



GENEVA CENTRE FOR THE DEMOCRATIC
CONTROL OF ARMED FORCES (DCAF)

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MILITARY INTERVENTIONS:
A CHALLENGE TO GLOBAL GOVERNANCE**

Herbert Wulf

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Conversion (BICC), Bonn, Germany*

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DEMOCRATIC CONTROL OF ARMED FORCES IN MILITARY INTERVENTIONS: A CHALLENGE TO GLOBAL GOVERNANCE

*Herbert Wulf**

Since the end of the Cold War, numerous developments have significantly changed the position of the armed forces . Firstly among these developments is the fact that the vast majority of wars are no longer fought between states. Rather, today's wars and violent conflicts tend to have mostly inner societal causes (Kaldor 2001). Additionally, the observation of present day realities, especially in big urban centres of the world, shows that more people die from the day-to-day exertion of criminal violence than from war-related causes. Inner-societal insecurity and violent conflict sometimes leads to the international community turning to military means to control and pacify the areas concerned.

The second development, the increasing plight of the civilian population during war, reaches back further in time. Whereas in earlier conflicts soldiers were fighting against soldiers, today's wars affect mainly the civilian population. The great majority of the dead and wounded are civilians and often millions of people take refuge from their homes in order to escape war scenes. The United Nation's High Commissioner for Refugees (UNHCR) recorded approximately 12.05 million refugees crossing international borders in 2001. Many of these refugees left their homes due to bellicose or violent conflict. Often the United Nations and their specialised agencies are requested to engage not merely by coordinating relief efforts but by creating new missions for blue-helmets as well. Since the end of the Cold War, military interventions within the UN framework have often been demanded by recourse to 'humanitarian reasons'.

* The original version of this text in German can be found at: 'Eine Herausforderung für Global Governance', in: Thomas Fues/Jochen Hippler (Ed.) (2003) *Globale Politik. Entwicklung und Frieden in der Weltgesellschaft*, Dietz Verlag Bonn, pp. 256 – 279; Mr. Thorsten Wetzling, Research Assistant at DCAF, provided for the translation of the original text into English.

A third development, so far discussed only in expert circles, is the privatisation of military functions. Despite the fact that 'the privatisation of the military and security' has many potential implications, with quite different activities being described in this way, they are conducted in an unregulated fashion and effectively operate in a legal grey zone. Such activities range from the safeguarding of private property by specialised companies, the protection of mining and conveyor systems for worldwide operating enterprises, the services for UN peace operations, to escort services for aid convoys. Moreover, military logistics as well as the deployment of private persons or companies in warlike scenarios also fall under this concept. Such activities are often politically supported and lawful under the domestic law of the country where they are employed. This relatively new sector is rapidly growing (Lock 2001; Wulf 2002b).

These three developments are closely related to the general trend of globalisation common to virtually all walks of societal life. Integration into the world market has caused numerous momentous upheavals in many countries, often leading to violent inner-societal conflicts. While these trends were unfolding, international military interventions increased in numbers. Whereas during the Cold War, the United Nations Security Council often lacked the necessary consensus or was hindered by a veto in its creation of mandates for peacekeeping ('blue-helmet') missions, present day calls by the international community for timely military interventions to prevent humanitarian catastrophes have become louder and more frequent (Eisele 2000; UNGA 2001a). These calls share underlying reasoning, namely to prevent, mitigate, or end humanitarian catastrophes.

In this paper, the focus is on the multinational military interventions authorised by the United Nations and not on the numerous international interventions that have been conducted by great or regional powers. The extensive coverage of wars and conflict in the media has contributed to the growing tendency towards multinational interventions. These interventions, as well as catastrophe relief missions, have widened the scope of actions for the military. This compares with the traditional defence purpose of many countries, European countries being no exception, that now plays only a marginal role.

Whenever military forces are deployed under the auspices of international organisations (most notably the United Nations) questions concerning their democratic control and the legitimacy of their deployment arise. Public debate focuses primarily on the authorisation of these missions. In Germany, this topic appeared high on the political agenda given its history and the changed role of government and parliament in the last years. NATO's aerial bombardment of Kosovo without a mandate from the UN Security Council was controversially discussed in Germany¹. This paper maintains that the democratic control of armed forces is not only relevant for the authorisation of the initial military intervention but also for the mission that follows such intervention. The former is subject to rigorous regulation in most countries, yet this does not guarantee against problematic decisions being made. What is at stake is illustrated by posing the following questions: Who bears responsibility for the missions? Who commands the armed forces and how is the command structure organised for multinational missions? How exactly is the withdrawal compared with the termination of the mission regulated?

Adherence is made to the hypothesis that stipulates that the responsibility and democratic control for internationally or multinationally conducted interventions tends to be of a more complex nature than is the case for national missions. The demand for efficient control by democratic decision makers tends to increase with growing risks for soldiers, prolonged duration of the mission, and unclear indications of a military victory. Reference to recent examples illustrates that both the legislative and the executive have comparatively less trouble to decide whether to send troops on flood relief missions, be it in Germany or Mozambique, than they have over the sending of troops to a post-conflict reconstruction mission in Afghanistan or to a war mission in Iraq.

In this paper, the question is posed whether the democratic control of armed forces, which to this day remains, in practical and conceptual terms, virtually a national task, is outdated and needs reform? When it comes to multinational missions, do multinationally organised forms of democratic control become necessary and are they possible? How can the concept of Global Governance give an answer to this question?

¹ For further information consult Ulrich Menzel's documentation, (Menzel 2002) who has listed the protagonists and antagonists involved in this debate (politicians, publisher, scientists, jurists, human rights activists, generals).

Prior to answering these questions, this paper addresses the changed conditions for peacekeeping by the United Nations and deals with arguments put forward in support of military peace operations – more precisely, it asks how did the “humanitarian” argument for enforcement actions under Chapter VII of the UN Charter become so commonplace?

1. Peacekeeping by the United Nations

When the United Nations was founded, shortly before the end of the Second World War, the international community looked upon the classic warfare between states as the pre-eminent threat to world peace. The removal of war and violence from international relations was seen as the main purpose of the United Nations, something deemed possible by creating a system of collective security through the institution of the United Nations. In this sense, the United Nations remained influenced by the ideas of the former US President Woodrow Wilson and the concept of the League of Nations. In its simple and pure version, a system of collective security requests that those states committed to it intervene more or less automatically in defined situations without recourse to a domestic debate over these issues (Ku and Jacobson 2001, p. 27). Yet such an automatism is neither stipulated in the statutes of the League of Nations nor in the UN Charter.

Chapter VII of the UN Charter empowers the Security Council to “take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security” (Art. 42). Therefore, under the UN Charter, responsibility and control over international military missions is referred to an international institution. Formally, this might be interpreted as the transferral of the international monopoly on the exertion of force. However, a closer look at the practice of international relations shows that the United Nations were often denied the means to fulfil this supposed monopoly. Although the United Nations ranks as the highest international authority on questions of war and peace, one cannot attest democratic control of UN-authorized military forces given the composition and the lasting blockade against reform of the Security Council.

On the other hand, the UN Charter stipulates under Art. 2(4) that 'all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state'. Provision is made for the peaceful settlement of disputes as an instrument of the United Nations before any military power can be used. To guarantee the effective performance of this task, the Charter (Art. 45-47) provides for a Military Staff Committee composed of the Chiefs of Staff of the permanent members of the Security Council as well as its associated members. The Military Staff Committee is responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. The provisions of Art. 45-47 have, as of yet, not been implemented. A Military Staff Committee does not exist and the Security Council has never had UN forces at its disposal, despite the fact that the enforcement action has been used fifty-five times (until November 2002) since the UN was founded (Findlay 2002).²

The United Nations' peace operations consist of (1) monitoring and observer missions; (2) classical missions where the blue-helmets create a buffer zone between the conflicting parties; (3) a newer type of peacekeeping, where the UN forces receive a more robust mandate and become involved in post-conflict reconstruction programmes; (4) peace enforcement missions conducted by forces mandated to use force beyond the scope of self-protection.

The classical peacekeeping missions by UN blue-helmets are not based upon force but are impartial in character and initiated only with the explicit consent of all parties to the conflict. The normally light armament carried by the blue-helmets is designated only for self-defence. The missions are authorised under Chapter VI of the UN Charter and the troops are under the political and operative patronage of the UN Secretary General. Notwithstanding this provision, countries who provide the troops remain legally responsible for the military and civilian personnel deployed during these missions (Gareis 2002, 21). During the four decades from the founding of the United Nations until the end of the Cold War, the United Nations conducted 14 classical peace operations,

² The "stand-by forces" requested by the former UN Secretary General Boutros Boutros-Ghali served as a compromise between the permanent ad-hoc decisions in crisis situations and the originally foreseen UN forces. In his agenda for peace, Boutros-Ghali laments the fact that only very few member states have kept ready this kind of contingents for the United Nations (Boutros-Ghali 1992).

some of which are still lasting (such as in Palestine and Cyprus). Only in two of these operations did the United Nations resort to military power to enforce repression.

Three-quarters of all blue-helmet missions have taken place since 1988, the year in which the UN blue-helmets were awarded the Nobel Peace Prize.³ Along with the dramatic increase in peace operations came the widening of their scope. The United Nations did not only function as a buffer between conflicting parties but took on more and more tasks such as the consolidation of peace and state-building, demobilisation, disarmament, reintegration of armies and paramilitary units, repatriation of refugees as well as creating transitional administration. The most extensive operations took place or, as the case may be, take place in Cambodia and the former Republic of Yugoslavia (Bosnia and Herzegovina as well as Kosovo).

Furthermore, missions where the United Nations no longer operated with the explicit consent of the conflicting parties but which included enforcement action grew in numbers. The first mission of this newer kind occurred in 1992 in Somalia (UNOSOM II), where the mandate referred to Chapter VII instead of Chapter VI, which meant the inclusion of enforcement action. Prior to this, the conception and the practice of the United Nations was elaborated upon by the informal "Chapter Six and a half". It is situated in between the consensus orientated Chapter VI and Chapter VII and envisions robust armament of the blue-helmets (Kühne 1993).

The contributions by the members states varied greatly during the last decade as well. At the heyday of peace operations in 1991, one could only find two developing countries among the 10 biggest troop-providing countries; today it is the reverse. In 2002, eight developing countries formed the apex of those countries that provided military and police forces followed by Ukraine and Australia at place nine and ten. In total 44,000 soldiers and policemen were operating in 2002. Out of these, 5,450 came from Bangladesh, 4,817 from Pakistan, 3,451 from Nigeria and 3,022 from India.

³ A more detailed statistic can be found in Ku and Jacobson (2003, Appendix A.).

The end of the Cold War led to an increased readiness for more extensive peace operations. Jakobson (2002) notes “demand and supply conditioned” causes for the increase of peace operations in numbers. The demand for peace operations grew with the victory of the free market economy and the general trend towards globalisation – a trend that not only brought about economic growth but also resulted in destabilisation in many countries. The demands of liberal democracies towards further strengthening of democracy and human rights, the political conditionality in aid programmes towards the creation of Good Governance, economic reform, as well as the infrastructure adjustment programmes were not always met. In some countries this led to the break-down of traditional structures as well as to economic, social and political destabilisation. The demand for additional peace operations tends to be greatest for so-called ‘failed states’, i.e. states where one can no longer depict a sovereign.

The demand for military supported UN peace operations has always been greater than the amount of troops and other resources available to it. This is despite the fact that the end of the Cold War dissolved both the blockage in the Security Council due to ideological wrangles as well as the “southern dimension” of the East-West conflict with its spheres of interests and proxy states. An increasing availability of forces promoted the augmentation of operations. Europe’s standing armies possessed spare capacities which were offered for peace operations. New tasks were sort and their scope of actions widened (Wulf, 2002a, p. 93ff.). What is more, a classic principal of UN peace operations was abandoned, namely, not to deploy troops from the permanent member states of the Security Council and not from countries involved in the conflict region. This new practice increased the potential for further peace operations.⁴

⁴ Of course, other factors played a role such as the so-called “CNN effect”, i.e. the fact that war and conflict scenes are being broadcasted “live” into the living rooms of Western democracies. In addition, candidates for EU- and or NATO enlargement offered their services for peace operations as a means to underline their qualification.

2. From Unilateral to Multilateral (Humanitarian) Intervention – and Vice Versa?

Sovereignty deserves priority

Intervention signifies an intrusion into the inner dealings of a nation. This is done with the intention to change or retain the political power structures in other countries. To exert this influence, the interventionist powers resort to political, economic, as well as military means.⁵ There exists a potential tension between the principles of state sovereignty and equality among nations expressed in the UN Charter on the one hand and the special protection of individual and collective human rights on the other. Art. 2(7) UN Charter stipulates that “nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state”. Yet, the UN Charter also demands the protection of human rights. The primacy of political sovereignty and the principle of non-interference were given prime status at the United Nations. The prevailing opinion was based on the assumption that the consensus gained through the Peace of Westphalia in 1648 concerning the absolute sovereignty and equality of states served as the basis for the international order. A dissolution of this consensus, it was believed, would have resulted in anarchic power struggles.

However, already during the Cold War and much more so after its termination, the tendency to acknowledge the status of human rights as international rather than an inner-societal topic gained force. Implicitly this led to the querying of the absoluteness traditionally accepted under the principle of non-interference. Gradually (and often reluctantly) governments accepted certain limitations on their conduct out of a growing respect for human rights (MacFarlane 2002, p. 34). This should not be taken to represent a linear or one-sided development as the principle of non-intervention continued to be regarded as a cardinal principal, most notably by regional organisations or in the judgments of the International Court of Justice.

⁵ In both general political as well as political science parlance, the word intervention connotes primarily military engagements.

Military interventions have been conducted by the great powers and their regional counterparts since the foundation of the United Nations – primary among them is the United States, however, the former colonial powers as well as the Soviet Republic were also involved. The right to intervene was defended even amongst socialist countries. After the intervention in the Czech Republic by members of the Warsaw Pact in 1968, the Brezhnev-Doctrine was announced which maintained a right to intervene should the conduct of socialist countries jeopardise socialism as a whole. Sometimes the great powers intervened directly, sometimes indirectly, by using their proxies (such as Cuba in Africa). It was not only the great powers who intervened in support of their own national and security interests. Regional powers acted for the same reasons when they interfered in their neighbouring countries as demonstrated by Egypt in 1962 with regard to Yemen, India in 1971 in West-Pakistan or Bangladesh respectively. South Africa has done so several times in the 1970's and 1980's with regard to its neighbouring countries, Vietnam 1978 in Cambodia, and Tanzania 1979 in Uganda (MacFarlane 2002, p. 411ff.). As stated earlier, the United Nations conducted its own interventions during that time, albeit to a far lesser scale than after the end of the Cold War. The reasons behind these earlier missions were to be found in the keeping of the peace and the prevention or ending of wars.

In summary, MacFarlane (2002, p. 45) comes to the following conclusion:

‘the practice of intervention during the Cold War was largely unilateral, realist and motivated by the pursuit of power and other egoistic interests in an anarchical bipolar system. Multilateral organisations played a minor role in the practice of intervention but a more important one in strengthening of norms of sovereignty and non-intervention. Although human rights questions took on a more prominent place in international law during this period, this had little effect on the politics of intervention, which was weakly constrained by normative or normative considerations. Several interventions of the period had significant and positive humanitarian consequences. But these were incidental to the political logic underlying the operations.’

3. Accentuation of Humanitarian Interventions

The number of unilateral interventions decreased notably with the end of the Cold War, whereas multilateral Security Council authorised interventions rose. An increased level of UN activities became possible owing to a more offensive interpretation of the threats to peace and security by the Security Council. The publication of the Agenda for Peace in 1992 in which preventive diplomacy, peacebuilding, and peacekeeping measures and peace efforts in post-conflict situations were underlined, expresses well the enhanced self-confidence of the United Nations (Boutros-Ghali, 1992). Western governments, having rendered democratisation and human rights protection as official goals of their foreign policies, were troubled to reject interventions in the name of democracy and human rights. The high number of deaths inflicted by wars coupled with an increasing number of refugees as well as changes in the nature of warfare and its consequences, led to the promotion of humanitarian aspects including requests for “humanitarian intervention”. The international community should not only be allowed to intervene in case of gross violations of human rights such as genocide and ethnic cleansing but should be obliged to do so. The advocates of NATO’s air campaign in Kosovo in 1999 particularly referred to this argument.

Since then, a plethora of documents and reports by the United Nations deal with the question of humanitarian intervention, crisis prevention and the necessary resources for these missions (examples are the Brahimi report: UNGA 2001a and the recent report of the UN Secretary General to the UN General Assembly focusing on the prevention of armed conflict: 2001b). Referring to Rwanda and Yugoslavia in his report on the prevention of armed conflicts, the Secretary General requests “a moral responsibility [by the United Nations] that vulnerable people are protected and that genocide will never happen again” (UNGA 2001b, p. 35). He places emphasis on the well-timed usage of Chapter VI of the Charter (i.e. prevention through peaceful means) but recalls that Chapter VII (i.e. enforced prevention) can have a deterring effect (UNGA 2001b, p. 36). Prior to this, in 1999, the UN Secretary General Kofi Annan maintained in a featured story for the British weekly *The Economist*, that humanitarian concerns have not been accepted to provide a legitimate basis for the usage of military force. He called for a

reinforcement “of the international norm of intervention for the protection of civilians” (Annan 1999, p. 82).

The principle of the primacy of the political sovereignty of states in international relations has also been called into question. In the so-called ‘Millennium Report’, the Secretary General emphasises that the UN Charter speaks of the sovereignty of peoples, not of states, which by no means allows governments to grossly disrespect human rights (UNSG 2000). The justification from both a political and international law perspective is that human rights violations and humanitarian crises threaten the peace and stability in neighbouring countries and the region. Therefore, it is a duty of the Security Council to attend to these problems and possibly to resort to the deployment of military force.

At the beginning of this new development, Security Council resolutions highlighted the exceptional character and the uniqueness of the situation (humanitarian necessity in the intervention in Somalia, and the saving of democracy in Haiti were emphasised) in order to avoid creating a binding precedent for future interventions. However, more and more frequently the Security Council justifies resorting to military means by stating the necessary protection of human rights, preservation of democracy, ending of civil wars, or safeguarding the survival of refugees – thus referring to humanitarian reasons. Members of developing countries challenge the lawfulness of “humanitarian interventions” to this day.

The enforcement of liberal and democratically motivated humanitarian interventions within the scope of the United Nations is confronted with a series of problems. Firstly, the United Nations have turned to these interventions selectively. Why did the United Nations intervene in Somalia but not in Rwanda? Why is the United Nations’ engagement in the decade-long conflict in Sudan limited to aid donations and the sending of a UN Secretary General Special Envoy endowed with diplomatic means, whereas East Timor was subject to rapid and effective military intervention? Large and powerful countries do not have to fear United Nations interventions at all. Secondly, the phenomenon of unilateral interventions conducted without a UN mandate has by no means come to an end as the NATO intervention in Kosovo, Russian involvement in

Georgia and Tajikistan,⁶ Indian and Pakistani encroachments at the border in Kashmir or cross-border conflicts in Africa sufficiently document. Should a government feel that a situation calls for intervention then they continue to intervene without a UN mandate in order to enforce their own interests. Thirdly, the UN member states do not provide enough financial and human resources to enable the UN to perform peacebuilding and peacekeeping tasks. Eloquent grievance on this matter is expressed in numerous UN documents (further information available from UNGA, 2001a).

4. Is the United States of America en route towards Unilateral Interventions?

In the USA, the pendulum for the conception of military interventions swung back and forth. With the end of the Cold War, the number of American interventions decreased notably. At the same time, the US pushed for many UN mandated interventions in the Security Council and abandoned their veto vote with which they could have prevented UN blue-helmet missions. The scope of their own engagement in these missions was limited due to conditions set by the US Congress.

Towards the end of 1992, the former Chief of Staff of the US forces and present day Secretary of State, General Colin Powell, surprised the National Security Council with the statement that the US forces would be capable of conducting a successful intervention in Somalia, if required. Previously, he had rejected all similar requests. On December 9th 1992, 1,300 US marines landed in Mogadishu and within weeks the US governments increased their numbers to 25,000 soldiers (Western, 2002, p. 112). The decision to engage in this mission came as a surprise given that General Powell had sounded a note of caution with regard to the collapse of Yugoslavia in the early 1990's and had formulated the so-called Powell-Doctrine (a variant of the Weinberger-Doctrine). In essence, Powell's position was (1) to intervene only when massive means are at one's disposal; (2) when political and military means have been precisely defined; (3) the mission is of a character that can be successfully conducted; (4) and bears broad public and parliamentary support. General Powell was not a great friend of "surgical bombing"

⁶ For an international law prospect on the intervention in CIS countries, see Tuzmukhamedov (2000).

or “limited attacks”. He took advantage of the aversion by most military planners against imprudent military actions and warned expressively against experts who recommended to use this kind of strategy. According to him, this policy has quite literally led the US into a quagmire many times (Western, 2002, p. 120ff.). His critics maintained that his reservations were of such a dimension that, in practice, no intervention could take place without an overwhelming military force which rendered the mission devoid of any risks altogether. After the US operation in Somalia ended in a complete fiasco and the US forces withdrew after the occurrence of some casualties, the Powell reservation became the dominant line of thought.

This attitude still held true at the beginning of the Clinton administration. Yet the “never again” turned rapidly into a renewed engagement vis-à-vis multilateral interventions. With Powell resigning from office, the US position with regard to military interventions changed under the new Chief of Staff Shalikashvili (Goldstein, 2000) – something that was taken up during the presidential campaign by the republican candidate, Senator Dole, who accused US President Clinton in 1996 of initiating an unprecedented number of military interventions compared to previous administrations. President Clinton justified the US engagement in various war and conflict scenes in the former Yugoslavia by stating that in the new world order, national sovereignty should rank below human rights protection. According to him, the universality of human rights was to be a core concept when considering ethnic and religious conflicts, something that he hoped would be applied within and outside of national state borders in the future. Although the Republican-dominated Congress prevented the Clinton administration’s international engagement at times, it generally adhered to the liberal principal of responsibility for humanitarian questions. In 1999, Clinton said in a speech that:

“It's easy . . . to say that we really have no interests in who lives in this or that valley in Bosnia, or who owns a strip of brush land in the Horn of Africa, or some piece of parched earth by the Jordan River. But the true measure of our interests lies in not how small or distant these places are, or in whether we have trouble pronouncing their names. The question we must ask is, what are the

consequences to our security of letting conflicts fester and spread” (quoted in Jablonsky 2001, p. 52).

With regard to Kosovo, the Clinton administration shifted from diplomacy, reinforced by the threat to use military power, to a policy that used military means supported by diplomatic efforts. Already during the presidential campaign of 2000, George Bush (junior) pronounced to turn away from this policy. According to his opinion, the armed forces exist to win wars rather than to keep peace (Hassner 2002, p. 37). The President’s National Security Advisor, Condoleezza Rice (2000, p. 54), argued against the deployment of US blue-helmets as worldwide police emergency task force and the concept of “limited sovereignty in the name of humanity”. It does not come as a surprise that the Powell-Doctrine (calling for restraint on the one hand and overwhelming military force on the other) is only of partial use today. We can no longer speak of constraint. The Bush administration went far beyond this doctrine with regard to its policy towards Iraq and its position taken in the “US National Security Strategy Document” (US Government 2002) from December 17th, 2002. Because of the new preparedness to engage militarily following the terrorist attacks of 9/11, the US government turned upside down the founding principle of the Powell-Doctrine, namely to exercise constraint.

This new strategy of the Bush administration amounts to nothing less than the implicit and general denunciation of the principle of sovereignty and equality of peoples. The security of other countries becomes secondary to the security of the American people. However, the United States of America do not replace the principle of sovereignty and equality of peoples with a new liberal, universally recognized principal, but reserve the right to ensure American security if necessary by recourse to “preemptive strikes” against potential threats – in the case of Iraq even through enforced regime change. The still existing dilemma (or contradiction) between the primacy of sovereignty and the primacy of humanitarian intervention is solved by the US resisting any encroachment of their own sovereignty and intervention against others, if they deem it necessary. The accentuation of military strength, the indifference of the Bush administration towards arms control negotiations, the denunciation and even withdrawal from international contracts, and the exemption of American citizens from the jurisdiction of the

International Criminal Court are consistent with the logic of this administration and perfectly match the new strategy of the United States.

From a political perspective, this stands for nothing less than a radically new orientation of the entire international relations system, in which unilateral military interventions are of vital importance for American interests.⁷ The politics of the anti-terror war, made comprehensible and effectively presented to the public, can be said to have the same ideological function as the containment of communism throughout the Cold War. “We have found our mission” Bush declared (quoted in Hassner 2002, p. 38). In terms of military strategy, the position of the US government has shifted from a deterrence orientation towards “preemptive” military strikes whenever deemed necessary.⁸

5. Democratic Control of Armed Forces

The notion of war and peace based on the monopoly of force by state internally and the right to fight an external war in order to defend attacks (Aron 1986), has been called into question owing to the previously described recent developments. International military operations, accelerated through globalisation, as well as the privatisation of security, plays as great a role as the proliferation of what Mary Kaldor has termed “new wars” (2001). Such developments jeopardise the state orientated monopoly on force inasmuch as globalisation leads to de-nationalisation and promotes an authority relocation, i.e. from the nation state to supranational actor in state, commercial and civil societal domains. Globalisation changed the conditions for Weber’s notion of the nation state. The consequences of globalisation and the reaction to international military interventions has another long-term effect, namely, it calls into question the conception of nationally organised and orientated armies. Does Global Governance – a responsible, globally orientated world domestic policy or world order policy (Messner and Nuscheler 1997; Nuscheler 2000a; Nuscheler 2000b) – have an answer to this? Undoubtedly it is right to assume “when problems globalise, politics needs to globalise accordingly. Then

⁷ The historian Winkler (2002) noted that this position is influenced by a fundamentalist messianism by which the world shall be saved from evil.

⁸ According to this new strategy, preemptive strikes should not be considered as exclusive means but should be reduced to certain cases only.

it is not sufficient to rely solely on an ad-hoc and reactionary crises management but new order structures need to be created.” (Nuscheler 2000a, p. 474).

Global Governance depends on the enhancement of international norms, a new world order, in which nation state sovereignty is limited due to the existence of a higher-level executive authority and globally accepted legal norms. A tendency towards Global Governance manifests itself in civil society in a number of ways. Is this a valid observation with regard to the military, too?

Precisely because the military possesses the instruments of ultimate power, it is highly important to regulate its legitimacy, civilian control and responsibility. It is owing to military necessities that the military is the least democratically structured organisation in most countries; the conduct of the military in situations of armed conflict and its command chain structure collide with the concepts of liberty and individuality (Kohn 1997, p. 141). The scientific literature offers a plethora of systematic analyses on the institutionalisation of democracy in nation states. Likewise, the literature on Global Governance hosts many future-oriented publications. Yet, democratic control of armed forces and the question of responsibility in international operations is poorly researched (exceptions are Ku and Jacobson 2001; Born and Urscheler 2002).

It has already been mentioned that the provisions of the UN Charter have never been implemented in totality. Questions remain over how (1) the authorisation of military operations; (2) the civilian control over military personnel and military operations; (3) civilian responsibility for the security of the armed forces; and (4) the responsibility for norm compliance of the military in international operations is to be regulated.

The authorisation aspect is fairly straight forward. The UN Security Council (and in exceptional cases the General Assembly, such as the Korean mission) decides over the deployment of UN troops. Thereafter, the implementation of this decision is transferred to the national level. Generally, the national executive (and in exceptional cases, the national legislature) decide routinely about whether and to what extent their own troops should contribute to an international military operation. Only very few parliaments (out of

17 examined NATO-member states only Denmark, Germany, The Netherlands and Czech Republic) debate over the deployment of UN blue-helmets (Born and Urscheler 2002). Here, also, Nuscherler's ascertained development affirms itself: "Nation states remain the main actors in international politics, solely endowed with the authority to take important decisions. Together, they constitute the main pillars of the Global Governance architecture" (Nuscheler 2000a, p. 478).

Whereas the nation states possess elaborate and systematic doctrines for military operations containing clear delimitations of competences and responsibility for the remaining three above-mentioned control and responsibility issues, similar regimes on the international level are lacking almost completely (Ku and Jacobson 2001, p. 35). For military operations conducted under the auspices of the UN (and NATO) the requirement prevails that military commanders are responsible to civilian authorities – mostly the UN Secretary General.⁹ Moreover, it has become common practice that those units operating under UN command touch base regularly with their national superiors. Ku and Jacobson (2001, p. 45) conclude: "It is highly implausible that these commanders have ever followed an order given in the international chain of command to which their national authorities have not at least acquiesced, if not given their approval." It is fair to assume that international military operations have been altered by national instructions with respect to both plan and conduct. In this game of mixed competences and responsibilities, questions regarding who has the final say and what are the clear delimitations of competence are not answered. Nuscheler correctly addresses this when he states: "The 'holy cow' of the by now already anachronistic concept of sovereignty and traditional thought in terms of national power politics constitutes mighty and hard to come by hurdles towards more global thought and practice." (Nuscheler 2000a, p. 482).

But what exactly does that mean for UN blue-helmet missions? Without question it is unwise to abandon political control functions within the national framework before international control mechanisms have been created. At the time of writing, this has not happened. In most cases, not even the national parliaments possess sufficient control

⁹ The UN operation in Kuwait was an exception to this rule inasmuch as it did not possess a UN command structure. The Security Council authorised the mission, yet the armed forces were responsible to their respective national civilian authority.

mechanisms (Born and Urscheler 2002). Were the UN a democratically structured organisation, problems would be easier to solve. Yet neither does the UN Security Council reflect global proportions in its present formation nor can the UN General Assembly perform parliamentary functions being a non-elected intergovernmental institution.

The dilemma vis-à-vis mixed responsibilities and competences reoccurs with respect to the safety of UN forces. When the Security Council decides to initiate a blue-helmet mission and assigns the realisation to the Secretary General or the Department for Peacekeeping Operations, and the member states do not provide sufficient resources (as has occurred in previous blue-helmet operations), who will bear the responsibility for efficient realisation of the operations, the safety of the armed forces? Will it be the Security Council, the Secretary General, the national authorities who decide upon the deployment of national forces, or the commander in chief on the ground? The example of Dutch armed forces who were supposed to protect the people in Srebrenica, albeit with insufficient means and an unclear mandate, illustrates well the inherent problem with mixed competences (UNGA 1999). The national command and competence structures usually at work at the national level do not apply here. The problem becomes worse due to the fact that Security Council decisions are neither democratic nor transparent at all times. Given that competence and responsibility functions are difficult to establish between the international institutions and the respective national executives it is not surprising to know that parliamentary control is even more difficult.

Especially at the national level, many norms with respect to the conduct of soldiers in war and conflict situations have developed. However, not until 1999 has it been decided that armed forces under the command of the UN are subject to the Geneva Conventions. Publicly known are the crimes committed by Canadian forces in Somalia. The soldiers were tried by their national courts but not by the UN. Furthermore, national responsibilities have never been assigned to international authorities. This issue will be regulated only with the establishment of the International Criminal Court (with the important exception of the US).

On the one hand, increasing internationalisation and globalisation demands an abdication of sovereignty and requires cooperation among nations. On the other hand, the lack of legitimacy and the democratic deficit becomes more and more evident. The more decisions are transferred from the national to the international sphere in the process of creating multinational decision-making, the more difficult the situation will be for the elected national parliaments. This is true not only with respect to the United Nations; the European Union, at present creating an EU Rapid Reaction Force, has not arrived at a clear-cut, non-ambiguous solution concerning control and responsibility aspects either.¹⁰

At an earlier stage of this paper, the tendency towards privatisation of security was mentioned— this worsens the problem of insufficient parliamentary control over the armed forces (Wulf 2002b). A central function of the state, the sole right to exert violence, a civilian attainment codified in the Peace of Westphalia, might become undermined or abandoned in total. Privatisation does not entail the abandonment of state functions per se, and in many developing countries one cannot assume the correct exertion of the state's monopoly on the usage of force. Nevertheless, the question to whom these private military and security enterprises are responsible and accountable to remains to be answered. Whereas the governments are accountable to their parliaments, private enterprises are only called to account for by their shareholders, owners, and their clients.

Internationalisation (as well as privatisation) of military functions leads to a fundamental, long-term change with regard to the relationship between the military and the national state. According to Max Weber's model of the state, the state has as one of its principal functions to safeguard the security of its citizens. In many countries (especially in urban centres) this is hardly possible at present and selective humanitarian interventions will not successfully solve the matter. Until now, the parliamentary control of the armed forces has not followed the tendency for an internationalisation of military functions. In the security field, the concept of Global Governance is far from ready for practical implementation.

¹⁰ Reference is made to a critical report by the Assembly of Western European Union (2001). Hummel (2002) places particular emphasis on the EU in this matter.

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