,[16] Chapters VI and VII of the Charter are the generally accepted legal authorities for the UN to deploy forces in peace operations.[17] The Charter vests in the Security Council the legal authority to determine the existence of a threat to the peace, breach of the peace, or act of aggression, and to decide what measures shall be taken to maintain or restore international peace and security.[18]

The Security Council could recommend to the parties a "traditional" Chapter VI-type peacekeeping operation (e.g. the Multinational Force and Observers in the Sinai)[19] as a means of resolving the dispute. Traditional peacekeeping usually does not involve a likelihood of combat and has a high degree of consent among the parties. It also acknowledges that there is, in fact, a "peace" to keep, which usually means there is some form of peace agreement or cease-fire among the parties.[20]

The Security Council could also determine, as it did in Bosnia,[21] that a Chapter VII peace enforcement operation is needed. Article 42 of the Charter is the legal authority to use military force to maintain or restore international peace and security. The consent of the parties to the conflict, while desirable, is not needed for operations conducted under Chapter VII. In Chapter VII operations the member states normally will be authorized to use "all necessary means" to maintain or restore international peace and security. The important legal issue associated with this authorization for a peace operation is whether the Security Council has determined there is a threat to, or breach of, "international" peace and security.

There are two key statutory authorities for US participation in peace operations. The first of these is the United Nations Participation Act. Under this authority, no more than 1000 military personnel may be assigned at any one time to UN

missions in a noncombat capacity. The second is Section 628 of the Foreign Assistance Act, a broader authority, which allows the head of any agency of the US government to detail any officer to serve with the staff of any international organization, or to render any technical, scientific, or professional advice or service. There may be specific congressional authority for certain operations, in a resolution or in a Department of Defense Authorization Act, authorizing the President to involve the United States in such operations. In some cases there are statutory authorities for specific types of missions, such as disaster, humanitarian, security, and civic assistance operations.[22]

When a crisis reaches the point at which an intervention is contemplated, the first issue is the determination of the type of operation to be conducted.[23] The foundational documents discussed thus far (the national security and military strategies, PDD-25, PDD-56, the UN Charter, and the UN Participation Act) provide the legal authority for a specific operation. From this authority, or legal basis, will flow the framework for answering many of the legal issues that will arise in the context of the operation.[24]

This authority comes in several forms. First, there should be an agreement among the parties, or some expression of consent, to a peacekeeping force. Second, there will likely be a United Nations Security Council Resolution, often called the mandate. The mandate, political in nature and often imprecise, will authorize the member states to conduct the operation and will provide a broadly worded mission, e.g. to "maintain a secure and stable environment," or to "effect the implementation of and to ensure compliance with Annex 1-A of the Peace Agreement." [25] Simultaneously the US interagency process will begin, and continue through the crisis, to develop and manage the US government's response.

At the international level, a similar process and plan should also occur. The Comprehensive Campaign Plan,[26] developed in conjunction with the US Army Peacekeeping Institute, focuses on bringing all "friendly assets" to bear on behalf of the victims of complex contingencies. It provides a broad-gauged planning format to develop suitable immediate and longer-term solutions. The plan is built upon the known expertise and anticipated contributions of the responsible, accountable international and nongovernmental organizations (NGOs), and it is an effective means to enable the US government and the international community to achieve greater unity of effort and more efficient use of resources in both defining and accomplishing the mission. The concept, derived from the Army's operations order process and format, has been tested in a number of multinational exercises. The Comprehensive Campaign Plan has great potential as an international planning tool and as a guide for the range of tasks military units could be called upon to perform in a complex contingency operation.

### **Interpreting the Mission and Scope of Authority**

Upon receiving an execute order for an operation from the Joint Chiefs of Staff, the commander must interpret the mission, establish his tasks, and determine the scope of authority he may exercise in accomplishing the mission. All would agree that a clearly defined mission is absolutely essential for a successful peace operation, for a commander must know what his mission is and, more importantly, what it is not. The commander also must be alert to the problem of expanding mission requirements, known as mission creep. What constitutes mission creep is controversial; it could be missions that are obviously beyond the plain text of the execute order or it could be new guidance from higher headquarters. Missions that are beyond the commander's interpretation of the execute order or that require different military operations than initially planned may also be viewed as mission creep.[27] Mission creep, some say, is like cholesterol: there is a good kind and a bad kind. The good kind is a change in mission requirements, or granting of broader authority, that is reflected in a new execute order from the US Joint Chiefs of Staff. The bad kind comes from trying to do too many things, not necessarily allowed in the mandate (e.g. nation building),[28] and unduly stretching the limits of one's authority.[29] In this, as in many other aspects of peace operations, one of the commander's most important assets should be the legal advisor.[30]

There are two views on how a commander should approach interpreting his authority for accomplishing the mission. The first holds that a commander must have been granted specific authority for each action he takes in the course of executing his mission. The second embraces the proposition that unless there is a specific prohibition on taking an action, a commander may take the action under his own authority. While both approaches are valid and adopted by different military commanders around the world, the commander's national or societal culture and his branch of military service are important factors that influence how he or she approaches the mission. The approach that a US

commander takes may lead to a different result than those of his coalition partners on issues such as rules of engagement, geographic limitations on the operation, obligations toward refugees and displaced persons, and appropriate relationships with NGOs, international organizations, and other national contingents.[31]

Mission creep gives rise to serious political, military, and legal questions which have potentially profound consequences.

- Is there political support for the new action?
- Will the action have political consequences either locally or internationally?
- How will the new action affect military readiness? Is the military capable of performing the action?
- Are there any legal impediments (e.g. fiscal) to performing the action?

Additionally, unlike many coalition partners, the United States may face fiscal constraints on taking certain actions deemed necessary for the accomplishment of the mission.

An example of what could be seen as expanding mission requirements occurred in Bosnia when the Organization for Security and Cooperation in Europe (OSCE) asked the Implementation Force (IFOR) to provide assistance at the time of the 1996 national elections.[32] IFOR was the NATO military force that was deployed to Bosnia in support of the Dayton Peace Accords. The US-led Task Force Eagle, a subordinate unit of IFOR, received the mission to enhance the election process by supporting OSCE. The associated legal question was whether an operations order or mission statement constituted sufficient authority for such a mission, or whether external authority was needed to authorize the types of support requested by OSCE for the elections. There is a strong argument that "military mission" authority does not provide a legally sufficient basis for according support to an NGO or providing general humanitarian and civic assistance. A directive from a higher level of command (particularly if a foreign commander is in the chain of command) or mission statement alone would not necessarily have provided sufficient authority to serve as a legal basis for providing broad support to the OSCE mission.

This example highlights the issue of mission creep and the approach the commander takes in accomplishing his mission. The request from OSCE called for the conduct of military activities that were not spoken to, and not viewed as being part of the military's responsibilities, in the Military Annexes to the Dayton Peace Accords.[33] Ultimately lawful methods were found to provide support to OSCE and the 1996 national elections were held. Because the scope of a commander's authority may not include independently authorizing support of a specific mission within the larger operation, each such request must be tested before the US commander directs that US assets, in this case Task Force Eagle, can be used to carry it out.

## **Command and Control**

Command and control is one of the most legally important and politically charged issues in peace operations. A modern peace operation is unique in that the military's role, while essential, is a supporting one. Command and control challenges can appear in at least three forms: command and control of the national military contingent, of the whole multinational military effort, or of the entire intervention operation, including international agencies and NGOs.

The question of who is in charge is of obvious importance, and the answer will vary from one operation to another. Typically, the source of command authority flows from the Security Council to the Secretary General, who appoints two key individuals, the Special Representative of the Secretary General and the force commander. The Special Representative is responsible to the Secretary General for all aspects of the intervention operation specified in the Security Council's mandate and for the UN's civilian employees and agencies deployed to support it (UN agencies also have their own international legal mandates with separate channels to their respective agency headquarters).[34] The force commander is responsible for the military effort and may or may not have "command and control" of the national military contingents deployed in response to the mandate. In some cases command authority and responsibility for executing the mission will flow from the Security Council to a UN member state (as in Haiti and Somalia) or other organization, such as NATO (as in Bosnia).[35]

It is important to note that neither the Special Representative nor the force commander exercises command and control over the NGOs in the operational area. Command and control in this context is rather more like coordination,

cooperation, and consensus than the traditional military view of "command and control." Cooperation and unity of effort between the military and these organizations must be the goal; the civil-military operations center concept is so far the most promising means of approaching that goal.

The US commander must keep in mind that regardless of the command and control arrangements, he must ultimately answer to his American chain of command. Command is defined here as the lawful authority to issue orders covering every aspect of military operations and administration. US policy dictates that the President will never relinquish command authority over US forces to a foreign commander.[36] Consequently, the US commander must ensure that he does not inadvertently allow the unauthorized foreign command of US forces.

When appropriate the President may release US forces to the "operational control" of a foreign officer. Operational control is provided for a specific mission or period of time, and includes the authority to "assign tasks" to US units led by US officers. A foreign commander who exercises operational control of US forces may not change the mission or deploy US forces outside the area of responsibility agreed to by the President. The non-US commander may not separate units, affect their logistics, administer discipline, or intervene in the internal administration or organization of a unit. Furthermore, "The United States also reserves the right to terminate participation (in a mission) at any time and to take whatever action it deems necessary to protect US forces." [37] Finally, the on-scene US commander always retains the right to report directly to higher US military authorities and to refer orders that are questionable.[38]

The command and control lines between US forces and foreign commanders are legal boundaries that must be respected and monitored.[39] The details of when and under what circumstances US forces will come under the operational control of a foreign commander are worked out in the interagency process. The US commander should also realize that he or she may be the "foreign" commander of forces from other troop-contributing nations; in Bosnia a Russian contingent was assigned to a US commander. Rules of engagement (ROE) and fiscal issues are important considerations in designing command relationships, regardless of which side the US commander finds himself on. As was the case in Operation Joint Endeavor in 1995-96, the timing of when operational control shifts from a state to the multinational force is a critical juncture for fiscal issues, logistics issues, and rules of engagement.

### **Rules of Engagement and the Use of Force**

The military uses force in two situations, for self-defense and for mission accomplishment. During peace operations, when the tactical actions of a single soldier can have strategic consequences, proper understanding and application of the rules of engagement are vital. Hence, "US Foreign Policy may succeed or fail on the basis of how well Rules of Engagement are conceived, articulated, understood and implemented." [40] Application of the rules of engagement is probably the most visible military-legal issue facing both the commander and soldier in peace operations. The rules are directives issued by competent military authority to delineate the circumstances and limitations under which its own naval, ground, and air forces will initiate and continue combat engagement with other forces. The rules of engagement are the means by which the National Command Authority and operational commanders regulate the use of armed force in the context of policy and law.[41]

Restraint is a principle of peace operations and should guide ROE development.[42] When force is used, normally only in self-defense, it must be with the degree of restraint appropriate to the circumstances.[43] Depending on the UN mandate, the military may or may not have authority to use force to prevent or remedy violations of the peace agreement. One key point that must be understood, and fully communicated to all service members, is that the ROE *never limit* the inherent right and obligation to use all necessary means available in self-defense and in defense of other US forces in the vicinity.[44]

### *Developing Rules of Engagement*

Rules of engagement are influenced by three considerations; law, policy, and mission.[45] The rationale for any given rule will be influenced by one or more of these considerations. And while the rules of engagement are developed by military commanders, political direction weighs heavily in their formulation.[46] Multinational peace operations generate some interesting ROE issues related to development and mission accomplishment. One such issue involves the variety of ROE applicable to the effort in Bosnia. For instance, US forces in Hungary supporting the effort in Bosnia have ROE applicable to them while in Hungary; when they cross the Hungarian border, the applicable ROE

change. Peace operations may find a UN mission, a US organization, and a military force from another nation operating in close proximity to one another, each with its unique (and not necessarily compatible) rules of engagement.

During international armed conflict, an adversary will be declared hostile. Elements of that adversary's forces may be engaged upon identification, without first having to commit a hostile act or demonstrate hostile intent.[47] In peace operations, groups are rarely declared hostile. Soldiers still may use force in self-defense, however, if a hostile act is committed against them or if there is a demonstration of hostile intent.[48] National contingents will differ in their views of what constitutes hostile intent.

While ROE will never limit the right of self-defense or defense of US forces, it is imperative that US commanders also understand the other individuals and facilities that their forces may defend. Commanders need to know if the US military can defend allied military forces, international organizations, UN agencies, and nongovernmental organizations. It is equally important to determine whether the military can use force to defend or protect host nation or third-country civilians, contractors of any nationality, or US civilians. In Bosnia, for example, contractual arrangements between the US Army and the principal contractor, Brown and Root, require the US military to provide "necessary physical security" for the contractor's personnel.[49]

Special consideration must be given to the interests and concerns of other participating states in an attempt to arrive at common ROE. And since US policy requires that the applicable ROE be acceptable prior to US agreement to participate in the operation, commanders should expect that other troop-contributing states will have similar requirements. The domestic law and policy of the various states, as well as international treaties to which they are a party, will significantly influence the ROE they can agree upon.

Terminology is a critical issue in ROE development in multinational peace operations. Each participating national military contingent must have a common understanding of ROE terms, e.g. "warning shots" and "hostile intent." There may be differences over whether the term "threat to life" also includes a "threat of serious bodily injury," which could justify the use of deadly force in the latter case. There may be differences over whether force can be used to prevent crime and, if so, what types of crime are included. The level of permissible force in detaining individuals may also differ among the national contingents. Given these likely differences in ROE among forces that will be operating together, one solution is to make ROE issued at theater level as expansive and permissive as international law would allow, and then to permit the various national contingents to reflect their national legal limitations in the ROE cards they provide to their individual soldiers.

There is a significant issue among national contingents with regard to security classifications and ROE. At some point the ROE must be declassified, so that every soldier from each national contingent has access to and understands the rules. Ideally, this would happen at a time sufficiently early in the operation that dissemination of the rules and training on their use can take place. The concern in peace operations is that once the ROE are declassified and the population is aware of your ROE, those who seek to frustrate the peace operation can place the military at a severe disadvantage.

Commanders will find that there tends to be a dual approval chain for ROE. The force commander may request approval of a rule of engagement by higher political authority (Security Council or North Atlantic Council) which, once approved, must then be additionally approved by the various national contingents' governments. This situation may apply if the rule involves a sensitive issue such as the use of riot control agents. A related serious issue involving ROE and command and control is inconsistency among ROE, particularly those promulgated and binding at different levels of command. Additionally, non-US commanders often will be involved at one or more levels of command. One possible resolution to some of these issues would be for the force commander not to assign missions to forces under his operational control if their national policies, laws, or rules of engagement will not allow them to carry out the mission. Underlying cultural issues, which will exist even between close allies, must be bridged; the commander can use his legal advisor to help in this effort. Commanders will also be well served to emphasize ROE training while in garrison; the 18th Airborne Corps' RAMP program is an example of what can be done in this regard.[50] If soldiers have a baseline understanding of self-defense issues, it will be much easier to accommodate mission-specific rules.

### *Rules of Engagement in Peace Operations*

It is often difficult for military forces to withdraw from a complex contingency operation before the civilian aspects of the mission are well under way and succeeding. A recurring challenge to the military and civilian components of such operations is the rehabilitation of the forces of law and order. This is an ROE issue because of the military's participation, possibly through the use of force, in supporting the civilian aspects of the operation. The issue to be decided is against whom and to what extent the military will be authorized to use force to uphold law and order in an ostensibly sovereign state. Interaction with civilian police, civilian police checkpoints, freedom of movement, prevention of crimes by civilians, and the detention of civilians are usually pressing law enforcement and force protection matters.

Checkpoints are frequently raised as issues within the context of law and order. In Bosnia, IFOR had the authority to intervene between the local police and local population to ensure freedom of movement, regulate checkpoints, and prevent the establishment by the various factions of unauthorized checkpoints. In 1996, units assigned to NATO's Allied Rapid Reaction Corps (ARRC) had the authority to use "proportional and minimum force" in removing unauthorized checkpoints. The ARRC's guidance was to use a "graduated but uncompromising response" and to allow the checkpoint to be voluntarily removed at any stage. Task Force Eagle took the position that while it could regulate police activities, "military security" did not include a military responsibility for civilian law enforcement.

One scenario in which these issues can arise involves the return and resettlement of refugees and displaced persons. Return and resettlement is usually a key process in the civilian part of the peace operation. Commanders will need to know what exactly the military's obligation is toward refugees and displaced persons, whether the military will be expected to assist in return and resettlement, and if the military is expected to provide protection and other humanitarian assistance to aid in the return and resettlement process. Consider the refugee who returns to his former home and begins to rebuild. Suppose that one night members of an opposing ethnic group set fire to his home, destroying his work, possibly injuring the refugee or his family. Consequently the refugee changes his mind about resettling, and other refugees are discouraged from returning. Will the ROE allow the military to act to prevent these sorts of crimes? Such action could facilitate the return and resettlement of refugees, further the accomplishment of the civilian mission, and ultimately expedite the military's withdrawal. Conversely, such a policy could allow some factions to accuse the military of favoring the supported group over others.

Another scenario in which the ROE might enhance mission accomplishment involves elections. Elections and the reestablishment of democratic institutions are also key to the civilian part of any complex contingency operation. In this scenario, suppose a number of ethnic minority candidates are elected to office. On the day for the newly elected officials to take office, the majority ethnic group may attempt to prevent them from taking their seats in city council or parliament. If the ROE permit such action, commanders might face decisions about escorting the minority officials to their offices and using force if met with resistance. How long should such protection last?

There are three highly controversial areas where law and policy are rapidly changing; any or all of them could be important in interventions. The first is the use and removal of land mines, raising questions about the use of mines by intervention forces for force protection, separation of forces, or safe havens, and about the military's role in demining operations. Commanders must be very alert to proposals that US forces should be used in demining operations. The second addresses new technologies and the use of less-than-lethal means of crowd control or self-defense. There are new developments in technology that may be very useful in peace operations to control a volatile situation without resorting to deadly force or riot control agents. The US recently ratified the Chemical Weapons Convention, and related issues exist concerning the use of riot control agents in peace operations. Commanders should plan for the use of such agents but recognize that obtaining permission to use them may be difficult.

Finally, the use of information technologies in peace operations raises such issues as whether "electronic attack" (nonphysical attack) constitutes a "use of force" within the meaning of the UN Charter and whether the use of technology, such as a computer virus, constitutes a hostile act. Another category of issues is the use of force against information sources within the operational area. Examples of challenges in this category are using the electron as a weapon (computer viruses and logic bombs), inducing crashes of computer systems, establishing a definition of lawful electronic targets, reacting to computer "hackers," and the manipulation of data either by the intervention force or by local factions. The ROE will govern how the commander takes advantage of technology in this rapidly changing aspect of military operations. The uncertainty is compounded in multinational operations in which states are governed by



different laws on the matter. These are controversial issues, and commanders must be alert to changing law and policy regarding each of them.

## Status of Forces Agreements

The Status of Forces Agreement (SOFA) is a subject of immense political, legal, military, and personal concern during peace operations for soldiers, commanders, and governments. The Status of Forces Agreement will affect virtually every aspect of a peace operation; its importance cannot be overstated. The "law of the flag" concept, whereby the military takes its domestic law with it on a deployment and is immune from the laws of other states, generally does not apply in modern peace operations. Commanders must realize that absent an agreement to the contrary with the host nation, the visiting military force is fully subject to all the laws and jurisdiction of the host nation, including the civil and criminal jurisdiction of the host nation's courts. This means that a soldier can potentially be brought before a civil or criminal court and held financially liable or imprisoned for his acts or omissions while on or off duty.

Obviously these possibilities pose a concern to commanders. A SOFA, the basic purpose of which is to alleviate this concern, defines the legal rights and obligations, privileges, and immunities of all the parties, and facilitates the accomplishment of the military's mission.[51] A SOFA may be concluded between the host nation and the UN, there may be individual agreements between participating states and the host nation, or both conditions may apply during an intervention.[52]

An important aspect of any SOFA for the commander is that which specifies privileges, immunities, and jurisdictional waivers. The SOFA should contain the following provisions, as recommended in FM 100-23, *Peace Operations*:

- immunity from civil and criminal jurisdiction for acts committed within the scope of duty
- immunity from search, seizure, or inspection of force documents, personnel, vehicles, buildings, or areas
- authority of the force to enforce its own criminal justice system and conduct legal proceedings in the host nation
- authority and control over areas and premises occupied by the force
- freedom of movement within the host nation
- waiver of economic and financial regulations (tax, customs, duties, imports/exports)
- authority to carry weapons openly
- procedures for settling claims and disputes between the force and local population
- authority to enter and depart the host nation on military identification cards and orders alone and without tax
- use of host nation support services such as communications, water, electricity, airports, and seaports
- provisions for due process, double-jeopardy protection, and trial observers
- a release of liability for damages related to combat or the use of force[53]

Another important aspect of the SOFA is dispute resolution, or the settlement of claims, between the military and the local population. If handled well, claims settlements can have a very positive public relations effect, establish goodwill with the local population, and facilitate mission accomplishment. An issue related to the claims process is the effect of introducing hard foreign currency into the local economy as a result of claims made against the peace operations force. Conversely, if claims are not paid in a timely and appropriate fashion, there is the possibility of hostile acts being taken against the military, as happened to the UN Protection Force.

Rights and privileges may also be established in other documents. For example, the Military Annex to the 1995 General Framework Agreement for Peace in Bosnia (Dayton Accords) states that "[IFOR] shall have the right to bivouac, maneuver, billet, and utilize any areas or facilities to carry out its responsibilities as required for its support, training, and operations, with such advance notice as may be practicable. The IFOR and its personnel shall not be liable for any damages to civilian or governmental property caused by combat damage or combat-related activities."[54]

There are several international treaties which also may be invoked to protect the military force while in the host nation. A few members of the mission may receive diplomatic immunity, but it would be exceptionally difficult to obtain this level of protection for the entire force. Where UN missions are concerned two treaties are particularly relevant. The first is the Convention on the Privileges and Immunities of the United Nations, which provides that the UN shall enjoy legal capacity, privileges, and immunities necessary for the fulfillment of its purposes. The treaty also recognizes the

status of "Expert On Mission" (EOM), and provides those so designated with immunity from arrest or detention. The EOM's papers and personal baggage are inviolate; an EOM also has the right to use codes and to receive sealed mail. Of note, however, is the fact that this status may be waived by the Secretary General. The Dayton Accords invoked this convention with respect to NATO personnel involved in operations in Bosnia,[55] which meant that IFOR personnel (and successor organizations) were immune from criminal prosecution by Bosnian local and national authorities.

The second treaty of particular relevance is the Convention on the Safety and Protection of UN and Associated Personnel, which provides several important protections. First, it requires prompt return of captured personnel and directs that while detained such personnel will receive treatment in accordance with the Geneva Convention on Prisoners of War. Second, the treaty imposes criminal liability on those who attack peacekeepers or other personnel acting for the UN in its authorized operations. Third, it contains provisions for the exercise of universal jurisdiction over those accused of violating its terms, including their prosecution or extradition.

If these UN treaties are not applicable, the Vienna Convention on Diplomatic Relations may provide some protections. This treaty provides for Administrative and Technical Staff Privileges and Immunities (A&T, P&I). This status grants immunity from criminal and civil liability for acts performed within the scope of official duties. If this status is applicable to the force, the SOFA should state that status equivalent to A&T, P&I is granted, and that the force has the right to determine whether the soldier was acting within the scope of his duty. The final source of legal protection is that of a Visiting Forces Act, under which the military force is accorded status similar to A&T, P&I. If there are no provisions in a SOFA of the sort described above between the United States and the host nation, and if none of the treaty protections apply, the members of the intervention force are essentially tourists. They are totally subject to the law and jurisdiction of the host nation.

An important aspect of the SOFA that can be easily overlooked is the scope of its coverage. The definitions section should be closely scrutinized to determine what constitutes the "force." The status of civilians should also be addressed with respect to contractors supporting the military, particularly their right to import property for use by the military force without paying customs or duty. There also should be provisions covering third-party nationals and local, host nation civilians hired by the contractor. Is it desirable to specify in the SOFA that the military can use force to protect these individuals? Should the SOFA provide that US contractors will not be subject to the jurisdiction of the host nation, and that host nation customs and tax laws do not apply to these individuals? Another important issue is the scope of the SOFA's application in federated states. A SOFA that is negotiated and concluded with the "national" or "federal" government may or may not apply to its political subdivisions.

## **Fiscal Law**

Closely associated with the scope of authority to accomplish the mission is the fiscal authority to spend appropriated funds in support of the mission. Once the commander decides upon a course of action he wishes to pursue, a proper fiscal authority must be found to support the action.[56] Judge Advocates assigned to Operation Joint Guard in Bosnia in 1997 and 1998 have reported that they spend a substantial portion of their time on fiscal law issues.[57] In peace operations, the attorney and comptroller become as important to mission success as the operations and fire support officers are in combat operations.[58]

One of the most significant legal dangers facing the commander is a potential violation of the rules of fiscal law. For example, a commander may be pressured to provide unauthorized support or assistance to foreign military forces participating in the operation or to the local civilian population. Drawing the line between operational requirements and unauthorized security assistance is a recurring issue. While providing support and assistance to friendly foreign entities is security assistance,[59] it may also be an essential part of coalition peace operations. Funds designated for a general purpose, such as operations and maintenance (O&M) funds, must not be used to pay for an effort for which Congress has specifically appropriated other funds. Providing assistance to a national contingent or the local population could be considered security assistance or humanitarian assistance, forms of assistance dealt with by specific legislation. This means that commanders must consult extensively with their attorneys in order to find ways to legally accomplish the mission and avoid the improper use of O&M or other types of funds. In some cases the national force requesting the assistance, rather than the type of assistance, may be the determining factor in whether the United States may provide

the support in question.

Two mechanisms are available to assist the commander in avoiding many of the fiscal dangers inherent in peace operations. These are Section 607 of the Foreign Assistance Act, and the Acquisition and Cross Servicing Agreement (ACSA).[60] Section 607 allows any agency of the US government to furnish commodities and services to friendly foreign countries and international organizations for purposes consistent with, and in furtherance of, the purposes of the Foreign Assistance Act. Additionally, Section 607 will establish the overall terms and conditions under which the United States will provide assistance. An ACSA[61] allows US forces to provide logistics support, supplies, and services to other forces on a reciprocal basis. A significant benefit of the ACSA is that the reimbursement to the United States may be "in kind," such as the US providing port services to a national contingent in exchange for fuel.[62]

Many fiscal issues were raised in 1996 in connection with the request for the United States to provide logistical support to the Slovenian Battalion. In this case, the Allied Rapid Reaction Corps commander, a foreign officer, had ordered US-led Task Force Eagle to provide certain supplies requested by the battalion, which had been operating as a UN force and had used UN logistics until the UN logistical chain ceased to operate. At the time of the order, the battalion was operating within the area assigned to Task Force Eagle. As noted, under US law any support provided to a foreign military unit must be on a reimbursable basis and pursuant to a proper agreement (e.g. ACSA) or applicable statutory authority. Because the Slovenian government had no ACSA in place with the United States, there was no authority to transfer goods and services to its battalion. In the end, the ARRC intervened and support was provided to the unit. This example illustrates some of the fiscal difficulties faced by US military units participating in multinational peace operations.

Violations of fiscal law bring increased oversight, tighter regulations, and even potential discipline, all of which increase the difficulty of accomplishing an already difficult mission. Fiscal law constraints are one of the primary ways in which Congress can exercise its authority in foreign affairs. For example, Section 8117 of the Department of Defense Authorization Act for Fiscal Year 1998 imposed a 15-day notice requirement to Congress before any funds "may be obligated or expended to transfer to another nation or an international organization any defense articles or services." [63] International peacekeeping, peace enforcement, and humanitarian assistance operations conducted under the authority of the UN are covered by this requirement.[64] This requirement also affects many of the fiscal elements of peace operations, such as ACSAs and Section 607 of the Foreign Assistance Act, the transportation of humanitarian assistance, and land mine clearance activities.[65] Of particular concern is its effect on the ability of the military to provide humanitarian assistance on an emergency basis, particularly in disasters. This new requirement also affects authorities under other statutes,[66] such as Section 652 of the Foreign Assistance Act, under which the Congress only needed to be notified just prior to the date that the President intended to exercise drawdown authority.[67] Drawdown authority is the authority to provide defense stocks and services in response to an unforeseen emergency requiring military assistance to a foreign country or international organization.[68] The new 15-day notice requirement significantly affects the ability of the military to respond quickly to emergencies and has the potential to hinder the achievement of national security objectives.[69]

## **The Law of War in Peace Operations**

Discussions of the law of war in peace operations seem to begin with a dilemma: we are not at war, we are in a peace operation, so the law of war does not apply. It is true that presently under international law the "law of war"[70] does not technically apply in the context of peace operations.[71] Generally, the law of war is triggered by international armed conflict and not merely by military operations in which force may be used on a limited basis, as in peace operations.[72] Issues involving the law of war, however, evolving from either a civil war or an international armed conflict, are often carried over to the post-conflict peace operation.

While technically the law of war may not apply in a peace operation, the principles of the law of war do: considerations of necessity, proportionality, unnecessary suffering, unnecessary destruction of property, and distinction apply whenever and wherever the military uses force. Furthermore, in peace operations that do not involve traditional peacekeeping as defined above,[73] it is anticipated that combat operations or the use of force beyond that employed for immediate self-defense will occur. The Dayton Accords arguably anticipated such when providing immunity to IFOR for damage arising from combat or combat-related activities.[74]

There may also exist some residual law of war issues between the parties that will affect a peace operations force. One such issue that arose in Bosnia was the identification and return of the deceased. Under the law of war,[75] the parties to a conflict are required to create an official graves registration service to assist in the subsequent exhumation, identification, and return of bodies to the home country. Under the Dayton Accords, each party agreed to allow graves registration personnel of the other party to enter its sector and to recover and evacuate the bodies of their deceased from known grave sites.[76] Task Force Eagle led the effort in coordinating the work of recovery and exhumation efforts as outlined in the Military Annex to the Dayton Accords, since IFOR had the authority to ensure the parties complied with their obligations under the Military Annex.[77]

Even though the law of war technically does not apply, it is US policy that "the Armed Forces of the United States will comply with the law of war during the conduct of all military operations and related activities in armed conflict, however such conflicts are characterized, and unless otherwise directed by competent authorities, will apply law of war principles during all operations that are categorized as Military Operations Other Than War." [78] Commanders should also be aware that many other treaties and conventions apply across the entire spectrum of operations, including peace operations. Examples include the Chemical Weapons Convention (use of riot control agents), the Conventional Weapons Convention (use of lasers, mines, and incendiaries), and the Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on Their Destruction (also known as the Ottawa Process).

Aside from the applicability of the various conventions and treaties comprising the law of war in peace operations, the commander should be aware of two key issues related to the law of war which will almost certainly arise during any peace operation. The first deals with civilians. One senior US Army officer has observed that "one word . . . represents the most vexing legal, political, operational challenge of OOTW [operations other than war]: civilians." Perhaps the first challenge in dealing with civilians in a peace operation is that of deciding who qualifies as a civilian. Once the determination is made that a person is a civilian, the next determination is whether he is a refugee, a displaced person, or a migrant. Caution is the key in making this second determination, for the status provided the person can bring with it legal rights and obligations.

Other questions relate to determining the military's legal obligation toward civilians. Issues concerning humanitarian assistance, detainment, and civilian property abound in peace operations. Dealing with civilians is the type of complex legal situation where issues of sovereignty, the legal basis for the operation, the ROE, and the SOFA all converge in a tactical situation, involving only a few people, that could have serious strategic consequences if not handled properly. Commanders are advised to consult extensively with their legal and political advisors and civil affairs officers regarding designation and treatment of civilians. This is one range of issues that the international media and international organizations watch very closely.

Another vital issue involves war crimes and persons accused or indicted of war crimes by a tribunal. These topics concern the military's relationship with local police and an international police task force, if one exists, the military's role in law enforcement, and the rule of universal jurisdiction over war crimes. The commander must be aware of, and clearly understand, his responsibility concerning war crimes and alleged perpetrators related to incidents that occurred during the conflict but are being investigated and adjudicated during the peace operation. Added difficulties are the rule of universal jurisdiction and the newly established permanent international criminal court (ICC).

The ICC is a very recent development in the law. It is the product of a five-week diplomatic conference in 1998, and many issues regarding the operation of a permanent international criminal court remain to be resolved. They include the relationship between the jurisdiction of the ICC and the universal jurisdiction which each country has over war crimes, the powers granted to the prosecutor, and the degree of Security Council control over the court. In the United States, the War Crimes Act of 1997 provides US federal courts with the jurisdiction to prosecute any person, inside or outside the United States, for war crimes in which a US national or a member of the US armed forces is involved either as an accused or a victim.

The commander can also expect to receive pressure to actively seek out, apprehend, and turn over to a tribunal individuals from the former warring parties who are suspects or indicted on war crimes charges. The SOFA, the ROE, the mandate, and a troop-contributing nation's interpretation of the applicable law will determine how the military

deals with this issue. Under the 1998 Foreign Assistance Act, Congress has prohibited providing foreign aid to any nation that has failed to take necessary and significant steps to apprehend and transfer to the Tribunal for the Former Yugoslavia all persons indicted for war crimes by the Tribunal.[79]

During Operation Joint Endeavor (1995-96), Task Force Eagle's policy was that it would not actively hunt down persons indicted for war crimes but would detain them if soldiers recognized and came into contact with such individuals during the normal course of assigned duties. The rationale behind this policy had five elements:

- The policy was clearly within the mandate.
- The policy provided a role more appropriate to the military than serving as a police force.
- Force protection was better served.
- It seemed unlikely that an active search for such individuals would be successful.
- It was believed that a policy of actively tracking down such individuals might compromise the perception of the military's evenhanded treatment of all factions in the region.

## Conclusion

The objective of this article is to provide a strategic overview of complex multinational peace operations and foster awareness of key legal issues that may arise during their conduct. Many of the issues identified here lack definitive answers, in part because each peace operation is in many ways unique; variables in one operation that affect the outcome of a recurring issue, such as law enforcement or election support, may not apply in a subsequent operation. While the article provides some general advice to senior commanders and their staffs, it can never substitute for legal advice from an attorney on the scene in a specific operation.

It almost goes without saying that commanders must know the situations in which significant legal difficulty could be encountered, the likely issues, and the questions to ask. There are many resources for commanders and staffs to consult prior to a mission, including *The Joint Task Force Commander's Handbook for Peace Operations*, *A Legal Guide to Peace Operations*, *The Operational Law Handbook*, various after-action reviews from previous missions, the Office of the Secretary of Defense, the service headquarters, the Joint Staff, various international organizations, and experts at the US Army Peacekeeping Institute.[80] Familiarity with the contents of the documents and contact with those who have participated in complex contingency operations can help commanders and staffs to prepare for recurring challenges and to be alert to the unexpected ones.

When the US military goes to war we have a well-defined body of law that we have trained with, that we understand, and that guides our conduct--the law of war. When the military deploys in a contingency operation it does not have the benefit of a similar body of law, a "law of peace operations." However, there are internationally recognized legal bases for the conduct of peace operations--the UN Charter, invitation, SOFA, and treaties such as the Dayton Peace Accords. Member states of the UN have agreed in Article 25 of the Charter to "accept and carry out the decisions of the Security Council." Likewise, there is domestic US legal authority for participation in peace operations--the Constitution, the United Nations Participation Act, and other federal statutes enacted by Congress. While the Security Council does not "order" member states to provide or deploy troops to a peace operation, the council does have the legal authority, under Articles 42 and 43, to authorize member states to use force in the context of such an intervention. These legal authorities, in conjunction with others previously discussed, form the body of law that governs the initiation of peace operations and the conduct of participating military forces.

Just as there seems to be no end to conflict around the world, there is no reason to believe that the US armed forces, as well as other agencies of the US government, will not continue to be involved in peace operations. The complexity and variety of the issues raised in different aspects of each peace operation make clear the importance of the law and the legal advisor to commanders. The law of war is a fairly well-defined and well-settled body of law; the law of peace operations is not. Until the law and practice in peace operations become more clearly defined in the international community, commanders and legal advisors will continue to grapple with very important, complex, and sensitive issues surrounded by an uncomfortable degree of uncertainty.

1. Major Michael Newton, Peace Operations Speech, 1997 Operational Law Seminar, The Judge Advocate General's School, US Army (TJAGSA), Charlottesville, Va.
2. US Army Field Manual 100-23 (FM 100-23), *Peace Operations* (Washington: Dept. of the Army, 1994), p. v.
3. 50 USC §404a (National Security Act of 1947 as amended [Goldwater-Nichols Defense Department Reorganization Act of 1986 §6030]).
4. "National Security Strategy," Chapter 3 of the 1998 *Operational Law Handbook* (Charlottesville, Va.: TJAGSA, 1998), p. 3-1, referring to the National Security Strategy of 1996.
5. Ibid.
6. Presidential Decision Directive 25, The Clinton Administration's Policy on Reforming Multilateral Peace Operations, May 1994. Hereafter PDD-25.
7. The White House, "A National Security Strategy for a New Century," May 1997 from *Operational Law Handbook*, p. 8-2.
8. PDD-25.
9. "Peace Operations," Chapter 8 of *Operational Law Handbook*, p. 8-2.
10. Ibid.
11. White Paper, "The Clinton Administration's Policy on Managing Complex Contingency Operations, Presidential Decision Directive 56," May 1997. See also Mark R. Walsh and Michael J. Harwood, "Complex Emergencies: Under New Management," in this issue of *Parameters*, 28 (Winter 1998-99); and "Peace Operations Outline," in the 1998 *Operations Other Than War Deskbook* (Charlottesville, Va.: TJAGSA, 1998), pp. O-10 - O-11.
12. See UN Charter, Articles 2, 39, 42, 51.
13. Gerhard Von Glahn, *Law Among Nations* (7th ed.; Needham Heights, Mass.: Allyn & Bacon, 1996). See also UN Charter, Article 2.
14. *Operational Law Handbook*, p. 8-1.
15. Ibid.
16. Field Manual 100-23, p. 4.
17. UN Charter, Chapters VI and VII; Chapter VII, Article 42.
18. UN Charter, Chapter VII, Article 39.
19. FM 100-23, p. 4.
20. See generally FM 100-23, p. 4, referring to elements of traditional peacekeeping operations.
21. UN Security Council Resolution 1031, December 1995, acting under Chapter VII, authorized the establishment of the implementation force (IFOR).
22. See generally Overseas Disaster and Humanitarian/Civic Assistance fiscal statutes, such as: 10 USC §§127(a), 166(a), 401, 402, 404, 2010, 2011, 2547, 2551, 22 USC §2292.

23. *Operational Law Handbook*, pp. 8-9 and 8-10
24. See generally *Operational Law Handbook*, "Peace Operations" chapter.
25. See UN Security Council Resolution 940, September 1994, authorizing the multinational force intervention in Haiti; and UN Security Council Resolution 1031, December 1995, authorizing the Implementation Force intervention in Bosnia. See also *Operational Law Handbook*, p. 8-9.
26. The Comprehensive Campaign Plan is an initiative launched by Arthur (Gene) Dewey and Walter Clarke of the US Army Peacekeeping Institute, US Army War College. The plan is a forerunner to, and analogous in structure with, the interagency pol-mil plan authorized under PDD-56. For a more detailed description of the Comprehensive Campaign Plan, including an example developed in US Southern Command exercises, see the web site of the Congressional Hunger Center at <http://logos.ghn.org/chc/ccp.html>.
27. *Operational Law Handbook*, p. 8-10; see also "Peace Operations Outline," pp. O-17 - O-19.
28. *Operational Law Handbook*, p. 8-11.
29. "Peace Operations Outline," p. O-19; *Operational Law Handbook*, p. 8-10.
30. See *Operational Law Handbook*, p. 8-9, referencing a US commander from Operation Restore Hope who commented that the lawyer should be the "High Priest of the mission statement."
31. "Peace Operations Outline," p. O-18, refers to seven areas affected by the mission statement and therefore by the commander's interpretation and approach taken to accomplishing the mission.
32. In this regard, "expanding mission requirements" is defined as at least the perceived expansion of mission requirements, or the expansion of the military's interpretation of its mission. The military's responsibility under the Military Annex was to provide secure conditions for others (e.g. OSCE) to conduct free and fair elections. The military was then asked to provide logistical support, including everything from medical evacuation, to transportation, to fuel and repair services. This is arguably more than, or at least different from, providing "secure conditions" and could be seen as mission expansion.
33. See generally the General Accounting Office report "Bosnia: Costs Are Exceeding DoD's Estimate," GAO NSIAD-96-20 BR (July 1996); see also text in note 32 above.
34. Steven R. Ratner, *The New UN Peacekeeping* (New York: St. Martin's Press, 1995), pp. 72-76; *Operational Law Handbook*, p. 8-10; see also *Joint Task Force Commander's Handbook for Peace Operations* (Fort Monroe, Va.: Joint Warfighting Center, 1997), Appendix C. See also, Mark Walsh, "Managing Peace Operations in the Field," *Parameters*, 26 (Summer 1996), 32-49.
35. *Operational Law Handbook*, p. 8-10.
36. PDD-25.
37. *Ibid.*
38. *Ibid.*
39. *Operational Law Handbook*, p. 8-4.
40. Naval Justice School, quoted in *Joint Task Force Commander's Handbook for Peace Operations*, p. I-13.
41. JCS Pub 1-02, *Dictionary of Military and Associated Terms* (quoted from *Operational Law Handbook*, p. 9-1).
42. FM 100-23, p. 35.

43. Ibid., p. 17.
44. Chairman of the Joint Chiefs of Staff Instruction (CJCSI ) 3121.01, Standing Rules of Engagement for US Forces (SROE), October 1994.
45. *Operational Law Handbook*, ROE Chapter Diagram, pp. 9-1 - 9-2.
46. FM 100-23, p. 35.
47. CJCSI 3121.01; *Operational Law Handbook*, p. 9-3.
48. CJCSI 3121.01; *Operational Law Handbook*, p. 9-3.
49. See contract between Brown and Root and US Army, Paragraph C.5.3(a) (DACA 78-92-C-0066).
50. The 18th Airborne Corps RAMP program is a methodology for training soldiers on baseline self-defense rules. RAMP is an acronym which stands for **R**eturn fire with aimed fire, **A**nticipate attack, **M**easure the force used, and **P**rotect with deadly force only life and property designated by the commander.
51. FM 100-23, p. 66.
52. Ibid., p.67.
53. Ibid.
54. Annex 1-A, Article VI "Deployment of the Implementation Force," paragraph 9(a) of the General Framework Agreement for Peace.
55. See Appendix B to Annex 1-A to the Dayton Peace Accord of 21 November 1995, Agreement Between the Republic of Bosnia and Herzegovina and the North Atlantic Treaty Organisation (NATO) Concerning the Status of NATO and its Personnel.
56. *Operational Law Handbook*, p. 8-13.
57. Ibid.
58. See a similar comment by Lieutenant General Anthony Zinni, "The SJA in Future Operations," *Marine Corps Gazette*, February 1996, pp. 15, 16.
59. See generally *Operational Law Handbook*, Security Assistance Chapter, p. 28-6.
60. Foreign Assistance Act §607 is codified at 22 USC §2357. The Acquisition and Cross Servicing Agreement is from 10 USC §2342. These statutes provide authority to enter into agreements which then grant the United States military authority to provide logistics, goods, and services.
61. Acquisition and Cross Servicing Agreements are governed by 10 USC §§2341,2342, 2344.
62. Ibid.
63. §8080 of the DOD Appropriations Act for FY 98.
64. Ibid.
65. §8117 of the FY (96/98) DOD Appropriations Act.



66. Ibid.
67. Ibid.
68. See generally the drawdown provisions of the Foreign Assistance Act (FAA), FAA §506(a)(1), FAA §552(c)(2).
69. §8117 of the FY (96/98) DOD Appropriations Act.
70. The law of war is generally thought to consist of the Geneva Conventions of 1949, the "Geneva Tradition," and the Hague Conventions of 1907, the "Hague Tradition." Other elements that may be thought to be included in the law of war include the 1977 additional Protocols to the 1949 Geneva Conventions, and various conventions and protocols such as the Chemical Weapons Convention, the Conventional Weapons Convention, and others. Some of these conventions apply only during international armed conflict; others may apply without having international armed conflict and thus would apply during a peace operation.
71. Chapter VII operations in which the military force is acting as a combatant may trigger the application of the Law of War.
72. Article 2 common to the four Geneva Conventions of 1949.
73. By "traditional peacekeeping" I am referring to strict Chapter VI-style peacekeeping where there is a high degree of consent among the parties, a peace agreement is in place, the force is small and lightly armed, the use of force is authorized only in self-defense, and there are no enforcement powers.
74. Agreement on Military Aspects of the Peace Settlement, Annex 1-A to the General Framework Agreement for Peace in Bosnia and Herzegovina, Article VI, paragraph 9, of the Military Annex.
75. Geneva Convention on the Wounded and Sick, Articles 16 and 17.
76. Military Annex, Art. IX, para. 2.
77. Military Annex, Art. VI, paras. 2 & 5; Art. IX, para. 2.
78. Chairman of the Joint Chiefs of Staff Instruction 5810.01 (4). See also Department of Defense Directive 5100.77 (DOD Law of War Program).
79. Foreign Assistance Act 98, §573, 111 Stat. 2430-2, also *Operational Law Handbook*, p. 28-1.
80. *The Joint Task Force Commander's Handbook for Peace Operations* provides an overview of many issues arising in peace operations and is produced by the Joint Warfighting Center. *A Legal Guide to Peace Operations* provides a comprehensive overview of the legal issues arising in peace operations and is produced by the US Army Peacekeeping Institute, US Army War College (May 1998).

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