

THE 2002 DAG HAMMARSKJÖLD LECTURE

The Rule of Law at Home and Abroad

Lakhdar Brahimi

Uppsala 2002

This is the text of the 2002 Dag Hammarskjöld Lecture given by Mr Lakhdar Brahimi, Special Representative of the UN Secretary-General for Afghanistan, at Uppsala University on 6 November 2002.

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PREFACE

Lakhdar Brahimi, the Special Representative of the UN Secretary-General for Afghanistan, has long and profound experience of dealing with deep-rooted conflicts both within and between countries. He has been the United Nations envoy to many states in conflict zones or in immediate post-conflict situations during the last 10–12 years, among them Haiti, South Africa and Zaire, in addition to Afghanistan where he is now entrusted, for the second time, with overall authority for the political, human rights, relief, recovery and reconstruction activities of the United Nations.

Central to Lakhdar Brahimi's perspective on these conflicts is that they are, to a large extent, the result of either the absence, or the breakdown, of the Rule of Law. In conflict-ridden areas security, judicial and legal systems are rapidly destroyed and the collapse of the Rule of Law may be 'both the cause and the consequence of conflict'. The best way of assisting countries thus afflicted is, he concludes, to devote as much attention as possible to building up, systematically, their institutions and structures, thereby creating a new and stronger basis for the Rule of Law.

It is interesting to observe that as an inspiring preface to his lecture Lakhdar Brahimi has chosen a quotation from Kofi Annan's speech to the UN General Assembly on 12 September 2002. The words emphasise the universality of the concept of the Rule of Law and express in a nutshell the message contained in the Lecture:

'I believe that every Government that is committed to the Rule of Law at home, must be committed to the Rule of Law abroad. All States have a clear interest as well as a clear responsibility to uphold international law and maintain international order.'

It may also be noted that Brahimi's Lecture has other linkages with Kofi Annan and with the Secretary General's Dag Hammarskjöld Lecture in September 2001, as both use Hammarskjöld's Introduction to his last Annual Report as a centrepiece in their argument. They dwell particularly on the nature of the United Nations as a 'dynamic instrument' through which governments can pursue executive action, rather than as a form of 'static con-

ference machinery’, resolving conflicts of interest and ideology but not going very much further than that.

Lakhdar Brahimi, in his Lecture, takes the reader on a historical journey that traces the evolution of the concept of the Rule of Law, starting with the challenge to feudal privilege and the assertion of the right to dissent, continuing through the era of the Enlightenment and the principles of the French Revolution to the UN Charter and the Universal Declaration of Human Rights, and other international conventions and agreements in our own time. Admittedly, there are several countries and societies that do not adhere to these principles and where people are deprived of their rights. In the process of establishing norms and standards of behaviour between and within states, the different elements of international law are, nevertheless, slowly falling into place.

In the final part of the Lecture, Lakhdar Brahimi examines the extent to which these principles have been put into practice by the member countries of the United Nations. In the case of the United States, which ‘sees itself as the champion of democracy, human rights, justice and equality’, and which ‘actively – even aggressively – promotes these ideals throughout the world’, he wonders whether there is any legitimacy for the exceptionalism it demands in connection with the International Criminal Court and other instruments and situations where International Law is being stretched. And why, he asks, is it only now, after 12 long years of punishing the people of Iraq, that the Security Council has recognised that sanctions against Iraq have not worked, although several UN Agencies and many CSOs have sounded the alarm again and again during these years. Moreover, he notes, neither the Security Council nor the European Union have done enough to address the causes of the Israel-Palestine conflict, while the group of developing countries has not lived up to its responsibility to contribute, for example, to the reform of the Security Council.

Lakhdar Brahimi speaks from wide-ranging experience. Not only has he undertaken a series of substantial assignments for the UN Secretary-General; he has also held several other important political and diplomatic posts during his career. Thus, between 1991 and 1993 he was the Minister for Foreign Affairs in his own country, Algeria, and from 1984 to 1991 he was Under-Secretary-General of the League of Arab States, with special responsibility during the last few years of that period for mediating the end of the civil war in Lebanon. A role he played early in his career is noteworthy: from 1956 to 1961, during Algeria’s independence struggle, he was the representative of the

National Liberation Front (FLN) in South-East Asia, residing in Jakarta. This range of experience made him a highly suitable person to give the 2002 Dag Hammarskjöld Lecture.

The Dag Hammarskjöld Lecture was jointly instituted in 1998 by the Dag Hammarskjöld Foundation and Uppsala University in memory of the second Secretary-General of the United Nations. The guidelines used in the selection process state that ‘the privilege of delivering the Lecture is offered to a person who has promoted, in action and spirit, the values that inspired Dag Hammarskjöld as Secretary-General of the United Nations and generally in his life: compassion, humanism and commitment to international solidarity and cooperation’.

Uppsala University has also created, especially for the occasion of the Lecture, a Dag Hammarskjöld Medal, which is awarded to the Lecturer. This has so far been given to Mary Robinson, former UN High Commissioner for Human Rights; Sir Brian Urquhart, former UN Under-Secretary-General for Special Political Affairs; Professor Sir Joseph Rotblat, the Nobel Peace Prize Laureate and founder of the Pugwash Movement; and Kofi Annan, Secretary-General of the United Nations.

The Dag Hammarskjöld Foundation and Uppsala University are proud to publish the text of the Lecture, to which – on the suggestion of the author – the Executive Summary of the Report on United Nations Peace Operations, ‘The Brahimi Report’ (August 2000), is annexed.

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Photo: Tommy Westberg

*Lakhdar Brahimi
delivering the 2002 Dag Hammarskjöld Lecture
Uppsala University Main Hall*

The Rule of Law at Home and Abroad

By Lakhdar Brahimi

I believe that every Government that is committed to the Rule of Law at home, must be committed to the Rule of Law abroad. All States have a clear interest as well as a clear responsibility to uphold international law and maintain international order.

Kofi Annan, in the Address to the
General Assembly, 12 September 2002

To be asked to deliver the Fifth Dag Hammarskjöld Lecture is possibly the greatest honour to be bestowed on anyone involved with the United Nations and I am deeply grateful to the Dag Hammarskjöld Foundation and Uppsala University for this privilege.

Of the four distinguished personalities who delivered this Lecture before me, one, Sir Brian Urquhart, worked for Dag Hammarskjöld, and another, Joseph Rotblat worked with him. Your guest last year, Kofi Annan, is now doing the job that Dag Hammarskjöld was doing when he met his tragic death, and your first lecturer, Mary Robinson, said she dreamt of Dag Hammarskjöld just before coming to Uppsala.

I can claim no similar connection with the man this Lecture has been created to honour. But like my predecessors, I have the greatest respect and admiration for Dag Hammarskjöld. He was the international civil servant *par excellence* and he has left a legacy that no other man or woman who worked for the United Nations can match. He has been, and will forever remain, a model for all those who serve, or aspire to serve, their fellow human beings through the United Nations and other international organisations.

The subject I would like to discuss this evening – the Rule of Law at home and abroad – more or less imposed itself on me. Let me explain why.

In addition to my background in the anti-colonial struggle, I have worked, for the past 15 years, mostly in conflict zones or in immediate post-conflict situations – Lebanon, Haiti, South Africa and Afghanistan are the most important of these places. During this time I have come very close to much suffering inflicted by humans on their fellow humans. I have seen extreme injustice and deep despair. I have seen wickedness, greed and cruelty. I have seen the worst in human nature. I also saw, occasionally, the best – courage, dignity, sacrifice, solidarity and generosity.

These sorts of conflict – between Hutus and Tutsis in Rwanda and Burundi, Sinhalese and Tamils in Sri Lanka, Serbs, Albanians, Bosnians and Croats in former Yugoslavia, Muslims and Christians in Lebanon, Afghans and Afghans in Afghanistan – involve people who had earlier lived together in peace and harmony, inhabiting the same space. They are the types of conflicts that Sigmund Freud described as reflecting ‘the narcissism of minor differences’. Minor they may be, but these differences do lead people to kill and be killed. Michael Ignatieff points out that these minor differences may even be ‘imagined differences’, adding that the differences between Serb and Croat for example are tiny – when seen from outside

– but from the inside they are worth dying for, because someone will kill you for them.

Be that as it may, these conflicts, more often than not, are preceded by a breakdown in the Rule of Law. In some cases, the conflict will take place in a country or territory where there was not much Rule of Law to begin with. But in all cases, the conflict may rapidly lead to a total destruction of the existing security, judicial and legal systems. In other words, the breakdown in the Rule of Law may be both the cause and the consequence of conflict, and a failed state is fundamentally one where there is very little or no Rule of Law.

Moreover, we now realise that bringing peace, security and stability back to a country coming out of conflict requires helping them build or rebuild their institutions and structures, thereby permitting a culture of peace, tolerance and justice to take root again.

In this field, the developed Western democracies have much to offer. It is in these countries that the Rule of Law is, today, firmly established. It evolved historically as a challenge to feudal privilege and was based on liberal principles and a tolerance of dissent. It gradually established a system of political and social stability with space for all persons affected by the law to have a say in how it is designed and applied. Ultimately, it banished the tyranny of arbitrary rule, vendettas, summary justice, vigilante actions, trial by ordeal, secret trials, special courts and torture. If a crime was committed, it was for the established and recognised enforcement agencies alone to take action, to bring the matter before the courts, which alone could impose punishment as prescribed by the law. A citizen's fate should not be dependent upon the caprice of the people in authority. What should be followed is the due process of law to replace the practice of 'taking the law into one's

own hands’ – reminiscent of dark periods in history when the right to life was disregarded and people’s lives were ‘nasty, brutish and short’.

The Rule of Law was originally a narrow, legalistic concept, meaning that no man is punishable except for a distinct breach of the law, established in the ordinary courts of the land. Over the decades, this concept acquired a much wider meaning, requiring the existence of just laws and the respect of human rights. The Rule of Law was a key component of the ‘Enlightenment Project’ of the French, British and other European thinkers of the 18th Century. These ideas were deemed to be applicable to all societies at all times and were incorporated in the American Constitution, which refers to ‘the right to life, liberty and the pursuit of happiness’. They were also part of the *Déclaration des Droits de l’Homme et du Citoyen* in France, with its stress on *liberté, égalité, fraternité*. These principles later became part of practically every constitution and their universal status was established in a definitive manner when they were enshrined in the Universal Declaration of Human Rights of the United Nations in 1948.

Today, Western democracies are admired throughout the world not only for the prosperity they have achieved for most of their people, but also, and even more, for the Rule of Law, which is the bedrock of all the progress these societies have achieved.

But if the government needs to function in strict conformity with the law, the individual also needs to be a responsible citizen and to respect and obey the law. There are, then, ‘rules of the game’ that apply to all and are accepted by all. Remember the Presidential election in the United States, two years ago? The then Vice President and Democratic candidate Al Gore made what was possibly the best speech of his career when he conceded defeat, although he was certain that he had won the election. But the deci-

sion of the Supreme Court went against him, and he bowed at that time to its findings.

In stark contrast to the situation in the developed Western societies, we have other countries where, against a background of ethnic and other tensions, inequality, corruption, injustice and sometimes war and devastation, the Rule of Law is, at best, an academic abstraction. Law courts, where they exist, are run by corrupt or frightened judges, prisons are ‘oubliettes’ where inmates lose their very humanity and the police exploit the people they are supposed to protect. The culprit is often a dictatorship – military or not – where the ruler and his henchmen may even go through the motions of organising elections in which the leader or his party will get 99 per cent of the vote. We have even seen lately an unprecedented 100 per cent.

But there are also numerous examples of armed insurgents who are guilty of atrocious practices such as the destruction of villages, kidnappings of innocent civilians, forcible recruitment of children, killings of hostages, torture, and extortion.

Between these two extreme situations, there are a large number of countries where there are constitutions and governments based on the Rule of Law, but where the practice is less than perfect. Some of these countries are bravely and effectively working to improve their performance and are moving towards a situation where the Rule of Law is fully established. Others, unfortunately, are moving in the opposite direction.

I said earlier that the Western countries – which in this sense include Japan – had much to offer. In fact, they already offer a great deal to the rest of the world. To start with, they offer their example, and their achievements are much admired elsewhere. These countries are also contributing substantially and generously to the restoration of Rule or Law institutions in those

countries that, for a variety of reasons, may be in need of such help. In all the conflict and post-conflict situations where I have been personally involved, our work greatly benefited from the support of such countries. And it is not only the governments who provide that aid. Many NGOs, the media and public opinion more generally are playing a very effective role. The Swedish Committee for Afghanistan is jointly funded by the Government and the people of Sweden, for example. And they are doing a splendid job in Afghanistan. The International Committee of the Red Cross is a model organisation, working, efficiently and discretely, in war zones, in prisons, with governments as well as with *de facto* authorities to protect and help the needy and to promote standards of decent behaviour. Amnesty International, Human Rights Watch, and other human rights and women's rights organisations have, over the years, campaigned selflessly and effectively to protect the weak and promote respect for human rights, gender equity, humanitarian law and, more generally, the Rule of Law.

The doubts raised by some Asian leaders about the universality of the principles and values that constitute the basis of the Rule of Law are not really relevant in this context. But equally unjustified is the claim, by some Westerners, that these principles are 'essentially Western'. Gandhi, Nehru, Nelson Mandela, liberation movements and intellectuals in the Third World, not to go further back in history, have fought hard to promote and defend these very principles and values and have at least as much right as anyone in the West to claim them as their own. If today some leaders and intellectuals who support them speak of 'specific Asian or African or Muslim values', one has to ask if the underlying motivation is not merely self-serving.

However, there are indeed, traditions, values, aspirations – and also constraints – that may be different from one culture to another, from one

country to another, and that may fully justify the rejection of particular Western agendas by other societies. Westerners should therefore resist not only the temptation of the arrogance of power, but also that of the arrogance of success. Several Western scholars have made very eurocentric claims and sweeping statements that ideas of justice, rights, reason or love of humanity are ‘predominantly, perhaps even uniquely Western values’. Amartya Sen perceptively replies that ‘for every attempt by an Asian government spokesman to contrast alleged Asian values with alleged Western ones, there is an attempt by a Western intellectual to make a similar contrast from the other end.’ But neither, he concludes, ‘really manages to dent the claim of democracy to be a universal value’.

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The concept of international law applicable horizontally between States is not a new one. It arose in both the West and the East out of the self-interest of tribal and feudal chiefs, kings and emperors, who all felt the need for some rules on warfare, the treatment of prisoners of war and the status of visiting diplomats and plenipotentiaries, and later, on issues of trade, treaties and conventions between States. In the 20th century, and especially after two devastating World Wars and the development of modern means of fast travel and communication, the dreams of the visionary idealist converged with the needs of the pragmatic statesman and businessman into the creation of the League of Nations after World War I and the United Nations after World War II.

International law further developed to tackle the limitations of the Rule of Law which applied at the national level. What was lacking were laws to cover human misery and oppression that people were subject to

all around the world as a result of deprivation of their human rights. Since 1945, important documents such as the Charter of the United Nations and subsequent Covenants and Conventions established norms and standards of behaviour which should be observed by all States. These norms and standards concern, at the same time, the relations between States, and the behaviour of States towards their citizens. Thus we now have universal guiding principles and norms of behaviour on labour, health, the status of women, human rights, the environment and many other issues. Today, Human Rights Law and Humanitarian Law are important branches of international law, based on the view that the human dimension had to be considered, that people mattered, that they had rights as human beings, and that they needed legal protection. They represent an acknowledgement that laws should be just and that the Rule of Law should have a strong human rights component.

Human Rights Law has played a key role in social transformation. It has, on many important issues, set standards of conduct for both governments and non-government groups. The question of human rights has also mobilised people around the world to be vigilant and vociferous about their own rights, and show concern for the rights of people in other countries. There is today a global human rights network which keeps an eye on human rights violations whenever and wherever they occur and alerts concerned organisations and individuals on such occurrences. For example, recent ‘honour killings’ and revenge rapes of women in Pakistan have led to such an international outcry and so much publicity that the Pakistani government and the law courts in that country are taking stern action on this issue.

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It has been commonly accepted, even during the worst days of the Cold War, that the United Nations was the universal Organization. It has also been accepted that the UN is guided by two main principles:

- the sovereign equality of all its members, independent of territory, population or wealth; and
- the universal respect for, and the observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion.

But what should the United Nations do? How was it expected to fulfil its mandate? In the introduction to his last Annual Report to the General Assembly just before his death, Dag Hammarskjöld tells us that in his time, Member States were divided as to what they wanted their Organization to be and do. He said:

‘... certain Members conceive of the Organization as a static conference machinery for resolving conflicts of interests and ideologies with a view to peaceful coexistence, within the Charter, to be served by a Secretariat which is to be regarded not as fully internationalized but as representing within its ranks those very interests and ideologies.

Other Members ... conceive of the Organization primarily as a dynamic instrument of governments through which they, jointly and for the same purpose, should seek such reconciliation but through which they should also try to develop forms of executive action, undertaken on behalf of all Members, and aiming at forestalling conflicts and resolving them, once they have arisen, by appropriate diplomatic or political means, in a

spirit of objectivity and in implementation of the principles and purposes of the Charter.’

Dag Hammarskjöld wanted Member States to choose collectively one of these two concepts. They did not do so in his days, and they did not throughout the Cold War era. When the Berlin Wall fell, signalling the end of the Cold War, great expectations swept the world. It was thought, in particular, that the United Nations would at long last deliver on the promise of its Charter and fulfil the dreams of its founders: lasting peace and stability, democracy, justice, equality within states and between states would become attainable objectives. Increasing prosperity for all through international co-operation would be within reach. A well-known writer was moved to predict ‘the end of history’ and, in 1991, President George Bush Senior made a resounding speech at the United Nations, proclaiming the advent of a ‘New International Order’ of universal peace and prosperity.

Today, 11 years later, President Bush Senior’s 1991 speech reads like a statement of intent, not a statement of fact. True, East–West tensions came to an end and the solution to many conflicts was made possible by the easing of superpower confrontation: Namibia became independent, the Soviet Union left Afghanistan, the Cambodian crisis ended, civil wars in Lebanon as well as in Mozambique, El Salvador and Guatemala were finished and apartheid was dismantled in South Africa.

True, also, UN Secretary–General Boutros–Ghali produced an *Agenda for Peace* in 1992 and his successor Kofi Annan, *The Millennium Report* in 2000. But neither Boutros–Ghali’s *Agenda* nor Kofi Annan’s recommendations have been fully implemented. More ominously, the reform of the Security Council, which was to be the centrepiece of the reform of the whole UN

system and, indeed, the symbol of the post-Cold War International Order, has been stalled all these years.

It is a fact that the Member States from the Third World bear a heavy responsibility for the stalemate of the attempt to reform the Security Council, because they failed to agree on who should represent them in the enlarged Security Council. Yet it is equally true that the five Permanent Members do not seem to be particularly unhappy with the status quo and they certainly have not used their considerable influence to move this reform process forward.

More troubling is the fact that explicit provisions of the Charter are ignored – or worse – by those who, as Permanent Members, claim to be vested with the responsibility of promoting them and, if necessary, enforcing them. In the same introduction to his last Annual Report to the General Assembly, Dag Hammarskjöld drew attention to the importance of some of these provisions. I quote again:

‘... in the Preamble to the Charter it is stated to be a principle and purpose of the Organization “to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”. In these words ... [the Charter] gives expression to another basic democratic principle, that of the rule of law ... As in national life, the principle of justice ... must be considered as applicable without distinction or discrimination, with one measure and one standard valid for the strong as well as for the weak. Thus the demand of the Charter for a rule of law aims at the substitution of right for might and makes of the Organization the natural

protector of rights which countries, without it, might find it more difficult to assert and to get respected.’

Thus, the essential elements are:

- ‘Respect for the obligations arising from treaties and other sources of international law’;
- ‘Justice ... without distinction or discrimination, with one measure and one standard valid for the strong as well as for the weak’;
- ‘... substitution of right for might’;
- ‘A basic principle, that of the Rule of Law’.

These words were written 41 years ago, in the days of the Cold War, yet, don’t they remind you of what you read every day in your newspapers? About the International Criminal Court, about Palestine, about Iraq, about the environment?

No wonder, then, that today’s Secretary-General, 41 years later, echoes the words of Dag Hammarskjöld. In his own address to the General Assembly on 12 September, this year, Kofi Annan said:

‘I believe that every Government that is committed to the Rule of Law at home, must be committed to the Rule of Law abroad. All States have a clear interest as well as a clear responsibility to uphold international law and maintain international order.’

Naturally, the first country whose decisions, actions, even intentions will be discussed and questioned in this context is the United States. As the country which produces nearly one third of the wealth of the world, as the country whose military budget may soon equal the budget of all other nations put

together, as the only superpower, as the country which claims for itself the leading role in World Affairs (the ‘indispensable country’, as President Clinton was fond of saying), it is normal that the US and its policy will be discussed and, when necessary, criticised and opposed by other people.

The United States is justly proud of the Rule of Law under which its people live and prosper. It sees itself as the champion of democracy, human rights, justice and equality, and it actively – even aggressively – promotes these ideals throughout the world. Surely it would expect to be judged by the standards it uses to judge others.

On 11 September 2001, the United States was the victim of a brutal attack. Nobody expected its government and people to turn the other cheek. The whole world expressed solidarity and support. However, the lesson from 11 September, is that more international cooperation – not less – is needed; cooperation works better between willing partners, not between master and servant, and it will produce its best results when the interests of all partners are taken into consideration. In today’s world, international cooperation is best discussed, organised and decided within the United Nations. The Organization will not serve its members well if – in the words of Dag Hammarskjöld – it is considered as ‘a static conference machinery’ with a ‘Secretariat which is to be regarded as not fully international’. Nor will the Organization develop its potential fully when it is used one day and ignored the next.

The UN will live up to the expectations of its members, again in the words of Dag Hammarskjöld, if it is seen as the ‘dynamic instrument of governments through which they, *jointly and for the same purpose* [author’s italics] ... develop forms of executive action, undertaken on behalf of all

Members, and aiming at forestalling conflicts and resolving them, once they have arisen....’

Does the United States have a legitimate case for the exceptionalism it demands in connection with the International Criminal Court? Maybe it does. If so, it certainly has not put its case very effectively. Too many people believe it is simply a powerful nation placing itself above the law, indeed outside the law.

Does Iraq still have those horrible weapons of mass destruction US officials talk about? Again, too many people are sceptical, not only in the Arab World, and in the Third World in general, but also in Europe and practically everywhere else in the world. Indeed, questions are raised even among growing numbers of US citizens. Not many people feel much sympathy with the present regime in Iraq, to say the least. But not many people either understand why, all of a sudden, it has become a matter of international urgency to ‘change the regime’ through foreign military action.

Nor is it understood why all of a sudden, and only now, after 12 long years of punishment inflicted on the people of Iraq, it is recognised that ‘sanctions have not worked’.

But questions on these issues should not be directed to the United States alone. The Security Council as a whole, for example, does not always assume its responsibilities to the full extent that membership in this body requires. The economic sanctions imposed on Iraq since 1990 have clearly failed to achieve their objective. But the sanctions have inflicted untold suffering and damage on the innocent people in that country, especially the most vulnerable amongst them: children, women, the aged, the poor. All United Nations agencies, NGOs and even Harvard University have sounded

the alarm again and again and shown that these sanctions were not affecting in the least their supposed target – the present Iraq regime – while they were literally exhausting the people of Iraq and killing its children in their hundreds of thousands.

Neither the Security Council nor the European Union is doing nearly enough to address the Israeli-Palestine conflict and both are accused of ‘double standards’.

As for the developing countries, they are too weak and too divided to be heard. This does not absolve them of any responsibility. In the Cold War period, the non-aligned group had, as the core of its very active agenda, support for the United Nations in general and its Secretary-General in particular. Their action is distinctly less imaginative and less effective today. They do complain of the unipolar world we live in, they express regret that the Security Council is not reformed, but they do little to redress that situation. In the case of the Security Council, many of them bear a sizeable share of the blame for the continuation of the status quo.

Finally, I would like to go back to where I started, namely that in the post-Cold War era, at the dawn of a new century, there is an urgent need for all of us, individuals as well as States and civil societies, to recognise that we need to uphold, promote, and when necessary, defend the shared values of which respect for the Rule of Law, internally and internationally is the most important.

The struggles of past generations in all continents contributed to slowly build and legitimise certain norms of civilised behaviour and establish ‘rules of the game’ as well as promote concepts of the Rule of Law and human rights. Today, universal rights and responsibilities ought to be considered truly universal, irrespective of where they originated. They are not con-

strained by country of origin or geography, but apply to all humanity. Of these rights and responsibilities, I have concentrated on what I think is essential in our time – namely the promotion of respect for the Rule of Law, at home and abroad. This is our duty as world citizens and this should be our immediate task.

We owe it to ourselves, we owe it to future generations, and we owe it to the memory of people who, like Dag Hammarskjöld, stood and died for these principles and objectives.



Photo: Tommy Westberg

*Lakhdar Brahimi
with The Dag Hammarskjöld Medal
6 November 2002*

Report of the Panel on United Nations Peace Operations 'The Brahimi Report' (August 2000)

Executive Summary

The United Nations was founded, in the words of its Charter, in order “to save succeeding generations from the scourge of war.” Meeting this challenge is the most important function of the Organization, and to a very significant degree it is the yardstick with which the Organization is judged by the peoples it exists to serve. Over the last decade, the United Nations has repeatedly failed to meet the challenge, and it can do no better today. Without renewed commitment on the part of Member States, significant institutional change and increased financial support, the United Nations will not be capable of executing the critical peacekeeping and peace-building tasks that the Member States assign to it in coming months and years. There are many tasks which United Nations peacekeeping forces should not be asked to undertake and many places they should not go. But when the United Nations does send its forces to uphold the peace, they must be prepared to confront the lingering forces of war and violence, with the ability and determination to defeat them.

The Secretary-General has asked the Panel on United Nations Peace Operations, composed of individuals experienced in various aspects of conflict prevention, peacekeeping and peace-building, to assess the shortcomings of the existing system and to make frank, specific and realistic recommendations for change. Our recommendations focus not only on politics and strategy but also and perhaps even more so on operational and organizational areas of need.

For preventive initiatives to succeed in reducing tension and averting conflict, the Secretary-General needs clear, strong and sustained political support from Member States. Furthermore, as the United Nations has bitterly and repeatedly discovered over the last decade, no amount of good intentions can substitute for the fundamental ability to project credible force if complex peacekeeping, in particular, is to succeed. But force alone cannot create peace; it can only create the space in which peace may be built. Moreover, the changes that the Panel recommends will have no

lasting impact unless Member States summon the political will to support the United Nations politically, financially and operationally to enable the United Nations to be truly credible as a force for peace.

Each of the recommendations contained in the present report is designed to remedy a serious problem in strategic direction, decision-making, rapid deployment, operational planning and support, and the use of modern information technology. Key assessments and recommendations are highlighted below, largely in the order in which they appear in the body of the text.

Experience of the past

It should have come as no surprise to anyone that some of the missions of the past decade would be particularly hard to accomplish: they tended to deploy where conflict had not resulted in victory for any side, where a military stalemate or international pressure or both had brought fighting to a halt but at least some of the parties to the conflict were not seriously committed to ending the confrontation. United Nations operations thus did not deploy into post-conflict situations but tried to create them. In such complex operations, peacekeepers work to maintain a secure local environment while peacebuilders work to make that environment self-sustaining. Only such an environment offers a ready exit to peacekeeping forces, making peacekeepers and peacebuilders inseparable partners.

Implications for preventive action and peace-building: the need for strategy and support

The United Nations and its members face a pressing need to establish more effective strategies for conflict prevention, in both the long and short terms. In this context, the Panel endorses the recommendations of the Secretary-General with respect to conflict prevention contained in the Millennium Report (A/54/2000) and in his remarks before the Security Council's second open meeting on conflict prevention in July 2000. It also encourages the Secretary-General's more frequent use of fact-finding missions to areas of tension in support of short-term crisispreventive action.

Furthermore, the Security Council and the General Assembly's Special Committee on Peacekeeping Operations, conscious that the United Nations will continue to face the prospect of having to assist communities and nations in making the transition from war to peace, have each recognized and acknowledged the key role of peace-building in complex peace

operations. This will require that the United Nations system address what has hitherto been a fundamental deficiency in the way it has conceived of, funded and implemented peace-building strategies and activities. Thus, the Panel recommends that the Executive Committee on Peace and Security (ECPS) present to the Secretary-General a plan to strengthen the permanent capacity of the United Nations to develop peace-building strategies and to implement programmes in support of those strategies.

Among the changes that the Panel supports are: a doctrinal shift in the use of civilian police and related rule of law elements in peace operations that emphasizes a team approach to upholding the rule of law and respect for human rights and helping communities coming out of a conflict to achieve national reconciliation; consolidation of disarmament, demobilization, and reintegration programmes into the assessed budgets of complex peace operations in their first phase; flexibility for heads of United Nations peace operations to fund “quick impact projects” that make a real difference in the lives of people in the mission area; and better integration of electoral assistance into a broader strategy for the support of governance institutions.

Implications for peacekeeping: the need for robust doctrine and realistic mandates

The Panel concurs that consent of the local parties, impartiality and the use of force only in self-defence should remain the bedrock principles of peacekeeping. Experience shows, however, that in the context of intra-State/transnational conflicts, consent may be manipulated in many ways. Impartiality for United Nations operations must therefore mean adherence to the principles of the Charter: where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the United Nations can in the best case result in ineffectiveness and in the worst may amount to complicity with evil. No failure did more to damage the standing and credibility of United Nations peacekeeping in the 1990s than its reluctance to distinguish victim from aggressor.

In the past, the United Nations has often found itself unable to respond effectively to such challenges. It is a fundamental premise of the present report, however, that it must be able to do so. Once deployed, United Nations peacekeepers must be able to carry out their mandate professionally and successfully. This means that United Nations military units must be capable of defending themselves, other mission components and the mission’s

mandate. Rules of engagement should be sufficiently robust and not force United Nations contingents to cede the initiative to their attackers.

This means, in turn, that the Secretariat must not apply best-case planning assumptions to situations where the local actors have historically exhibited worstcase behaviour. It means that mandates should specify an operation's authority to use force. It means bigger forces, better equipped and more costly but able to be a credible deterrent. In particular, United Nations forces for complex operations should be afforded the field intelligence and other capabilities needed to mount an effective defence against violent challengers.

Moreover, United Nations peacekeepers – troops or police – who witness violence against civilians should be presumed to be authorized to stop it, within their means, in support of basic United Nations principles. However, operations given a broad and explicit mandate for civilian protection must be given the specific resources needed to carry out that mandate.

The Secretariat must tell the Security Council what it needs to know, not what it wants to hear, when recommending force and other resource levels for a new mission, and it must set those levels according to realistic scenarios that take into account likely challenges to implementation. Security Council mandates, in turn, should reflect the clarity that peacekeeping operations require for unity of effort when they deploy into potentially dangerous situations.

The current practice is for the Secretary-General to be given a Security Council resolution specifying troop levels on paper, not knowing whether he will be given the troops and other personnel that the mission needs to function effectively, or whether they will be properly equipped. The Panel is of the view that, once realistic mission requirements have been set and agreed to, the Council should leave its authorizing resolution in draft form until the Secretary-General confirms that he has received troop and other commitments from Member States sufficient to meet those requirements.

Member States that do commit formed military units to an operation should be invited to consult with the members of the Security Council during mandate formulation; such advice might usefully be institutionalized via the establishment of ad hoc subsidiary organs of the Council, as provided for in Article 29 of the Charter. Troop contributors should also be invited to attend Secretariat briefings of the Security Council pertaining to crises that affect the safety and security of mission personnel or to a change or reinterpretation of the mandate regarding the use of force.

New headquarters capacity for information management and strategic analysis

The Panel recommends that a new information-gathering and analysis entity be created to support the informational and analytical needs of the Secretary-General and the members of the Executive Committee on Peace and Security (ECPS). Without such capacity, the Secretariat will remain a reactive institution, unable to get ahead of daily events, and the ECPS will not be able to fulfil the role for which it was created.

The Panel's proposed ECPS Information and Strategic Analysis Secretariat (EISAS) would create and maintain integrated databases on peace and security issues, distribute that knowledge efficiently within the United Nations system, generate policy analyses, formulate long-term strategies for ECPS and bring budding crises to the attention of the ECPS leadership. It could also propose and manage the agenda of ECPS itself, helping to transform it into the decision-making body anticipated in the Secretary-General's initial reforms.

The Panel proposes that EISAS be created by consolidating the existing Situation Centre of the Department of Peacekeeping Operations (DPKO) with a number of small, scattered policy planning offices, and adding a small team of military analysts, experts in international criminal networks and information systems specialists. EISAS should serve the needs of all members of ECPS.

Improved mission guidance and leadership

The Panel believes it is essential to assemble the leadership of a new mission as early as possible at United Nations Headquarters, to participate in shaping a mission's concept of operations, support plan, budget, staffing and Headquarters mission guidance. To that end, the Panel recommends that the Secretary-General compile, in a systematic fashion and with input from Member States, a comprehensive list of potential special representatives of the Secretary-General (SRSGs), force commanders, civilian police commissioners, their potential deputies and potential heads of other components of a mission, representing a broad geographic and equitable gender distribution.

Rapid deployment standards and “on-call” expertise

The first 6 to 12 weeks following a ceasefire or peace accord are often the most critical ones for establishing both a stable peace and the credibility of a new operation. Opportunities lost during that period are hard to regain.

The Panel recommends that the United Nations define “rapid and effective deployment capacity” as the ability to fully deploy traditional peacekeeping operations within 30 days of the adoption of a Security Council resolution establishing such an operation, and within 90 days in the case of complex peacekeeping operations.

The Panel recommends that the United Nations standby arrangements system (UNSAS) be developed further to include several coherent, multinational, brigadesize forces and the necessary enabling forces, created by Member States working in partnership, in order to better meet the need for the robust peacekeeping forces that the Panel has advocated. The Panel also recommends that the Secretariat send a team to confirm the readiness of each potential troop contributor to meet the requisite United Nations training and equipment requirements for peacekeeping operations, prior to deployment. Units that do not meet the requirements must not be deployed.

To support such rapid and effective deployment, the Panel recommends that a revolving “on-call list” of about 100 experienced, well qualified military officers, carefully vetted and accepted by DPKO, be created within UNSAS. Teams drawn from this list and available for duty on seven days’ notice would translate broad, strategic-level mission concepts developed at Headquarters into concrete operational and tactical plans in advance of the deployment of troop contingents, and would augment a core element from DPKO to serve as part of a mission start-up team.

Parallel on-call lists of civilian police, international judicial experts, penal experts and human rights specialists must be available in sufficient numbers to strengthen rule of law institutions, as needed, and should also be part of UNSAS. Pre-trained teams could then be drawn from this list to precede the main body of civilian police and related specialists into a new mission area, facilitating the rapid and effective deployment of the law and order component into the mission.

The Panel also calls upon Member States to establish enhanced national “pools” of police officers and related experts, earmarked for deployment to United Nations peace operations, to help meet the high demand for civilian police and related criminal justice/rule of law expertise in peace

operations dealing with intra-State conflict. The Panel also urges Member States to consider forming joint regional partnerships and programmes for the purpose of training members of the respective national pools to United Nations civilian police doctrine and standards.

The Secretariat should also address, on an urgent basis, the needs: to put in place a transparent and decentralized recruitment mechanism for civilian field personnel; to improve the retention of the civilian specialists that are needed in every complex peace operation; and to create standby arrangements for their rapid deployment.

Finally, the Panel recommends that the Secretariat radically alter the systems and procedures in place for peacekeeping procurement in order to facilitate rapid deployment. It recommends that responsibilities for peacekeeping budgeting and procurement be moved out of the Department of Management and placed in DPKO. The Panel proposes the creation of a new and distinct body of streamlined field procurement policies and procedures; increased delegation of procurement authority to the field; and greater flexibility for field missions in the management of their budgets. The Panel also urges that the Secretary-General formulate and submit to the General Assembly, for its approval, a global logistics support strategy governing the stockpiling of equipment reserves and standing contracts with the private sector for common goods and services. In the interim, the Panel recommends that additional “start-up kits” of essential equipment be maintained at the United Nations Logistics Base (UNLB) in Brindisi, Italy.

The Panel also recommends that the Secretary-General be given authority, with the approval of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) to commit up to \$50 million well in advance of the adoption of a Security Council resolution establishing a new operation once it becomes clear that an operation is likely to be established.

Enhance Headquarters capacity to plan and support peace operations

The Panel recommends that Headquarters support for peacekeeping be treated as a core activity of the United Nations, and as such the majority of its resource requirements should be funded through the regular budget of the Organization. DPKO and other offices that plan and support peacekeeping are currently primarily funded by the Support Account, which is renewed each year and funds only temporary posts. That approach to fund-

ing and staff seems to confuse the temporary nature of specific operations with the evident permanence of peacekeeping and other peace operations activities as core functions of the United Nations, which is obviously an untenable state of affairs.

The total cost of DPKO and related Headquarters support offices for peacekeeping does not exceed \$50 million per annum, or roughly 2 per cent of total peacekeeping costs. Additional resources for those offices are urgently needed to ensure that more than \$2 billion spent on peacekeeping in 2001 are well spent. The Panel therefore recommends that the Secretary-General submit a proposal to the General Assembly outlining the Organization's requirements in full.

The Panel believes that a methodical management review of DPKO should be conducted but also believes that staff shortages in certain areas are plainly obvious. For example, it is clearly not enough to have 32 officers providing military planning and guidance to 27,000 troops in the field, nine civilian police staff to identify, vet and provide guidance for up to 8,600 police, and 15 political desk officers for 14 current operations and two new ones, or to allocate just 1.25 per cent of the total costs of peacekeeping to Headquarters administrative and logistics support.

Establish Integrated Mission Task Forces for mission planning and support

The Panel recommends that Integrated Mission Task Forces (IMTFs) be created, with staff from throughout the United Nations system seconded to them, to plan new missions and help them reach full deployment, significantly enhancing the support that Headquarters provides to the field. There is currently no integrated planning or support cell in the Secretariat that brings together those responsible for political analysis, military operations, civilian police, electoral assistance, human rights, development, humanitarian assistance, refugees and displaced persons, public information, logistics, finance and recruitment.

Structural adjustments are also required in other elements of DPKO, in particular to the Military and Civilian Police Division, which should be reorganized into two separate divisions, and the Field Administration and Logistics Division (FALD), which should be split into two divisions. The Lessons Learned Unit should be strengthened and moved into the DPKO Office of Operations. Public information planning and support at Headquarters also needs strengthening, as do elements in the Department of

Political Affairs (DPA), particularly the electoral unit. Outside the Secretariat, the ability of the Office of the United Nations High Commissioner for Human Rights to plan and support the human rights components of peace operations needs to be reinforced.

Consideration should be given to allocating a third Assistant Secretary-General to DPKO and designating one of them as “Principal Assistant Secretary-General”, functioning as the deputy to the Under-Secretary-General.

Adapting peace operations to the information age

Modern, well utilized information technology (IT) is a key enabler of many of the above-mentioned objectives, but gaps in strategy, policy and practice impede its effective use. In particular, Headquarters lacks a sufficiently strong responsibility centre for user-level IT strategy and policy in peace operations. A senior official with such responsibility in the peace and security arena should be appointed and located within EISAS, with counterparts in the offices of the SRSG in every United Nations peace operation.

Headquarters and the field missions alike also need a substantive, global, Peace Operations Extranet (POE), through which missions would have access to, among other things, EISAS databases and analyses and lessons learned.

Challenges to implementation

The Panel believes that the above recommendations fall well within the bounds of what can be reasonably demanded of the Organization’s Member States. Implementing some of them will require additional resources for the Organization, but we do not mean to suggest that the best way to solve the problems of the United Nations is merely to throw additional resources at them. Indeed, no amount of money or resources can substitute for the significant changes that are urgently needed in the culture of the Organization.

The Panel calls on the Secretariat to heed the Secretary-General’s initiatives to reach out to the institutions of civil society; to constantly keep in mind that the United Nations they serve is the universal organization. People everywhere are fully entitled to consider that it is their organization, and as such to pass judgement on its activities and the people who serve in it.

Furthermore, wide disparities in staff quality exist and those in the system are the first to acknowledge it; better performers are given unreasonable workloads to compensate for those who are less capable. Unless the United Nations takes steps to become a true meritocracy, it will not be able to reverse the alarming trend of qualified personnel, the young among them in particular, leaving the Organization. Moreover, qualified people will have no incentive to join it. Unless managers at all levels, beginning with the Secretary-General and his senior staff, seriously address this problem on a priority basis, reward excellence and remove incompetence, additional resources will be wasted and lasting reform will become impossible.

Member States also acknowledge that they need to reflect on their working culture and methods. It is incumbent upon Security Council members, for example, and the membership at large to breathe life into the words that they produce, as did, for instance, the Security Council delegation that flew to Jakarta and Dili in the wake of the East Timor crisis in 1999, an example of effective Council action at its best: *res, non verba*.

We – the members of the Panel on United Nations Peace Operations – call on the leaders of the world assembled at the Millennium Summit, as they renew their commitment to the ideals of the United Nations, to commit as well to strengthen the capacity of the United Nations to fully accomplish the mission which is, indeed, its very *raison d'être*: to help communities engulfed in strife and to maintain or restore peace.

While building consensus for the recommendations in the present report, we have also come to a shared vision of a United Nations, extending a strong helping hand to a community, country or region to avert conflict or to end violence. We see an SRSG ending a mission well accomplished, having given the people of a country the opportunity to do for themselves what they could not do before: to build and hold onto peace, to find reconciliation, to strengthen democracy, to secure human rights. We see, above all, a United Nations that has not only the will but also the ability to fulfil its great promise, and to justify the confidence and trust placed in it by the overwhelming majority of humankind.



Photo: UNT

*Lakhdar Brahimi laying a wreath
at the grave of Dag Hammarskjöld
Uppsala Cemetery*

UPPSALA UNIVERSITY

Uppsala University, founded in 1477, is the oldest and best-known university in Scandinavia. Famous scholars such as Rudbeck, Celsius and Linnaeus were professors at the university and from Uppsala the disciples of Linnaeus spread throughout the world. Seven Nobel Prize laureates have been professors at the university, among them Archbishop Nathan Söderblom, who was also the University's Pro-Chancellor and received the Nobel Peace Prize in 1930.

In the same year Dag Hammarskjöld completed his studies at Uppsala with a bachelor's degree in Law. He had begun his studies in 1923, received a BA in Romance Languages, Philosophy and Economics in 1925 and took a further post-graduate degree in Economics early in 1928.

In 1981, the Swedish Parliament established a Dag Hammarskjöld Chair of Peace and Conflict Research at Uppsala University. The university's international studies library is also named after Dag Hammarskjöld.

DAG HAMMARSKJÖLD FOUNDATION

The Dag Hammarskjöld Foundation was established in 1962 in memory of the second Secretary-General of the United Nations. The purpose of the Foundation is to organise seminars, workshops and consultations on social, political, cultural and environmental issues facing the Third World and to publish and disseminate the results. The Foundation is an operating and not a grant-making body which carries out its work programme under its own auspices.

Over the years, the Foundation has organised about 170 seminars and workshops and produced over 120 publications of material arising from these events, among them the biannual journal *Development Dialogue*.

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Copies of this publication may be obtained from the Dag Hammarskjöld Foundation, Övre Slottsgatan 2, S-753 10 Uppsala, Sweden, fax: +46-18-12 20 72, web: www.dhf.uu.se, e-mail: secretariat@dhf.uu.se

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