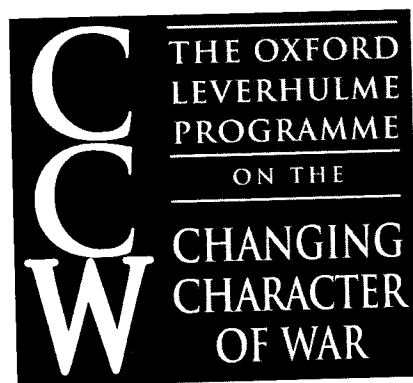


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# THE UNITED NATIONS SECURITY COUNCIL AND WAR

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*The Evolution of Thought  
and Practice since 1945*

*Edited by*

VAUGHAN LOWE  
ADAM ROBERTS  
JENNIFER WELSH  
DOMINIK ZAUM

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V.L.; A.R.; J.W.; D.Z.

January 2008

## CHAPTER 18

# THE SECURITY COUNCIL AND THE WARS IN THE FORMER YUGOSLAVIA

SUSAN L. WOODWARD

THE role of the Security Council in response to the violent break-up of former Yugoslavia, beginning in 1991, tarnished the reputation of the United Nations so deeply that many feared it might not recover. Analysts writing at the time and since have been at pains to express the widespread outrage: 'a spectacular setback',<sup>1</sup> 'collective spinelessness',<sup>2</sup> the first in a 'series of horrendous failures' in the 1990s.<sup>3</sup> The anger was not limited to the vast, mobilized public opinion but included

<sup>1</sup> David M. Malone, 'The UN Security Council in the Post-Cold War World: 1987-97', *Security Dialogue* 28, no. 4 (1997), 393.

<sup>2</sup> Thomas G. Weiss, 'Collective Spinelessness: U.N. Actions in the Former Yugoslavia', in Richard H. Ullman (ed.), *The World and Yugoslavia's Wars* (New York: Council on Foreign Relations, 1996), 59-96.

<sup>3</sup> Elizabeth M. Cousens, 'Conflict Prevention', in David M. Malone (ed.), *The UN Security Council: From the Cold War to the 21st Century* (New York: Lynne Rienner, 2004), 103. To be fair, Sir David Hannay characterizes the UN role in Bosnia as 'an unmitigated public relations disaster for the UN', while 'its actual performance on substance deserves to be treated less negatively', in 'The UN's Role in Bosnia Assessed', *The Oxford International Review* (Spring Issue 1996), 4.

practitioners, within and outside the UN system, who sought as early as late 1992, in Somalia,<sup>4</sup> and in 1994 in Rwanda to avoid making the same mistakes again.

Nor did the influence of this global disillusionment wane. In 1995, the case led the Secretary-General to qualify his hopeful *Agenda for Peace* of June 1992.<sup>5</sup> It shaped key recommendations of the Brahimi Panel for reform of peacekeeping operations in 2000<sup>6</sup> and the UN reform proposals made by the High-level Panel Report on Threats, Challenges, and Change in December 2004. It provided the public excuse and justification for the United States and its NATO allies to defy the Security Council entirely in threatening and then unleashing a bombing campaign of seventy-seven days against Serbia in March 1999. Even France's conditions in negotiations over an enhanced UNIFIL mandate in Lebanon in the summer of 2006 drew directly from the lessons of its peacekeepers in the United Nations Protection Force (UNPROFOR) in Yugoslavia.

This legacy of ignominy is almost entirely based, however, on the war in Bosnia and Herzegovina, 1992-5, and specifically on the cavalier invocation by the Security Council of Chapter VII authority without providing the mandate or resources necessary to stop the war - sending peacekeepers, the refrain went, where 'there was no peace to keep'. All lessons drawn, moreover, focus on the use of force. This chapter will argue that the Security Council did fail miserably in this case, but that to explain why, one cannot treat the Bosnian war or the use of force in a vacuum. The focus must shift to the problem that the crisis in Yugoslavia in general presented to the Council and to the full range of actions it authorized or enabled. The Council did not have then, nor does it yet have, a policy on how to address and manage conflicts that threaten the territorial integrity of a country from within. It cannot, therefore, prevent the parties in conflict from resorting to violence. Secondly, it does not have a mechanism for establishing a policy of collective security separate from a policy of European security and those on the Council who would set such a policy. The apparent end of the wars in former Yugoslavia, circa 2004, had not brought an end to either problem for the Security Council as it confronted a new stalemate in 2007 on the former Serbian province of Kosovo.

To restore perspective to the role of the Security Council in the wars of former Yugoslavia, this chapter will first examine the problem that the principle of territorial integrity caused for the Security Council in 1990-1, then turn to its role as a handmaiden of European security, and finally to the use of force in Bosnia-Herzegovina and how the Security Council did, in fact, wage war.

<sup>4</sup> Including the nearly identical Resolutions, SC Res. 733 of 23 Jan. 1992 on Somalia reproducing SC Res. 713 of 25 Sep. 1991 on Yugoslavia.

<sup>5</sup> *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping*, UN doc. A/47/277-S/24111 of 17 Jun. 1992.

<sup>6</sup> *Report of the Panel of Experts on United Nations Peace Keeping Operations*, UN doc. A/55/305-S/2000/809 of 21 Aug. 2000.

## THE SOVEREIGNTY PROBLEM

The war in Bosnia–Herzegovina, 1992–5, was the third in a series of wars – five or six by 2007, plus at least two prevented – in the contested unravelling of the Socialist Federal Republic of Yugoslavia that began with the secession of one part, the republic of Slovenia, on 25 June 1991. The causes leading up to the crisis of 1991 were many and remain highly disputed.<sup>7</sup> They are inseparable from the changes taking place internationally that also affected the Security Council, from the global debt crisis of 1979–80 to the end of Europe's division and the Cold War. The effects in Yugoslavia of economic crisis and then political conflict over the appropriate economic and security policies provoked calls for (and disagreements over) fundamental reform of its constitutional order. The end in 1989 to socialist property rights and in 1990 to one-party rule only intensified the last phase of constitutional conflict about the federal system, citizenship rights, and the country itself.

Until 28 June 1991 when the European Community (EC) and Conference on Security and Cooperation in Europe (CSCE) intervened,<sup>8</sup> however, the crisis was not seen as an issue of regional or international security. Both NATO and the CSCE discussed engagement in November 1990 but decided against on the principle of non-intervention. The Security Council did not discuss the Yugoslav situation at all until September 1991 and then reaffirmed the non-intervention principle in its first Resolution (SC Res. 713) on 25 September. After 28 June, the issue was still squarely one of sovereignty, but in its other face: the right to sovereignty – who had it, and what were its territorial borders?

The first war, when the government of the federal republic of Slovenia seized control over its external border posts and waged war against an unprepared federal army, lasted only ten days, from 28 June to 7 July. The second war, in the federal republic of Croatia, was preceded by significant armed clashes in August 1990 and spring 1991 when paramilitary Croat nationalists sought to force Croatian Serbs to leave their homes in border areas, and when the Serbs' elected leaders sought defence in territorial autonomy after the Croatian parliament demoted the legal status of all citizens who were not ethnically Croat to that of a minority. The federal government and its army sought to restore order, including a campaign to expose and interrupt a secret Croatian government plan of defence preparation that involved the purchase and import of weapons from Hungary and Germany, but its efforts were criticized internationally,

<sup>7</sup> I argue, in 'Costly Disinterest: Missed Opportunities for Preventive Diplomacy in Croatia and Bosnia and Herzegovina, 1985–1991', in Bruce W. Jentleson (ed.), *Opportunities Missed, Opportunities Seized: Preventive Diplomacy in the Post-Cold War World* (Lanham, MD, and Oxford: Rowman & Littlefield, 2000), 133–72, that there were many opportunities to prevent the violence, but they were between 1985 and March 1991, when EC crisis-management mechanisms only began.

<sup>8</sup> The names of most of the regional organizations involved during 1990–1 changed after 1991, such as the EC to the European Union (EU), the CSCE to the Organization for Cooperation and Security in Europe (OSCE), the G7 to the G8.

particularly by the United States, and the violence worsened when the Croatian government also declared independence, on 25 June. These two secessions created a constitutionally ambiguous situation for the federal government and army, however, while Slovenia and Croatia had succeeded in winning their year-long propaganda campaigns. Two months of low-intensity warfare, when the army attempted to interposition as a way of reducing the violence but also preventing secession and of defending minority Serbs, gave way to full-scale war and appalling destruction after 22 August, when Croatian President Tudjman declared war on the army as an occupying force and the two fought for control in ethnically mixed border regions.

Not only the status of the army and federal government was constitutionally ambiguous by September 1991; so, too, were the exact borders and political allegiances in the contest over who would rule and where in the rest of the Yugoslav space. Whereas Slovenes and Croats were ethnically in the majority in their two republics, the federal republic bordering Croatia – Bosnia and Herzegovina – was constitutionally the home of three equal nations, Croats, Muslims (renamed Bosniacs in 1993), and Serbs. The first multiparty elections in Yugoslavia in 1990, moreover, had created a consensual, power-sharing government of parties representing these three national identities (they defeated social democrats, former communists, and federalists) plus one representative of 'others.' As in Croatia, armed violence in the republic preceded the official start of war by at least six months. By September, the Croatian war was no longer respecting Bosnian borders, for example, and growing uncertainty about the future also led villages and towns to arm defensively and paramilitaries to form along partisan lines. The end of the Yugoslav framework opened two options, to negotiate a new constitutional framework for an independent Bosnia or for Bosnian Croats and Bosnian Serbs to 'secede' and join their sister political parties and 'homelands' in neighbouring Croatia or Serbia. It was only when an EU-mandated referendum on independence and then EU and US recognition chose the first option, in March–April 1992, however, that this third war began officially. Repeating the pattern in Slovenia and Croatia, the head of the Bosnian Muslim/Bosniac party ordered mobilization and demanded the Yugoslav army depart; Bosnian Serb leaders left the government in protest and began a brutal campaign of terror in the east while Croat and Muslim paramilitaries turned on each other in mixed communities in the centre and west.

Two military campaigns by the Croatian government in May and August 1995, although the last phase of the Croatian war of independence, are worth labelling a fourth war because the goal was to 'liberate' three of four UN Protected Areas (UNPAs) from the control of UN peacekeepers. The two campaigns were also part of a wider regional strategy to defeat Serbs militarily, in alliance with a joint UN–NATO operation in Bosnia.

Not all territorial contests in the former Yugoslavia led to war, however. In at least two, this was due to UN preventive deployments to the Prevlaka Peninsula and to Macedonia. At the same time, the last secession from what was once Yugoslavia, that

of Montenegro, took place peacefully through a referendum on independence on 21 May 2006, with international recognition in June, against all predictions that the post-1992 Yugoslav army would attempt to use force to prevent it.

The 'Albanian question', however, like that of Croats and Serbs who wanted to be citizens in a country of their own nation, not a minority in another state – in this case affecting three republics, Serbia, Montenegro, and Macedonia, where Albanians lived – did eventually lead to war as well – a fifth over Kosovo and a brief sixth in Macedonia. While Albanians in the Serbian autonomous province of Kosovo declared their right to independence in July 1990 at the same time as Slovenia and Croatia first did, this did not lead to war initially because the Serbian leadership in Belgrade imposed martial law on the province and the Albanian leadership in Kosovo chose a non-violent strategy of resistance and created an entirely parallel system of governance. This stalemate of accommodation between the two lasted until 1996 when impatience at continuing international disinterest and the demonstrated success of a violent strategy for Slovenia, Croatia, and Bosnia won out. Disparate village militia calling themselves members of a Kosovo Liberation Army (KLA) sought to repeat the Slovene strategy, provoking retaliation by the 'Yugoslav' security forces (such as with targeted assassinations of police in Kosovo and Macedonia) to gain international sympathy and action. The local violence escalated by 1998 into the fifth war when Belgrade chose an active counterinsurgency response and, in March 1999, NATO intervened with a bombing campaign aimed at the Serbian president, Slobodan Milošević, and his army and security police.

The NATO operation forced the withdrawal of the UN border monitors from Macedonia in February 1999,<sup>9</sup> and, alongside the international support for Albanian rights in Kosovo, left Macedonia (whose independence was not yet fully recognized due to open Greek and covert Bulgarian opposition) exposed to a spillover of weapons and militia into the internal conflict over national rights and sovereign border between the government and the Albanian minority. In February 2001, the sixth war began when a Macedonian branch of the KLA attacked government police in villages near the Kosovo border.<sup>10</sup> Although the violence was very brief due to intervention by the EU, US, and NATO in August 2001, doubts remain about the viability of the required constitutional reformulation of the Macedonian state (and that of Bosnia as well) in the face of a still unresolved and frequently violent contest over the sovereign status of neighbouring Kosovo.

<sup>9</sup> The Chinese vetoed extension of its mandate in the Security Council because the Macedonian government recognized Taiwan in exchange for aid (which never arrived), but the real cause of its removal, in fact, was preparations for Operation Allied Force.

<sup>10</sup> It is perhaps ironic that the trigger, at least, for this violence was the (peaceful) agreement between Serbia and Macedonia to complete the definition of their border which, this argument goes, Albanian nationalists perceived as an obstacle to their national goals.

## COLLECTIVE SECURITY OR EUROPEAN SECURITY?

Where was the Security Council in this unfolding story? Its alleged failure to use force to stop the violence is only the third of three problems the Yugoslav crisis posed. The two prior issues are far more consequential, even in retrospect: (1) defence of the territorial integrity and sovereignty of a UN member state; and, when that failed, (2) the management of a country's break-up with the minimum of violence. If the Council had addressed these two questions successfully and as core tasks of collective security, not only that of Yugoslavia, the third issue of its use of force would never have arisen.

Because it is now conventional wisdom that internal wars of the Yugoslav kind are the primary threat to international peace and security in the post-Cold War era, it is necessary to recapture the moment and the way that the Yugoslav crisis first reached the Council's agenda. This was nearly twelve months to the day after the violence began in Croatia and the military preparations (including covert arms deliveries) for Slovene and Croatian independence became public, in August 1990. By November, when intelligence in major capitals and political analysis within the Secretariat were predicting Yugoslavia's violent disintegration, US President George Bush made very clear that Article V of the North Atlantic Treaty excluded NATO action in Yugoslavia; it was 'out of area'. Although the Charter of Paris adopted by the CSCE summit on 21 November aimed to shift leadership over common security for a reunified Europe (calling it cooperative rather than collective), the United States and the Soviet Union both vetoed an explicit request at the Paris Summit that the CSCE act in Yugoslavia, arguing the principle of non-intervention. The same month, the Security Council authorized Operation Desert Storm to reverse Iraqi aggression against Kuwait.

Less than two months later, in January 1991, however, the idea that internationally prohibited aggression could also occur within a country was implicit in harsh warnings from the US Ambassador to the Yugoslav army against its efforts to restore internal order so as to support the political negotiations taking place between January and June among the presidents of its six federal units over Slovene conditions to remain a member of the federation and the necessary constitutional principles. Given the large number and types of external actors and actions already deeply involved in the Yugoslav crisis, particularly in the period leading to war, 1987–91, this was no longer, any more than other internal wars in the current era, a solely domestic conflict. Some were pursuing specific interests (such as bankers or the IMF seeking debt repayment), or national interests (such as neighbouring states, the US Treasury and diplomatic corps [as Yugoslav patron since 1949], or states supporting Slovene and Croatian independence with advice or arms, such as

Austria, Germany, Denmark, Norway, and Hungary).<sup>11</sup> Others engaged on the common security implications for Europe of a violent implosion. Like the CSCE, the EC was also in the process of adopting a new treaty (Maastricht), to be signed at the end of 1991, which included a commitment to a Common Foreign and Security Policy (CFSP) and the instruments necessary to it. EC federalists (especially EC President Jacques Delors and the current and upcoming presidencies of Luxembourg and the Netherlands and later the Italian foreign minister) seized on the opportunity that Yugoslavia provided. The difficulty was that these many actors had not only disparate interests but also profound disagreements as to the preferred fate of Yugoslavia. The solution to collective action was found in their insistence on the Helsinki Charter (to which Yugoslavia was a signatory) on the peaceful resolution of disputes. Thus, although coming from very different political perspectives, Europeans and the US settled on a definition of the Yugoslav problem as the domestic use of force.

But what actions did this principled stand require? There were two obstacles. The Helsinki principles, like the UN Charter, also included the territorial integrity of existing states. On what principle could they intervene? The Slovene government solved this problem by accompanying its declaration of independence on 25 June with a request for European intervention. Within three days, EC and CSCE delegations began negotiating the steps toward ceasefire in Slovenia, *de facto* recognition of its independence in the Brioni Agreement of 7 July, and the groundwork for the other half of the Slovene and Croatian strategy, the withdrawal of the Yugoslav army.

The second obstacle, which had already been foreseen by the West European Union (WEU) secretariat in December 1990, was pragmatic and operational: what if negotiations did not stop the violence? The WEU (and later France) had drawn up plans for a potential interposition force around a core of French, German, and possibly Belgian and Dutch troops, but this had been adamantly opposed by the United States as a direct threat to NATO's role in European security. Without US troops, the UK refused to agree to a separate force as well (in part because of the drain of the concurrent Operation Desert Storm). The alternative emerged early in July from the German parliament (Bundestag): recognize Slovene and Croatian independence immediately.<sup>12</sup>

By early July, therefore, a new line had been drawn within Europe. On one side was an increasingly activist German foreign minister, Genscher, supported by the early advocates of Slovene independence (Austria, the Vatican, Denmark, and

<sup>11</sup> For example, the Austrian foreign minister promoted the Slovene cause for independence in many European forums for more than two years and was joined by Switzerland in early 1991; Germany and Norway counselled Slovene and Croat strategists in 1990–1; and Hungary and Germany, at least, secretly sent infantry weapons and communications equipment (and assurances that the EC would not stop them if they chose secession) in May/Jun. 1991 (on the latter, see Aleksandar Pavković, *The Fragmentation of Yugoslavia: Nationalism and War in the Balkans*, 2nd edn. (London: Palgrave Macmillan, 2000), 138).

<sup>12</sup> More detail can be found in Susan L. Woodward, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Washington, DC: Brookings Press, 1995), 158–60 and ch. 6.

Switzerland), and on the other were those such as the participants at the G7 Summit in July who sought to send a military force to interpose between warring parties, whoever they were, so as to create conditions for negotiating an all-Yugoslav solution. As debate between these two options intensified, the EC reached for such instruments as it had. On the basis of its achieved consensus that the Yugoslav problem was the use of force *by the federal army*, it suspended, on 5 July, the second and third protocols (US \$1 billion) of the US \$4.5 billion in aid it had promised the federal government as late as May on the conditions that the country remain together and continue its programme of economic reform, and it imposed an arms embargo on the federal government.<sup>13</sup> The Brioni agreement of 7 July set a three-month moratorium on Slovene independence (and by implication, that of Croatia), required the federal army to return to barracks, demanded an end to opposition by the Serbian-led coalition in the federal (collective) presidency to the election of the Croatian representative as chair,<sup>14</sup> and established an unarmed monitoring mission (the ECMM) for neighbouring Croatia (but refused to send one to Bosnia–Herzegovina). Working in parallel, EC and CSCE<sup>15</sup> negotiators then began rounds of discussions with the federal prime minister and foreign minister and the presidents of Slovenia, Croatia, and Serbia to obtain a ceasefire in Croatia but refused to speak to the Yugoslav army. Equally inexplicably, the negotiators simply ignored the other three republics (Bosnia and Herzegovina, Macedonia, and Montenegro). Although the new Dutch presidency of the EC, led by foreign minister Hans van den Broek, appears to have understood fully the many complications of dissolving a country and state, its confidential telegram to the other eleven EC members proposing serious negotiations on all such details, including the borders of the new states, was rejected on 29 July by all eleven.<sup>16</sup>

As both the violence in Croatia and German pressure for immediate recognition mounted during July, EC foreign ministers meeting on 3 August at the initiative of Luxembourg revived the idea of an interposition force, but France took the issue

<sup>13</sup> The effect of these sanctions on the federal government and its ability to protect the survival of Yugoslavia compounded penalties that had been mounting for several years: in April 1990, the EC excluded Yugoslavia from PHARE; in Jul. 1990, it stopped renegotiations of the 1982 EC association agreement at the behest of Greece, and in mid-May the initial offer by Delors and EC Chair Santer of a US \$4.5 billion aid package was blocked by the UK. In Nov. 1990, the US Congress voted to end all US economic assistance and support with the international financial institutions by 5 May 1991, if human rights in Kosovo did not improve; although Secretary Baker was able to interrupt, temporarily, its implementation, Congress then embargoed its Aid to Democracies assistance to the federal government in early Jun. but exempted the Slovene and Croatian republics.

<sup>14</sup> The federal government had been without a functioning presidency since March, when the Croatian member (Stipe Mesić) declared his goal upon assuming the rotating chair that spring to be the independence of Croatia, causing the Serbian-led bloc of 4 out of 9 to vote against him. When eventually elected as the EC required, he ordered the federal army to leave Slovene territory immediately.

<sup>15</sup> A new mechanism, the Council of Senior Officers, was charged by the CSCE June summit to support Yugoslav unity, but its first chair was German foreign minister Genscher, who used the position in support of German policy, which was Slovene and Croat independence.

<sup>16</sup> David Owen, *Balkan Odyssey* (London: Victor Gollancz, 1995), 31.

directly to the Security Council, on 5 August. Three of the Permanent Five, P5, (the US, USSR, and the UK) were against the proposal, most openly the USSR, stating that intervention would be one-sided and thus fuel the violence, with the potential of an all-European conflict. Criticism has focused on the Soviet and subsequently Russian role in the Council as anti-Western and anti-interventionist, but it is worth noticing that none had a deeper understanding of the substantive issues at stake because the USSR was going through its own state crisis for nearly identical reasons (a similar economic reform programme, constitutional revision, and massive mobilizational cycle based on national identities and secessionist demands); the attempted putsch against the new Union Treaty took place on 19 August, and by 24 December, the USSR was no more. Equally important, however, was the reason that France turned to the Council, to seek a United Nations force as substitute for the military force the EC lacked and whose creation the US was preventing. The US objection to such a deployment was no less firm in the Security Council, having decided in 1987 that Yugoslavia was no longer strategically important to it. France countered by mobilizing Austria, Canada, and Hungary – all sitting as Non-permanent Members at the time – and prepared a draft resolution, written by the foreign ministers of France, the UK, and Belgium, to permit the deployment of UN troops without the consent of the parties. Only after an Austrian request for urgent informal consultations among its members to debate on what grounds it could agree to violate Yugoslav sovereignty, however, did the Council agree to grapple with the Yugoslav crisis, on 19 September.

By this time, the EC had recognized Slovene and Croatian leaders as legitimate negotiating partners internationally; assigned responsibility for the violence to the federal government, declaring on 27 August the army's use of force (including in defence of Croatian Serbs) illegal; established an arbitration commission of foreign jurists to decide on matters of the country's dissolution (primarily the distribution of economic assets and financial obligations);<sup>17</sup> and proposed a peace conference, which opened on 7 September at The Hague, to negotiate its end. While war between the Croatian and federal armies raged,<sup>18</sup> the conference reaffirmed the Helsinki principle that only peaceful change in borders was acceptable and, at the

<sup>17</sup> The term 'dissolution' was proposed early by Slovene leaders, on the argument that the 1945 federal constitution was a voluntary pact among separate nations which could thus be dissolved by a voluntary act of one or more of its republics, even though the country's constitutional court had issued repeated rulings in 1989–91 explicitly against this interpretation and any right to secession. Because the right to secession does not exist in international law either and is highly contentious internationally, Slovenes knew to avoid the term. The term dissolution allowed them to argue before the EC's Arbitration (Badinter) Commission and the subsequent working group of ICFY that Slovenia should receive its share of Yugoslav assets and obligations in relation to its pre-'dissolution' contributions to GDP and the federal budget. The Commission adopted this legal formula on 7 October when the three-month moratorium concluded (Yugoslavia, it ruled, was 'in the process of dissolution').

<sup>18</sup> By the second week of August, 300 had lost their lives and 79,000 had been internally displaced in the war in Croatia; between mid-August and mid-October 1991, 300,000 Serbs fled Croatia for Bosnia.

same time, adopted the position already set by the European parliament on 13 March that the only acceptable international borders were the existing borders of the federal republics.

At the meeting of the Council on 19 September, opposition to action came from Zimbabwe, India, China, Cuba, and Zaire,<sup>19</sup> on the principle that this was an internal conflict. France, holding the presidency at the time, thus proposed a draft endorsing EC actions up to that point, including the peace conference. It also proposed to universalize the EC embargo on weapons and military equipment on the basis of Chapter VII, and to ask the Secretary-General to begin fact-finding consultations, all on the grounds that the violence was a threat to the region's security. The Council met again on 25 September, with eleven of the fifteen represented by foreign ministers (two others were caught in delayed aeroplanes). All fifteen spoke, and Resolution 713 was adopted unanimously, but only because of a letter obtained the evening before from the Yugoslav Permanent Representative that 'my government welcomes the decision' of the Council to meet, followed by the presence and a statement of the Yugoslav foreign minister, Budimir Lončar – a decision taken alone, however, by the chair of the Yugoslav federal presidency, the Croatian representative whose installation had been required by the EC in July and who had refused to convene the presidency after 6 September in anger at the army.<sup>20</sup>

This success, in finally getting the Yugoslav crisis onto the Security Council agenda, did serve its initial intention. The Council authorized Secretary-General Pérez de Cuéllar to send an envoy, and in contrast to the EC diplomatic efforts led by Lord Peter Carrington as chair of the EC peace conference, which began 8 September and included fourteen signed and failed ceasefires, Cyrus Vance did finally succeed in obtaining a sustainable ceasefire in the Croatian war on November 23. Two reasons for his success, all agree, are that unlike the EC, Vance thought it necessary to talk to the Yugoslav army (by including the Minister of Defence Kadijević in negotiations), and as UN envoy, he could offer to both parties the promise of United Nations peacekeeping forces to help enforce a ceasefire. For Croatia, UN troops would replace the Yugoslav army, a necessary element of their independence strategy, while Germany was still promising the other piece, nearly immediate recognition. For Serbia, now treated by the EC (and thus the UN) as the political arm of the federal army and, by similar logic, as representative of the interests of Serbs in Croatia, the UN was the lesser of two evils, still offering the possibility of diplomatic objectivity against EC bias and of respect for Yugoslav sovereignty.

Vance's success created two new problems, however: first, for the Serbian leadership in Belgrade, to find a way to persuade Croatian Serbs to accept the substitute of UN troops (they remained convinced, rightly in the end, that the withdrawal of the Yugoslav army left them with no protector); and secondly,

<sup>19</sup> Now the Democratic Republic of Congo.

<sup>20</sup> By a strange twist of fate, both Stipe Mesić and Budimir Lončar are from Croatia.



for the Secretariat, to persuade the Security Council and potential troop-contributing countries that conditions for a ceasefire and UN deployment did exist. The Security Council responded by sending a military fact-finding mission to Croatia, and in the interim, encouraging humanitarian efforts by the Secretary-General in liaison with ICRC, UNHCR, UNICEF, and others, and strengthening measures to implement the 'general and complete' arms embargo. Far more fateful, however, were the terms under which the Council had assumed responsibility for the Yugoslav crisis: by defending Yugoslav sovereignty only as a minority insistence on the principle of non-interference in its domestic affairs (whatever that meant by 25 September) and by accepting wholesale the policies and results of European efforts to solve the crisis even though it was the failure of these efforts that led to Council engagement in the first place. Although France sought UN involvement as a source of troops and an end-run against the German position, it had succeeded by forming an alliance with others, especially Austria, who were in the German camp. Security-Council actions from then on reflected three internal divisions: between Europe and the rest of the world (especially Russia and the non-aligned) over intervention, among NATO powers (particularly the US and UK against the rest) on the purpose of intervention, and within the EC/EU on the nature of the wars and political options.

### THE CONTENT OF SELF-DETERMINATION: MANAGING THE BREAK-UP OF A STATE

The expressed concern at the Council session on 25 September over the violence, possible spillover, and threat to international peace and security together with Yugoslav formal consent did not dampen the objections expressed during the preceding informal consultations about the use of Chapter VII language or violation of Article 2(7) on non-intervention. The representatives of China, Côte d'Ivoire, India, Romania, Yemen, USSR, Zaire, and Zimbabwe took the floor to reiterate the principle of non-intervention, condemn the flow of arms from outside the country, and emphasize the necessity of a solution reached by the Yugoslavs themselves. All, though most distinctly Ecuador, conceded only because they were endorsing a Chapter VIII effort at peaceful settlement of disputes by the EC and CSCE. In the words of the Indian foreign minister, 'The main purpose of the draft is, in my delegation's view, to throw the Council's moral and political weight behind collective regional efforts.'<sup>21</sup> None expressed any awareness that the EC and US had already

<sup>21</sup> UN doc. S/PV.3009 of 25 Sep. 1991.

made irreversible decisions on the acceptable terms of a political settlement in the service of which the United Nations instruments of peacekeeping troops, good offices, universal sanctions, and moral authority would be placed at an increasing frequency over the next four years (ninety Resolutions and ninety Presidential Statements from Resolution 713 to the end of the Bosnian war in late 1995).<sup>22</sup>

Discussion did not occur, at this session or later, of the conditions necessary to allow the Yugoslav people themselves to find a solution or on the creation of a UN policy separate from that of the EC and US.<sup>23</sup> Three reasons suggest themselves. One is that new alternatives were already being crowded out within the Council by two polar-opposite characterizations of the conflict – as Serbian aggression against internationally recognized internal borders, according to US Secretary Baker in his speech at the Council on 19 September, and the other, as 'tribal conflicts' (Zimbabwean foreign minister Shamuyarira) and 'a slide toward fragmentation and anarchy' inside states similar to Liberia and Somalia at the time (Yemen's permanent representative). A second reason is the original construction of the Council, at San Francisco. As long as the Yugoslav conflict did not provoke war among the major powers, the UN's role in collective security was fulfilled, even though Yugoslavs themselves had twice, in 1914 and 1941, learned the need as well for institutional protections of smaller states against those powers.<sup>24</sup> There is some support for this second reason in the growing tendency over the subsequent sixteen years to treat any Russian or Chinese opposition to Council actions on the Yugoslav conflicts, whether or not they threatened to veto, as the real problem – as uncooperative obstacles to action – instead of as efforts at policy debate or, in its absence, at balancing against the US and Europe.<sup>25</sup>

<sup>22</sup> Between SC Res. 713 and the end of 2006, the Security Council adopted 172 Resolutions on parts of the Yugoslav conflicts and issued 193 presidential statements.

<sup>23</sup> A major unresolved dispute about the causes of the Yugoslav crisis includes the extent to which the Yugoslav state was irredeemable by 28 Jun. 1991, or could have survived the crisis and continued its process of democratization. The EC and CSCE delegations clearly considered the latter unthinkable, but there is much evidence to the contrary – in public opinion polls, the ambiguous meaning of the Croatian referendum on independence in May, the many alternative citizens' groups, political organizations, and social movements (see the work of Ana Dević in particular), the explicit proposals made in June by the presidents of Bosnia and Herzegovina and Macedonia, etc. (see Woodward, *Balkan Tragedy*, ch. 5, and 'Costly Disinterest'). Sir David Hannay criticizes the Yugoslav government for its 'reluctance to come to the UN', ('The UN's Role', 8), but when it was still being heard, the prime minister and foreign minister were looking to the US and EC for help.

<sup>24</sup> Sir David Hannay ('The UN's Role') is explicit about this concern in regard to Bosnia in the spring of 1992, which many critics of the UN's non-action rued, 'the one common point amongst all the external parties was their determination not to be drawn into the fighting themselves' (5) and 'the risks of the Balkans becoming a cockpit for great power rivalry' are fewer than before 1914 or in the 1930s but 'not so negligible as to be completely ignored' (10). If not already, then within months this would no longer be true.

<sup>25</sup> The Russian role is very complex and much criticized from within as well (see, e.g. Oleg Levitin, 'Inside Moscow's Muddle', *Survival* 42, no. 1 (2000), 130–40, and James Gow, *Triumph of the Lack of Will: International Diplomacy and the Yugoslav War* (New York: Columbia University Press, 1997), ch. 8).



The third reason is the one commonly accepted since then: the constraints on UN deployment of military force. The Council could authorize states acting individually or collectively to use force, but the US opposed all such options at the time because it would admit the possibility of European defence autonomy. The conditions for a UN deployment instead – the rules of consent, impartiality, and the proportionate use of force in self-defence only – did not exist in July, when this option was first entertained as an alternative to German policy. By the time those rules could be assured, when the Security Council endorsed the Vance Plan for Croatia on 21 February 1992 following a formal ceasefire, however, Germany's option had won. EC member states bowed to German pressure on 16 December and recognized Slovenia and Croatia as independent states. The mandate of UNPROFOR, which deployed to Croatia on 8 March 1992, was to support a 'plan and its implementation [which] are in no way intended to prejudge the terms of a political settlement',<sup>26</sup> but the EC (and others such as the Vatican and Ukraine) had erased the political context of Vance's ceasefire and any remaining possibility for negotiations on the Yugoslav space. Not only did the recognition decision, 'before a global agreement... undermine the very bases of the peace conference', in Carrington's words,<sup>27</sup> but also the basis of Security Council involvement in the conflict itself – Resolution 713. Now UNPROFOR was deployed to enable peaceful negotiations between two parties, one of whom was now recognized by the EC as sovereign over the territory under UN protection and had made clear that the UN presence and mission were the one remaining obstacle to its realization of that sovereignty.

The EC recognition decision did require Croatia to grant the 'special status' (presuming territorial autonomy) for Serbs in these 'enclaves' proposed by the Carrington Plan and German experts assisted in the redrafting of the Croatian constitutional law accordingly, but the government simply ignored this commitment.<sup>28</sup> The mission's design in what Vance and his assistant Herbert Okun called an 'inkblot' or 'leopard skin' pattern, placing the 14,000 troops at 'flashpoints', appears a literal interpretation of the UN role – to keep the ceasefire but not to intervene in the domestic affairs of what was now, basically, a sovereign state – but its consequence was to reaffirm the EC decision by handing decisive influence over any political settlement between the Croatian government and Serbs in what they called 'the Republic of Serb Krajina' to the former. Because this plan was militarily unimplementable, creating such difficulties for UNPROFOR military commanders that they eventually had to map a military 'confrontation line' and adjoining 'pink zones' excluding all military activity and to adjust their deployment accordingly,

<sup>26</sup> SC Res. 740 of 7 Feb. 1992.

<sup>27</sup> Cited by Henry Wynaendts, Carrington's assistant for the Hague Conference, in his memoir, *L'engrenage: Chroniques yougoslaves juillet 1991–août 1992* (Paris: Denoël, 1993), 154.

<sup>28</sup> An effort to revive this idea in the 'Z-4 Plan' of spring 1995 when the ICFY team joined forces with the US and Russian Ambassadors to Croatia was similarly doomed from the start, although many declared great hopes for it at the time.

however, the prospect of territorial autonomy did become the basis of subsequent negotiations (and the necessity, in Zagreb's view, to return to war in 1995).

The Croatian army waged military offensives against the UNPAs and thus UN troops four times between 1992 and 1995: at Maslenica Bridge on 21 June 1992; in Medak pocket on 9–17 September 1993, where three whole villages of Serbs were massacred;<sup>29</sup> on 1 May 1995, to capture the UNPA of Western Slavonia; and on 4 August 1995, to retake UNPA Sectors North and South, deliberately attacking and killing UN peacekeeping soldiers and Serb civilians and creating the largest refugee wave of the entire Yugoslav conflict: 250,000 Croatian Serbs. Diplomatic negotiations also continued, first under Carrington and then when the EC and UN joined forces in the International Conference on Former Yugoslavia (ICFY) in August 1992, although the EC half of Owen, then Stoltenberg and his assistant Kai Eide, took responsibility for Croatia. But none had any remaining leverage.<sup>30</sup> Throughout the three years from March 1992 to March 1995, however, the Security Council never changed UNPROFOR's mandate in Croatia (the Vance Plan), indeed it reaffirmed it multiple times until it acquiesced to a Croatian government demand in January 1995 to separate it from the other two missions.<sup>31</sup>

The broader issue, however, is the surprising lack of attention by the Council to rules on recognition of statehood since this is what the wars in Yugoslavia are all about. Here, too, the EC made the decisions and the Security Council ratified them. In a compromise that Germany proposed on 16 December to secure the necessary EC consensus against remaining opposition to recognition, especially from France, Greece, and the UK, the EC invented a procedure. It would invite all six republics (thus dismissing the vital disputes over eventual borders) to submit requests for recognition. The Security Council made no reference to the Montevideo Convention at the time or in May 1992 when it recommended to the General Assembly to admit Croatia and Bosnia–Herzegovina as UN member states,<sup>32</sup> though neither controlled the territory in their recognized boundaries. Thus, neither Bosnia nor Croatia met the conditions for recognition, as the EC's Arbitration Commission noted in January 1992.<sup>33</sup> Nonetheless,

<sup>29</sup> There is now a large literature in Canada about this operation, which involved Canadian contingents of UNPROFOR in war-fighting; see, for example, Lee A. Windsor, 'Professionalism Under Fire: Canadian Implementation of the Medak Pocket Agreement, Croatia 1993', *Canadian Military History* 9, no. 2 (2000); and the debate on Carol Off, *The Ghosts of Medak Pocket: The Story of Canada's Secret War* (Toronto: Vintage Canada, 2005); SC Res. 762 of 30 Jun. 1992 demanded a halt to the operation.

<sup>30</sup> See Wynaendts, *L'engrenage*, 151–6.

<sup>31</sup> SC Res. 981 of 31 Mar. 1995 established the United Nations Confidence Restoration Operation in Croatia (UNCRO) as 'an interim arrangement to create the conditions that will facilitate the negotiated settlement consistent with the territorial integrity of the Republic of Croatia' which 'guarantees the rights of all communities irrespective of whether they are majorities or minorities'.

<sup>32</sup> SC Res. 753 of 18 May 1992; SC Res. 755 of 20 May 1992.

<sup>33</sup> The Badinter Commission ruled that only Slovenia and Macedonia, of the four requesting EC recognition, met the international-legal conditions of statehood, but the EC ignored this ruling in response to national interests in three cases – Croatia because of Germany, Macedonia because of

the decisions of the previous six months had demonstrated that any Yugoslav leader who wanted the status of full negotiating partner (including the authority to request United Nations troops) would have to seize the EC invitation and presume the right to sovereignty, regardless of the political consequences that such a momentous act entailed. This was, Carrington declared, 'a tragic error' for Bosnia-Herzegovina which 'unless there is a rapid deployment of an "important presence of the UN in BiH"' (for which Vance and Under-Secretary-General for Peace-keeping Operations Marrack Goulding both declared the conditions did not exist) 'would only uncork a civil war'.<sup>34</sup> After seven months of violence in the republic, that war was officially declared by President Izetbegović<sup>35</sup> on 4 March, a month before its recognition as a UN member state. It was some time before the consequences would also face the eastern half of former Yugoslavia.

Secretary-General Pérez de Cuéllar, along with Vance and Carrington, did warn Genscher of war on a 'horrific scale' in Bosnia in letters they sent in November 1991, but Bosnian sovereignty was not German policy. European stability required, it argued, that Yugoslavia break into three states, Slovenia, Croatia, and a rump Yugoslavia of the remaining four republics. Given that the Security Council was only providing moral weight to, and authorizing enforcement of, EC/EU policy, and given that Bosnia was not yet sovereign, the Council's position prior to 16 December, despite its tragic consequences, was to refuse multiple requests for preventive action, especially border monitors in October from Serbian president Milošević and in November and December from Bosnian president Izetbegović. Although Germany abandoned its own policy, that Yugoslavia should break into three states, to win independence for Croatia, it also defied the EC decision it had obtained to wait until the Badinter Commission could rule in January, recognized Slovenia and Croatia on 18 December, and then moved to build regional stability by bringing Serbia back into the fold. Now, however, opposition came from the United States. Although actively pushing the view since June 1991 that Serbia was the aggressor in Slovenia and Croatia (stated without finesse by Secretary of State Baker in the Council discussion of Resolution 713 in September),<sup>36</sup> the Bush Administration had insisted on the non-intervention position in the Council. Now German policy

Greece, and eventually, Bosnia-Herzegovina because of the US. In the Security Council, the recommendation to admit was adopted without a vote, but the president of the Council issued the following statement on their behalf: 'We note with great satisfaction Bosnia and Herzegovina's solemn commitment to uphold the Purposes and Principles of the Charter of the United Nations, which include the principles relating to the peaceful settlement of disputes and the non-use of force' (UN doc. S/PV.3079 of 20 May 1992).

<sup>34</sup> Cited by Wynaendts, *L'engrenage*, 154.

<sup>35</sup> Izetbegović did not actually have that authority because his term as chair of the collective presidency had expired in Nov. 1991, but his refusal to allow the normal rotation to the Croat member, as the constitution required, and his claim to be the legitimate Bosnian president until the first post-war elections elected him and two others in Sep. 1996, drew little notice and no challenge by external actors throughout the war.

<sup>36</sup> UN doc. S/PV.3009 of 25 Sep. 1991.

threatened the US's dominant role regarding European security (including in the east where Germany was taking the lead after 1989), and Washington's relations with the vigorous Croatian lobby at home. Ever more assertive during February-March, the US demanded immediate recognition of all four republics so requesting, so that it had a principled basis to recognize Croatia, even though the EU decision in January on Bosnia and Herzegovina was to insist on a constitutional agreement between the three nations of Bosnia prior to recognition and the Portuguese EU presidency had begun negotiations.<sup>37</sup> Nonetheless, the EU gave in to Baker's campaign on 6 April and recognized Bosnian sovereignty.

Despite this second political fait accompli, equal in consequence for Security Council decisions and the eventual Bosnian deployment of UNPROFOR to the earlier German recognition of Croatia and Slovenia, the Council addressed the mounting violence in Bosnia for the first time on the day the US recognized it.<sup>38</sup> The pattern of summer and autumn 1991 toward Croatia was repeated: appealing to the parties to stop fighting and to cooperate with the EU on a ceasefire and negotiated solution. Presidential statements on 10 April and again on 24 April reiterated those appeals and urged the new Secretary-General Boutros Boutros-Ghali to dispatch Cyrus Vance again as his personal envoy to Bosnia and to work closely with the EU. Vance's visit to Bosnia on 14-18 April and a visit by Goulding on 4-10 May produced reports that the conditions for deploying UN peacekeeping troops did not exist. By this time, however, there was growing pressure within the UN Secretariat and some foreign offices (including the US State Department) and among vocal Bosnian experts for an international conference to replace EU efforts (some calling even for a UN protectorate over Bosnia<sup>39</sup>), but the new Secretary-General resisted strongly, arguing that the conflict was a matter of regional (European) security.

At first glance, the Security Council decisions in October and December 1992, to engage preventively with troops to the Prevlaka Peninsula and to Macedonia, present a sharp contrast to its approach through May 1992. Both conflicts involved competing national claims over territory and sovereignty, and both deployments occurred early enough to create the conditions necessary to let political negotiations

<sup>37</sup> Given only one week to request recognition by the EC in December ('a Hobson's choice', as Elizabeth Cousens writes in Cousens and Charles K. Cater, *Toward Peace in Bosnia: Implementing the Dayton Accords* (Boulder, CO: Lynne Rienner, 2001), 19), the Bosnian president had consulted no one, despite the country's power-sharing constitution that required consensus among all members of the collective presidency, thus all three constituent nations and the 'others'.

<sup>38</sup> SC Res. 749 of 7 Apr. 1992. The US delayed recognition until 7 April, at Izetbegović's request, for domestic symbolic reasons.

<sup>39</sup> These calls began much earlier, in 1991, from knowledgeable Yugoslavs and some Western diplomats and scholars, and the ideas are worth recording in the list of alternatives under such circumstances, for example, a state treaty of the kind the Allied powers used after the Second World War to protect Austrian integrity and neutrality until 1955, guaranteed by Europeans, or a revival of the UN concept of trusteeship, which had more adherents. See for example James Fearon and David Laitin, 'Neotrusteeship and the Problem of Weak States', *International Security* 28, no. 4 (2004), 5-43. See also Richard Caplan's discussion of this issue in Chapter 25.

do their primary work in resolving those claims with relatively little violence. Neither deployment was fully consistent with the principle of consent because neither the new state created on 27 April 1992 between Serbia and Montenegro (the Federal Republic of Yugoslavia, or FRY) nor Macedonia was legally sovereign (FRY had not requested recognition from the EC, claiming it was the successor to Yugoslavia, although the Council disagreed,<sup>40</sup> while the EU continued to defer to Greek opposition on Macedonia).<sup>41</sup> As in Croatia, both were explicitly mandated as interim measures, pending political settlements by the parties. One could speculate that the presumed threat of Serbian aggression in the formulation of each was sufficient, by satisfying the US. But whatever the reasoning, the Council was able to ignore sovereign legalities, which were the cause of war throughout the former country, when pragmatic agreements seemed to support a peaceful resolution of disputes, or at least sufficient to deploy UN military monitors.

In the case of Prevlaka, Vance and Owen, the ICFY co-chairs, negotiated a demilitarization of the peninsula, in the context of a wider negotiation on improving relations between Croatia and FRY, when Croatia sent its army onto the peninsula (federal land) and its boats into the adjacent Montenegrin Bay of Kotor to claim extensive territorial waters.<sup>42</sup> The Council agreed to extend UNPROFOR's Croatian mandate to monitor it,<sup>43</sup> and the UNMOP mission lasted more than ten years until Croatia and the FRY were able to establish their own interim agreement.<sup>44</sup> In the case of Macedonia, the Security Council responded to the formal request on 11 November 1992 from its elected President Kiro Gligorov for the kind of border-monitoring mission that had eluded Izetbegović, and to an approving Secretary-General's report of an exploratory mission sent on 28 November.<sup>45</sup> In 1994, it added 'good offices' to the mandate of UNPROFOR in Macedonia, to assist the OSCE with internal issues of conflict resolution while Vance and Okun dedicated substantial effort as UN envoys to negotiating the remaining conflict with Greece over the name and flag of Macedonia.<sup>46</sup>

<sup>40</sup> SC Res. 757 of 20 May 1992; SC Res. 777 of 19 Sep. 1992.

<sup>41</sup> The Council recommended Macedonian admission to membership in SC Res. 817 of 7 April 1993, long before the recognition by the EU or the US, but under a temporary name, 'The Former Yugoslav Republic of Macedonia' (FYROM, listed under 'T').

<sup>42</sup> For the 'Belgrade Joint Communiqué', see B. G. Ramcharan, (ed.), *The International Conference on the Former Yugoslavia: Official Papers*, volume 1 (The Hague, London, Boston: Kluwer Law International, 1997), 454–6.

<sup>43</sup> SC Res. 779 of 6 Oct. 1992. The monitoring mission began with 14 observers, expanded to 26, and when UNCRO ended, it was given a separate mandate as UNMOP (SC Res. 1038 of 15 Jan. 1996). While independent, it was transferred to the UN Mission in Bosnia. Renewed 16 times every 6 months, it was only terminated on 15 Dec. 2002 after Croatia and the FRY agreed a provisional cross-border regime on 10 Dec. 2002.

<sup>44</sup> SC Res. 1437 of 11 Oct. 2002.

<sup>45</sup> SC Res. 795 of 11 Dec. 1992.

<sup>46</sup> UNPROFOR in Macedonia was renamed UNPREDEP (United Nations Preventive Deployment Force) in March 1995 when Croatia insisted on separate mandates and names for the three components of UNPROFOR.

Although the deployment of UNPROFOR along the northern and eastern border of Macedonia was justified as a 'tripwire' against a Serbian invasion from the north, a near total improbability, it did serve a far more important function as yet another interim arrangement necessitated by the EC decisions of December 1991, to affirm Macedonian sovereignty and borders against all neighbours who challenged both (Bulgaria and Greece, and Albanian nationalists in both Macedonia and neighbouring Kosovo) until the legal issues could be resolved to Greek satisfaction. Moreover, because, as in Croatia, there was also an internal conflict over the national character of the state between a Macedonian majority and an Albanian minority (the latter 24 per cent in 1994), the effect of this border mission was to provide the psychological reassurance of de facto international recognition that was vital to keeping the politics of these constitutional questions peaceful. It is unlikely the Security Council recognized this role, however, since it overrode this positive contribution with economic sanctions on Serbia (and FRY) without consideration of their drastic consequences for Macedonia and its domestic political stability in both the short and long run.

The irresolvable contradiction of European policy on the break-up of Yugoslavia, between recognizing the right of national self-determination while simultaneously specifying that the internal borders of the federal republics were the one and only basis for the new sovereign territories, was solved in the case of Croatia by the territorial principle. Despite the terms of its own mandate for UNPROFOR there, Council resolutions from 1992 to 1995 increasingly reflect its contractual relation with a sovereign Croatian government. It thus acquiesced in the Croatian decision to solve the problem militarily, reducing the proportion of Serbs from 12 per cent in 1991 to under 3 per cent in 1995 through expulsion and obviating any talk about autonomy. Although military conquest of the one remaining UN protected area, eastern Slavonia, would have risked regional war because it bordered Serbia, it was US negotiators on the sidelines of the Dayton talks for Bosnia and Herzegovina in November 1995 who persuaded the remaining local Serb representatives to concede to Croatian sovereignty under the promise of protection by an interim UN mission. The Council agreed to welcome this agreement signed at Erdut, and to establish the UN Transitional Authority in Eastern Slavonia, Baranja, and Western Sirmium (UNTAES).<sup>47</sup> In 2001, after the removal of UNPROFOR from Macedonian borders and the NATO operation in Kosovo in 1999 opened the door to those who would attempt to solve the conflict between the Macedonian government and the Albanian majority with violence, the Council stayed deliberately aloof, leaving it to EU and US negotiators to mediate and NATO to help implement the resulting Ohrid Framework.

<sup>47</sup> SC Res. 1037 of 15 Jan. 1996. Originally authorized for twelve months, the mandate of UNTAES was extended by the Council twice for another six months. A transitional support group of 180 civilian police monitors, authorized for nine months, replaced UNTAES in 15 January 1998 (SC Res. 1145 of 17 Dec. 1997).

The EC peace conference and draft ('Carrington') treaty also declared Kosovo to be an integral part of the Serbian republic and, like Serbs in Croatia, deserving some form of special status. This, too, was no solution to the conflict between the Serbian government and an Albanian population within the province which was overwhelmingly Albanian (from 80 to 90 per cent during the 1991–9 period of standoff) and demanded independence. As in eastern Slavonia and Macedonia, the Council left diplomatic action to the US and NATO, plus the UK and France, in 1999, when violence began to escalate in 1997–8 between the KLA and Serbian security forces. Failing to find a political solution, however, they turned back to the Council with the same issue as in 1991, as if nothing had changed: would it authorize the use of force to intervene in the domestic affairs of a sovereign state in order to stop violence? What had changed was the effect on the Council debate of nine years' experience of war in Yugoslavia and a Russia more ready to play a major power role. The consequence of a Council less ready to ratify transatlantic policy was to bypass it entirely and, after an unauthorized, 77-day bombing campaign by NATO powers against Serbia in March–June 1999, to hand back to the Council the task of implementing a ceasefire agreement and facing the irresolvable contradiction created by European decisions in 1991.

### THE SECURITY COUNCIL AND THE USE OF FORCE: WAR IN BOSNIA

The sovereignty problem was of an entirely different order in the case of the Yugoslav republic of Bosnia–Herzegovina. If the basis of EC policy was to recognize new states on the principle of national self-determination and if the basis of Security-Council actions (including preventive deployments) was sovereign consent, what was to be done when there was no agreed party to represent Bosnian sovereignty or give consent? The EC solution was to presume that any government of the six federal republics could request recognition because this would (in theory) avoid a border conflict and then to add the condition (based on hurried opinions from the jurists on its Arbitration Commission) that the three national parties then in a power-sharing government negotiate a constitutional settlement and hold a referendum on independence before full recognition.

Remarkably, given the clear preferences of the Bosnian Croat and Bosnian Serb leaderships, the Portuguese presidency of the EU appeared to have succeeded by March 1992. However, the EU had already undermined its commitment to a negotiated settlement by requiring an early referendum (held 28 February–1 March),

which the Serbs chose to boycott as predetermining the outcome. Then the US scuppered the Lisbon Agreement by pressuring its European allies (successfully) for immediate recognition.<sup>48</sup> In contrast, the Security Council appears to have learned from the Croatian war, for it now chose to add to the UNPROFOR mandate for Croatia a monitoring mission of 100 military observers for Bosnia – ironically deployed on the very day of US recognition, 7 April.<sup>49</sup> Nonetheless, by the time the first contingent of forty-one arrived in Mostar on 30 April, there was nothing to forewarn. The worsening violence forced their retreat into Croatia two weeks later. On 20 May, the Security Council proceeded to affirm EU and US recognition with UN membership (along with Slovenia and Croatia), even though the war between Bosnia's three national communities, each with external support, had been raging for almost three months.

It is the role of the Security Council in the war in Bosnia that provoked widespread outrage and disillusionment. The prevailing criticism is of the Council's refusal to authorize peace-enforcement and stop the war, particularly through aerial bombing.<sup>50</sup> This criticism mistakes the term 'peace-enforcement', which means the use of robust military rules of engagement up to and including war to enforce compliance with a peace agreement, for a campaign to defeat an enemy and impose a military victory. It also misunderstands what the Security Council did – what policy was guiding Security Council resolutions, how the UN eventually did wage war in Bosnia, and why success in ending the war took so long.<sup>51</sup>

The policy behind the Council's authorization of force in Bosnia evolved in four stages. The first stage was inadvertent, a policy driven by two prior commitments – the universal mandate of the UNHCR and its protection regime and the mandate of UNPROFOR in Croatia. Like the EC, the Security Council appears to have ignored the reality it faced in the dissolution of a country, not just a state. Its areas, peoples, and infrastructure were, by definition, so interconnected that even if the borders among the successor states were uncontested (which they were not), no one theatre could be or should have been treated in isolation from the others. From the start of its deployment to Croatia, UNPROFOR faced complications from the war escalating in Bosnia: a mounting refugee crisis out of Bosnia was diverting

<sup>48</sup> Reflecting the legal complexity, the US ambassador to a country that no longer existed (Yugoslavia) counselled Alija Izetbegović, whose position as chair of the Bosnian collective presidency had ended in November 1991, to reverse his support in Mar. 1992 for the Lisbon Accord and then treated him throughout the war, as did the Security Council, as the legal Bosnian president.

<sup>49</sup> SC Res. 749 of 7 Apr. 1992.

<sup>50</sup> See, for example, Rosalyn Higgins, 'The new United Nations and former Yugoslavia', *International Affairs* 69, no. 3 (1993), 465–83.

<sup>51</sup> This argument would appear to differ, therefore, from that presented in Ch. 19 by Rupert Smith, who makes the same crucial distinction between military force and the political aim that force is to achieve, but who argues that the Security Council failed because until mid-1995 'the Bosnian operation of UNPROFOR was an operation without a strategy.' I will argue here that there was an agreed political aim, but until mid-1995, two real but competing political-military strategies.

UNHCR, and the siege of Sarajevo was endangering UNPROFOR personnel in Sarajevo, the initial location of the mission's headquarters,<sup>52</sup> and relief organizations trying to deliver humanitarian supplies through Sarajevo airport. Even the International Committee of the Red Cross (ICRC) felt compelled to pull out temporarily.<sup>53</sup> The ground presence in Sarajevo was sufficient, however, to provide witness to the growing humanitarian crisis, contributing to its recognition in the Secretary-General's reports to the Council in April and May.<sup>54</sup> Although still convinced by the fact-finding visits of two UN envoys, Vance and Goulding, in April and May that conditions were not suitable for a peacekeeping deployment to Bosnia,<sup>55</sup> the Security Council came under increasing pressure, led by France, to do more on the humanitarian crisis than its approach in earlier resolutions and statements, of simply appealing to the parties to stop fighting.<sup>56</sup>

The emerging response combined economic and military sanctions on Belgrade with military protection for the delivery of relief to Bosnians, first of the airport and later of land convoys. On 15 May, the Council demanded the withdrawal from the republic, disarmament, or subordination to Bosnian authority of all units of the federal army and the Croatian army,<sup>57</sup> and two weeks later called for a security zone around Sarajevo airport and imposed comprehensive mandatory economic sanctions under Chapter VII on the new state of FRY for failure to comply with Resolution 752.<sup>58</sup> On 5 June, UN military personnel negotiated an agreement between the Bosnian government and Bosnian Serbs to withdraw anti-aircraft weapons from the airport and to hand authority over the airport to the UN 'exclusively'. In the first act of its almost four-year-long military involvement in Bosnia, the Council authorized the redeployment of 1,100 UNPROFOR soldiers from the Croatian theatre to implement this airport agreement and more generally to promote the conditions necessary for the 'unimpeded delivery of humanitarian

supplies to Sarajevo and other destinations in Bosnia and Herzegovina'.<sup>59</sup> Sector Sarajevo, with a commanding general (Canadian Lewis MacKenzie), began.

From 18 June, when the Council added Chapter VII authority to enforcement of the sanctions regime,<sup>60</sup> to Resolution 770 passed on 13 August, when it called on states 'to take nationally or through regional agencies or arrangements all measures necessary', the Council rapidly increased the instruments of authority and troops to implement UNPROFOR's mandate in Bosnia.<sup>61</sup> Within two months, the financial cost of delivering humanitarian aid by air forced a shift to land convoys through Croatia and particularly through Serbia, with UNPROFOR protection. In immediate response to Resolution 770, France, Spain, Italy, Belgium, and the UK agreed to send troops. To the humanitarian mandate, moreover, Resolution 770 added a second obligation flowing from international humanitarian law and norms, this time in response to journalists' reports in July that Bosnian Serbs might well be violating the Geneva Conventions in detention camps in eastern Bosnia. Resolution 770 now required UNPROFOR to help ensure access to camps, and protect special envoys and commissions on human rights and convoys carrying civilians or prisoners of war being exchanged.<sup>62</sup>

The second stage of Security Council policy governing the use of force in Bosnia also began from European initiative, to resume efforts at finding a political settlement to the war. Acting as chair of the EU presidency and following a month of consultations with the US and Russia to gain their support, the UK proposed on 25 July to join the diplomatic efforts of the EU and the UN.<sup>63</sup> ICFY was inaugurated at London on 26–27 August, welcomed by the Security Council, and went into permanent session in Geneva. Mindful of the initial Chapter VIII construction of Council action in Yugoslavia, and also of the severe financial constraints on UN action elsewhere, the Secretary-General repeatedly encouraged the EU to take action, implying that the Security Council would have no trouble authorizing it – after all, it had welcomed and affirmed all EC/EU action until then. The implications for UN military assets, however, had already created deep tensions between him and the UK (and later the US): the SG had been furious that the UK, without informing him, had induced the Council to mandate UN supervision

<sup>52</sup> A decision by UN DPKO, it is said, as a symbolic gesture of support to Bosnia (requested initially by Izetbegović, according to Marrack Goulding, *Peacemonger* (Baltimore, MD: Johns Hopkins University Press, 2003), 299), but more important was to make clear its commitment to neutrality by distinguishing itself physically from the EU presence. The resulting logistical nightmare led UNPROFOR to redeploy to Zagreb on 17 May but to leave 120 personnel behind in Sarajevo.

<sup>53</sup> The ICRC began active involvement in the former Yugoslav theatre in November 1991; the death of a team member on 18 May led to this pull-out, but they returned to Bosnia again on 7 Jul. and played an indispensable role during the war.

<sup>54</sup> In particular the report of 12 May 1992 (UN doc. S/23900).

<sup>55</sup> Goulding describes these trips in *Peacemonger*, 311–13, and the prior trip in November together on 294–305, providing useful background.

<sup>56</sup> See for example SC Res. 749 of 7 Apr. 1992, and the presidential statements of 10 and 24 Apr. 1992.

<sup>57</sup> SC Res. 752.

<sup>58</sup> SC Res. 757 of 30 May 1992. As with the arms embargo in SC Res. 713, this simply universalized the authority of sanctions which the EC and US imposed in mid-April; it also marked the first shift by the Security Council to the EC position of May/Jun. 1991, pushed repeatedly by the US representative, to a political position on responsibility for the war, namely, that of the Serbian leadership in Belgrade (and by 17 Apr. 1993, with much harsher sanctions in SC Res. 820, also the Bosnian Serbs).

<sup>59</sup> SC Res. 758 of 8 Jun. 1992.

<sup>60</sup> SC Res. 760.

<sup>61</sup> SC Res. 761 of 29 Jun. and 764 of 13 Jul. French pressure included a dramatic flight into Sarajevo airport on 28 Jun. by French president Mitterrand to demonstrate it could be done.

<sup>62</sup> SC Res. 780 of 6 Oct. 1992 requested the SG to establish a Commission of Experts to report on violations of the Geneva Conventions and other humanitarian law, warnings were issued to the parties in two presidential statements (30 Oct. 1992 and 25 Jan. 1993), and on 22 Feb. 1993 Resolution 808 created an international tribunal 'for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991'. The International Criminal Tribunal for former Yugoslavia (ICTY) remains in session in mid-2007 and became the precedent for similar tribunals for Rwanda, Sierra Leone, and Liberia.

<sup>63</sup> According to Goulding, at the time USG for Peace-keeping, however, this idea originated with Boutros-Ghali, which he proposed to Major in London in Jul. (*Peacemonger*, 316).

over all heavy weapons throughout Bosnia according to the terms of an EU-negotiated ceasefire of 17 July.<sup>64</sup> There was little or no disagreement between them, however, over the solution to the war – that there was no military solution but only a political agreement which would then create the conditions for a UN peacekeeping deployment. As Prime Minister John Major noted in his opening remarks establishing the principles of the conference, it could propose but not impose. The principles also reaffirmed EU policy (which the Security Council adopted in May) on the political outcome, that the borders of the federal units of Yugoslavia were now international borders and that the Bosnian war was a fight among three political nations over their constitutional rights to self-determination *within* Bosnia's borders.

Although the ICFY negotiators failed repeatedly over the following two years to obtain a political agreement that would meet the Security Council criteria for a peacekeeping operation,<sup>65</sup> there was now a UN policy guiding the use of force. Officially declared a distinct Bosnia force of 7,700,<sup>66</sup> though with overall command remaining in Zagreb, UNPROFOR had two goals in Bosnia: minimize civilian casualties while the war raged, and take all actions possible 'to create the conditions for peace and security'. Military instruments were increasingly mandated to assist these two goals in the field, while negotiations took place. Thus, the Council banned military flights over Bosnia,<sup>67</sup> extended the arms embargo and economic sanctions to fuel and maritime shipping with a naval blockade (beginning with routine inspections) on the Adriatic and Danube,<sup>68</sup> welcomed air drops of relief into eastern Bosnia by US planes beginning on 1 March 1993, and, in five Council resolutions from 16 April to 18 June, created safe areas, starting with weapons-exclusion zones within a specified perimeter around Sarajevo and then an additional five Muslim-majority towns (Srebrenica, Žepa, and Goražde in eastern Bosnia, Tuzla in north-central Bosnia, and Bihać in the north-west).

<sup>64</sup> See Goulding, *Peacemonger*, 317; and Woodward, *Balkan Tragedy*, n. 37, 498–9. Although the result on 17 Jul. was only a presidential statement welcoming the agreement, in the end Boutros-Ghali lost this battle. His growing concern over the financial implications of these Council resolutions, at a time when the US was insisting on these mandates (and efficiency-oriented reforms in the Secretariat) while refusing to pay back dues and when many other countries outside Europe were in greater need of UN assistance due to violence and humanitarian crises, was overshadowed by the growing quarrel over the willingness of the Council to authorize sufficient troops and enforcement powers, and by European, American, and Bosnian anger at his public choice of words such as 'white Muslims' and 'rich Europeans' who could afford to take responsibility. On this growing financial constraint and the many in arrears at the time, see Higgins, 'The New United Nations', 475–9.

<sup>65</sup> In early 1994, when US actions threatened their marginalization entirely, the co-chairs proposed a different strategy, to hand the task over to a Contact Group of representatives from the US, UK, France, Germany, and Russia so as to prevent the same fate that befell the Hague conference in 1991 and the Lisbon negotiations in 1992. Italy was added later, and ICFY focused on the remaining issues.

<sup>66</sup> SC Res. 776 of 14 Sep. 1992.

<sup>67</sup> SC Res. 781 of 9 Oct. 1992; SC Res. 786 of 10 Nov. 1992; SC Res. 816 of 13 Mar. 1993.

<sup>68</sup> SC Res. 787 of 16 Nov. 1992.

In accord with the goal of a negotiated settlement and the fact of UN authorization, these uses of force had to respect the principle of sovereignty and thus consent. This meant to be ready to enforce agreements made by the parties themselves, from access for aid convoys to the terms of local ceasefires, and thus to employ force transparently (with prior warning) and in proportion to the specific violation or in self-defence. Impartiality, the brunt of much criticism, meant that all civilians had the equal right to UNPROFOR's protection and that all mandated tasks applied equally to all warring parties. Although the principle of consent was necessary to protect the premise of a negotiated end to the war, it had three additional, crucial reasons: (1) for obtaining consensus in the Security Council by protecting the principles of legitimate intervention; (2) for obtaining troops since no state was willing to provide ground troops equipped and willing to go to war, and most adamantly and persistently the one state which had such assets, the United States; and (3) because it was likely to be most effective in ending the war.

UNPROFOR's rules of engagement (ROE) for the use of force were mercilessly criticized as classic peacekeeping rules unsuited to war, but they had, in fact, both doctrinal and practical reasons for just such conditions, given the UNPROFOR mandate. Doctrinally for most units in UNPROFOR, these rules were based on the serious argument (called 'the dynamic of force') that the more force one uses, the more it escalates. Interpreting the UNPROFOR mandate as reducing the lethality of war and thus the number of civilian victims while supporting an end to the war by negotiation, military commanders also saw adding force to the environment as counterproductive. This reasoning was reinforced on a daily basis by UNPROFOR's experience with the warring parties, particularly the Serbs, as Council, diplomatic, and international attention increasingly focused on their compliance alone and ways to force it. When force was used according to these ROE, it was respected; when it was not, the violence escalated seriously, cooperation collapsed, civilians were deprived of humanitarian relief or life itself, and the specific tasks could not be done.<sup>69</sup> At the same time, these ROE had to serve the same troops in their other goal, to facilitate conditions for peace, which included actual peacekeeping tasks, that is, responsibility to assist in the implementation of ever more local ceasefire agreements, whoever negotiated them, including the Sarajevo ceasefire of February 1994 (negotiated by UNPROFOR civilian and military leadership under a NATO bombing threat), the March 1994 ('Washington') agreement between the Bosnian government (Bosniac forces) and Bosnian Croats negotiated by US and German diplomats, and the Christmas truce of December 1994 negotiated between Bosnian Serbs and the Bosnian government by former US president Jimmy Carter. All were consensual agreements, even if, as in the Washington agreement, the purpose was to forge a military alliance to wage war against the

<sup>69</sup> Such experience is documented in manifold participants' reports; see, for a particularly detailed example, Lt. Col. J. P. Riley, 'The 1st Battalion on UN Operations in the Balkans, 1995', *Regimental Records of the Royal Welch Fusiliers*, vol. VI, ch. XLII, on its deployment Feb. 1995–28 Aug. 1995 in Goražde.



third party (Bosnian Serbs). Being perceived as politically neutral was also necessary to their peacemaking role, in which commanders on the ground sought every opportunity to keep lines of communication and contact open between the warring parties, to negotiate and then monitor local ceasefires as a bottom-up approach to a general ceasefire, and, with the assistance of UN civil affairs officers, to promote peace-building activities with civilians, such as family visits across confrontation lines, mine clearing for agricultural activities, and local commerce to improve livelihoods.

Four aspects of Council decisions interfered with this policy, however, and provoked a third stage in the Council's policy on force. First, as military commanders correctly and repeatedly complained, the Council's resolutions on the use of force seemed to show no respect for the requirements of military operations.<sup>70</sup> They were too vague, too slow in relation to events on the ground, and under-resourced. In a constant struggle to find countries willing to provide troops, even as the mission became the largest in the history of the United Nations by early 1994,<sup>71</sup> the Council notoriously ignored military advice on what would be necessary to implement its resolutions and adopted in each case the 'light option' (e.g. authorizing 7,600 troops to implement the safe-area mandate where the Force Commander had estimated the need, for deterrence alone, of 34,000),<sup>72</sup> and then did not even provide what it had itself committed. Secondly, to compensate, NATO increasingly offered its assets but, due to US objection, refused to be a part of UNPROFOR command and control. In fact, UNPROFOR in Bosnia was composed initially entirely from NATO countries, and its headquarters was formed in September 1992, to the dismay of UNPROFOR officials from countries with a peace-keeping tradition, by NATO's Northern Army Group. Under-resourced and at serious risk to their soldiers from the war around them, UNPROFOR commanders welcomed the additional security which NATO offered in terms of close air support (CAS), but they increasingly lost command and control of their units because

<sup>70</sup> See, for example, General Bertrand de la Presle, 'Principles to be Observed for the Use of Military Forces Aimed at De-escalation and Resolution of Conflict', in Wolfgang Biermann and Martin Vadset (eds.), *UN Peacekeeping in Trouble: Lessons Learned from the Former Yugoslavia: Peacekeepers' Views on the Limits and Possibilities of the United Nations in a Civil War-like Conflict* (Aldershot, UK: Ashgate, 1998), 137–8 and 143.

<sup>71</sup> UNPROFOR was comprised of three commands – Croatia, Bosnia–Herzegovina, and Macedonia. Until the Croatian and Macedonian commands were given separate names on 31 Mar. 1995, leaving UNPROFOR for Bosnia only, the three were distinguished with roman numerals, as UNPROFOR I, II, and III (for Croatia, Bosnia–Herzegovina, and Macedonia). The number of troop-contributing countries varied from thirty-one at the start to thirty-nine in Mar. 1995. In March/April 1992, it comprised 13,240 troops including military observers (UNMOs); by Mar. 1994, it was at 30,655; and by Nov. 1994, there were 38,130 troops (including 680 UNMOs). These numbers do not count civilian police (between 543 and 727) or civilian staff (by Mar. 1995, 2,017 international and 2,615 local). The cost of the mission, from 12 Jan. 1992 to 31 Mar. 1996, was more than US \$4 billion (US \$4,616,725,556) and 213 dead.

<sup>72</sup> UN doc. S/1994/291 of 11 Mar. 1994. These figures can be found in all Secretary-General Reports after Jun. 1993, however.

countries insisted on separate instructions (e.g. varying ROE) and additional assets (e.g. Danish tanks near Tuzla) to protect their troops as both war and NATO's actions increased the risks.

Thirdly, the ambiguity in the approach to Bosnian sovereignty of the EC 'solution' placed UNPROFOR in a genuine dilemma: were they responsible to the Security Council's mandates and its policy of a negotiated settlement among the three warring parties and impartiality, or to those treated as legally representing the Bosnian government, a UN member state? Conflicts between these two principles, without guidance, confronted UNPROFOR commanders in operational decisions on the use of force every day. Fourthly, this ambiguity in Council policy was worsened by what was perhaps its most significant complication, the early abandonment of neutrality by the Security Council itself. Moving increasingly in its resolutions to single out one of the three parties, the Bosnian Serbs, as non-compliant and the obstacle to peace, the Council sought to impose its decisions, with force if necessary.<sup>73</sup> As UNPROFOR military doctrine predicted, moreover, the more it violated impartiality and proportionality in the use of force, the more it was seen as a party to the war and needed protection, creating a vicious spiral of force, ever greater anti-Serb targeting, especially by NATO air power, and risk to UN soldiers.

The political-military strategy to end the war in Bosnia of this second stage bears the primary brunt of criticism of the Security Council and UNPROFOR – either it did not exist, or it was incoherent, or it was wrong because it would never work, or it was immoral because of its neutrality toward the parties. Its actual effects cannot be tested, however, because already by mid- to late 1993, there were two competing strategies on the ground. Designed and driven by the US, although it had at least implicit support among some EU states, the second policy was to go to war against the Serbs.<sup>74</sup> This military defeat had to be accomplished without US ground forces, however, so the strategy was to shift the military balance in favour of both Bosnian government and Croatian forces through covert arms deliveries (called 'levelling the playing field'), NATO air power, and Council resolutions restraining Bosnian Serb military action. Simultaneously, the Serbian leadership in Belgrade had to be persuaded, by sanctions and diplomacy, to commit actively to the recognized borders of both Bosnia and Croatia and Serbs' status as minorities in both countries. Although the core elements of this policy originated with the Bosnian Muslim leadership of Izetbegović, his foreign minister Haris Silajdžić, and their UN

<sup>73</sup> This shift is most noticeable with SC Res. 816 of 31 Mar. 1993 and SC Res. 820 of 17 Apr. 1993; its primary manifestation in 1994 and 1995 is the sanctions of SC Res. 913 of 22 Apr. 1994 and SC Res. 914, 942, and 943, all of 23 Sep. 1994, followed by four from 12 Jan. to 15 Sep. 1995.

<sup>74</sup> This US strategy did not, in fact, have consensus within the Clinton Administration which was waging it. It remained divided throughout the two-year-plus period in which it operated, and many on the professional diplomatic side, in particular, worked tirelessly to obtain a political solution in order to stop the war earlier and interrupt this military strategy. They did not succeed, however, some tragically (e.g. Robert Frasure), nor did they have influence at the level of the Security Council.



envoy, Muhamed Sačirbey, and was entertained by the Bush Administration in summer and autumn 1992 under congressional pressure and Pentagon planning. This idea of 'lift and strike' – lift the Security Council arms embargo on Bosnia on the basis of Article 51 of the Charter and deploy NATO air strikes in support – was repeatedly rejected by the Council throughout 1992: first by the UK, France, and UNPROFOR Force Commander Satish Nambiar in July, then in general response to a written request from Izetbegović on 3 August, and again in November by Russia. US diplomatic consultations in EU capitals in December 1992 and again in February 1993 also failed to persuade its European allies. Endorsed as policy, nonetheless, by US President Clinton in April 1993, its execution had to be secret.

All four elements of this alternative US strategy required UN acquiescence or active support: (1) the covert violation of the arms embargo used Iranian and Turkish planes into Zagreb and Tuzla airports and Ukrainian helicopters into the Bihać pocket (all of which were UN-controlled) to deliver weapons and other military equipment; (2) the 'Washington agreement' to ally Bosnian Croats and Bosniacs militarily against the Serbs and gain Croatian consent to open supply lines for weapons deliveries to Bosnian government forces in violation of the arms embargo, which was negotiated by US and German diplomats between Tudjman and Izetbegović, and was implemented by UNPROFOR; (3) ever greater pressure on UNPROFOR from NATO (AFSOUTH) not to limit its requests to CAS but to call in NATO air strikes against Bosnian Serb forces for violating weapons-exclusion zones around the six safe areas and against their planes for violating the ban; and the one exception until mid-1995, (4) a train-and-equip programme for the army in Croatia by Military Professional Resources, Inc. (MPRI) (on contract to the US State Department under a programme for the democratization of armed forces in eastern Europe for purposes of plausible deniability) which strategized the Croatian military campaigns of 1 May and 4 August 1995 to overrun three of the UNPAs, followed by a Croatian sweep through western Bosnia immediately thereafter, which then combined with a new UNPROFOR strategy to end the military stalemate in Bosnia.

The result of the internal complications created by Council resolutions and this competing US campaign was the third stage of Security Council policy, clear to all on the ground by late autumn 1993. Council-authorized instruments and policies on the use of force were now serving two competing political-military strategies, one official, one covert, in the same theatre. UNPROFOR commanders faced an ever messier military situation and enlarged mandate driven by both strategies, peace-making on the one hand and war-fighting on the other. The US strategy created havoc with the official policy and UNPROFOR tasks, reducing cooperation by all parties with UNPROFOR. Whereas Washington had prevented a political settlement before the war (Lisbon) and in early 1993 (Vance-Owen Peace Plan), its policy now gave a strong incentive to the warring parties in Zagreb and Sarajevo to retard ICFY political negotiations as each waited for the military strategy to play out in their favour. While one ICFY peace plan after another failed to get signatures of at least

one or more parties, the war dragged on. It increasingly tried the patience of troop-contributing countries and also became ever bloodier and brutal as each side had a rising incentive to fight (and, with the Bosnian Serb army, to take ever greater risks as it perceived itself at war with NATO and increasingly abandoned by Belgrade and UNPROFOR).

Although the Security Council continued to insist in resolutions and statements that its goal was a negotiated settlement to the war among Bosnian parties, the distance between this political objective and the tasks which it mandated UNPROFOR and authorized NATO to do grew ever greater.<sup>75</sup> Resolutions were being drafted by representatives of both strategies, the US and the primary troop contributors, above all France and the UK. An increasingly mobilized international public only saw failure to stop the war and added constant pressure on the Council (from the General Assembly,<sup>76</sup> domestic publics of Council members, the global media, human rights envoys,<sup>77</sup> and even Secretary-General's reports) to authorize more force and troops. Had the Council taken some responsibility for the implementation of its policy on the ground, it might have had to confront its inconsistencies. Instead, it focused on adding instruments which could then be used by either strategy and on delegating authority to ever more complex hierarchies. While the ICFY peace negotiations took place in Geneva, for example, the parties were also aiming their military operations and their local agreements with UNPROFOR at improving their bargaining position. Because the ICFY and UNPROFOR missions were both so demanding, the civilian leadership was divided in January 1994 with little obvious policy connection other than personal communication between SRSGs (and then the Contact Group, too). The effort to keep the three UNPROFOR commands separate in line with the sovereignty of the three countries involved made little sense when at least two theatres were militarily and logistically intertwined and the Council itself had created a single UNPROFOR command with one ultimate Force Commander. Adding NATO to the mix made this much worse. The solution, in practice, to repeated debates over the actual locus of command over UN troops was left, as the desk officer in DPKO for Yugoslavia in this period, Shashi Tharoor, wrote in 1994, 'in the hands of the commanders in the field'.<sup>78</sup>

<sup>75</sup> As Mats Berdal reveals in 'Lessons Not Learned: The Use of Force in "Peace Operations" in the 1990s', *International Peacekeeping* 7, no. 4 (Winter 2000), 55, the result by 1994 is what then head of Bosnia command, General Rupert Smith, neatly concludes about the use of force in intervention operations after the Cold War: 'we had been unclear as to what it is we expect the use of force or forces to achieve as opposed to do.'

<sup>76</sup> GA Res. 46/242 of 25 Aug. 1992, proposed by the Islamic Conference Organization (which Turkey and Iran initiated), endorsed the use of force to end the war.

<sup>77</sup> The extraordinary session of the UN Human Rights Commission on 13–14 August 1992 was particularly influential as were subsequent reports by its special envoy, Tadeusz Mazowiecki; see Human Rights Watch, *The Lost Agenda: Human Rights and UN Field Operations* (New York: HRW 1993), 99–100.

<sup>78</sup> 'United Nations Peacekeeping in Europe', *Survival* 37, no. 2 (Summer 1995), 129 (written, however, in Nov. 1994).

Two of the most contentious instruments which the Council authorized, NATO air power and the 'dual key', and safe areas, can best illustrate this confusion and the conflict it created. NATO air power served two purposes: close air support, which UNPROFOR commanders could call in to defend lightly armed and under-resourced UNPROFOR soldiers at risk from any of the parties (and a welcome additional asset), and air strikes to enforce Council resolutions and parties' agreements, such as on safe areas, weapons-exclusion zones, and air-interdiction resolutions. As long as UNPROFOR commanders were in control of both so that their ROE of transparency, proportionality, and self-defence governed their use, the first political-military strategy prevailed. Thus, as originally demanded by the UK, a 'dual key' was necessary whereby UN authorities would initiate and NATO officials agree to a decision to bomb. Yet for those who supported, knowingly or not, the second strategy, the problem was that NATO was not bombing Serbs (or was only delivering 'pinpricks'), and this was because UN officials (civilian and military) refused to 'turn its key'. While the conflict between the UN and NATO on air power was about the doctrinal and pragmatic issues discussed earlier on the use of force, in reality the primary problem of the quite practical military obstacles to the effective use of air power in this theatre was never adequately explained.<sup>79</sup> The same misunderstanding arose over the military concept of 'robustness', to keep humanitarian convoys moving. For most UNPROFOR military, 'all necessary means' in Council resolutions meant a finely tuned calculation of military force to succeed largely through its psychological effect so as to protect the legitimacy of its use in the future and be more effective in the present. For critics, it meant forceful protection of blue routes, air drops, and disproportionate force to deny access to strategic routes, deliver weapons, and provide cover for actual war-fighting. International control over airports (Sarajevo and later Tuzla) had the same dual purpose and critical reaction.<sup>80</sup>

The other main debate on the use of force focused on the safe-area policy. Initially proposed by the UK to counteract German demands in July 1992 for EU burden-sharing quotas on refugees (i.e. protect Bosnians at home instead), the concept was taken from the safe havens created after the Gulf War for Iraqi Kurds (Operation Provide Comfort). The idea coincided with the effort at the time by the High Commissioner, Sadako Ogata, to add a 'right to return' and a 'right to stay' to UNHCR's protection regime. At the same time, activists in France, the US, and UK pushing for a stronger international right to intervene, and in Bosnia in particular, conceived the safe areas in ways closer to the second strategy, to defeat the Bosnian Serbs from initially small to ever larger territory where UN troops and NATO airpower would defend civilians militarily and stop the war. The Security Council

<sup>79</sup> Such as problems with the weather, lack of targets, guerrilla-style warfare, and complex lines of communication between the UN and NATO, but that is a larger discussion.

<sup>80</sup> Covert deliveries of weapons during 1994 and communications equipment in February 1995 were largely made in Tuzla.

adopted the concept in Resolution 819 on 16 April 1993, however, when the substantial operational latitude its actions gave to UNPROFOR commanders produced a problem, that is, not for reasons of policy or strategy. After rushing to Srebrenica at the demand of local authorities who then refused to allow him to leave, the French commander of UNPROFOR in Bosnia, François Morillon, proposed UN protection for the town in exchange for his exit.<sup>81</sup> To cover the embarrassment with a principle, the concept was extended on 6 May to five other Muslim-majority enclaves surviving in Bosnian Serb held territory.<sup>82</sup>

A huge literature analyses the failure of the Security Council to define the resolution's phrasing ('deter attacks'), to understand the military requirements of its implementation, and to provide the military resources necessary.<sup>83</sup> Nor was there much effort made to explain to residents of these towns or to the international public what was being promised, what was not, and what was possible. Yet it is very clear that where its implementation followed the rules of the official Council policy, it succeeded, as in Sarajevo, where General Briquemont, commander of Sector Sarajevo in 1993, laid its political preconditions with careful local negotiations for months leading up to the NATO threat to bomb Serb positions in the weapons-exclusion zone around Sarajevo in February 1994, and then UNPROFOR civilian and military officials together negotiated a ceasefire that held for more than six months. Where the safe areas were an integral component of the second, war-fighting strategy of the Sarajevo government and US covert policy, however, all such efforts to negotiate and monitor local ceasefires were repeatedly interrupted (most notably in Goražde and Srebrenica) on purpose. While their location deep into Bosnian Serb held territory and at strategic crossroads did, as aimed, tie down substantial Bosnian Serb forces in defending against Bosnian army forces within the towns (only demilitarized in Security Council resolutions, but not in reality), the price was paid by the local inhabitants and surrounding villages, and when the clash between the two strategies had to be resolved in the spring and summer of 1995, most egregiously by the men and boys of Srebrenica.<sup>84</sup>

<sup>81</sup> Jan Willem Honig and Norbert Both, *Srebrenica: Record of a War Crime* (London: Penguin, 1996), 71–98.

<sup>82</sup> SC Res. 824.

<sup>83</sup> Useful beginnings in this huge literature are Honig and Both, *Srebrenica*, 99–117 and Lars-Eric Wahlgren, 'Start and End of Srebrenica', in Biermann and Vadset (eds.), *UN Peacekeeping in Trouble*, 168–85. The uproar over the Bosnian Serb massacre of Srebrenica's male citizens eventually provoked the DPKO to commission an internal report written by David Harland, UN doc. A/54/549 of 15 Nov. 1999, and the Dutch government, whose troops were accused of primary responsibility, to commission a massive, independent investigation by the Netherlands Institute for War Documentation, *Srebrenica, A 'Safe' Area – Reconstruction, Background, Consequences and Analyses of the Fall of a Safe Area*, (Amsterdam: NIOD, 20 April 2002).

<sup>84</sup> The most recent confirmed death toll of the Srebrenica massacre, according to the *Bosnian Book of the Dead* database compiled by the Research and Documentation Centre (RDC), Sarajevo, is 6,882 (Jul. 2007).

In the fourth and final stage of Security Council policy toward the Bosnian war, when these two competing strategies had created more than a year of political stalemate and increasing inability of UNPROFOR troops to implement Council resolutions, the Council was de facto irrelevant, limited to providing authorization for a combined political-military strategy designed elsewhere. On the diplomatic front, the Contact Group and US diplomats separately pursued the US strategy to complete the isolation and political defeat of the Bosnian Serbs by working only with Serbian president Milošević and rewarding him accordingly. Militarily, UNPROFOR's Bosnia commander, British General Rupert Smith, began in early spring 1995 to put in place his own strategy for breaking out of the stalemate and ending the war. The Council responded by adjusting its sanctions regime against the FRY,<sup>85</sup> removing the dual key and authorizing NATO air strikes to allow NATO greater independent latitude, and, crucially, authorizing the establishment of a rapid reaction force (RRF) for UNPROFOR of 12,500 additional troops armed with heavy artillery which the British and French, with some Dutch and Belgian support, had already created for General Smith for the Mount Igman Road in and out of Sarajevo.<sup>86</sup> All Council resolutions still reiterated UNPROFOR's original mandate and the commitment to a negotiated, non-military solution to the war. Most notable, however, is a return to its lame stance of early 1992 – condemning armies and demanding compliance after the fact (e.g. Resolutions 994 of 17 May and 1009 of 10 August on Croatian forces *after* Operations Flash and Storm, Resolution 998 of 16 June on Bosnian Serbs *after* taking UNPROFOR soldiers hostage, and Resolution 1004 of 12 July on the day *after* Bosnian Serbs took Srebrenica and the day the massacre began).<sup>87</sup>

Despite obstacles from the Security Council, including surprising interventions from the US Ambassador, Madeleine Albright,<sup>88</sup> Smith's strategy did succeed eventually in forcing coherence with the second, covert strategy. Although US diplomats claim that NATO bombing of Serb targets in late August and early September 1995 (Operation Deliberate Force) ended the war because it 'brought

<sup>85</sup> SC Res. 970 of 12 Jan. 1995, SC Res. 988 of 21 Apr. 1995, SC Res. 1003 of 5 Jul. 1995, and SC Res. 1015 of 15 Sep. 1995.

<sup>86</sup> SC Res. 998 of 16 Jun. 1995.

<sup>87</sup> In commenting on the declining credibility of the Security Council because it issued so many resolutions and presidential statements with little relation to 'realities on the ground' ('the parties routinely ignored them' and even UNPROFOR military officers read them less and less), Yasushi Akashi, UNPROFOR SRSG, illustrates the absurdities with SC Res. 1004 of 12 Jul. 1995: 'The Council, acting under Chapter VII, demanded [unanimously] that the Bosnian Serbs "respect fully the status of the Safe Area", "withdraw from the Safe Area", ensure the complete freedom of movement of UNPROFOR, and requested "the Secretary-General to use all resources available to him to restore the status... of the Safe Area... and calls on the parties to cooperate"', in 'Managing United Nations Peacekeeping: The Role of the Security Council vs. the Role of the Secretary-General', in Biermann and Vadset, *UN Peacekeeping in Trouble*, 135.

<sup>88</sup> On Washington's role in the fall of Srebrenica, including its refusal to support the diplomatic agreement made by its own envoy, Robert Frasure, with Slobodan Milošević on 18 May, one would do well to start with chs. 7 and 8 and the post mortem (139–86) of Honig and Both, *Srebrenica*.

the Bosnian Serbs to the bargaining table', it was ground forces – Croatian, Bosnian government, and UNPROFOR (the RRF) in Croatia, western Bosnia, and around Sarajevo in July and August 1995 – that ended the war. Ironically, the primary role of US policy (apart from its substantial military role in Croatia) was diplomatic, in reversing its opposition to the principles of all six prior EU and UN peace plans since February/March 1992, that all three parties in Bosnia including the Serbs should be both constitutionally protected and territorially autonomous, and in persuading the Bosnian Muslim government (with Operation Deliberate Force and military commitments in the Dayton negotiations) to concede. Bosnian Serbs were actually excluded from the negotiations and represented (at US insistence) by Milošević. Although the Security Council had no role in the denouement of May–September 1995, its original strategy had in many ways been vindicated.<sup>89</sup> As always, it did agree to legitimate the General Framework Agreement for Peace and to authorize a successor to UNPROFOR led by NATO, EU, and the US, including in it a UN civilian police force (IPTF) and associated civilian office.<sup>90</sup>

## DID THE SECURITY COUNCIL LEARN? KOSOVO AND THE LACK OF ANY CONCLUSION

The peace in Bosnia did not end the problem of Yugoslavia for the Security Council, indeed, the lessons drawn by the US and a new government in Britain in 1997<sup>91</sup> about the use of force, on the one hand, and by Russia, China, and the non-aligned states about the principle of non-intervention, on the other, sharpened the divisions. The first camp, led by the US, now insisted that only the threat of force would make diplomacy credible, while the second camp were now persuaded that intervention in internal conflicts inevitably legitimized the secessionist forces.

In response to the growing violence in Kosovo after 1997, Council resolutions eerily returned to the original debate of September 1991. Resolution 1060 of 31 March 1998 declared the territorial integrity of the FRY, called for an enhanced status for Kosovo, imposed an arms embargo under Chapter VII, and welcomed efforts by the US and the Contact Group to negotiate between Belgrade and Priština. It repeated this message on 23 September, though with extremely tough

<sup>89</sup> Elaboration of this argument is beyond the scope of this chapter, but it is critical because of the lessons that the US drew from Bosnia.

<sup>90</sup> SC Res. 1031 of 15 Dec. 1995; and SC Res. 1035 of 21 Dec. 1995.

<sup>91</sup> Rhiannon Vickers, 'Blair's Kosovo Campaign: Political Communications, the Battle for Public Opinion and Foreign Policy', *Civil Wars* 3, no. 1 (2000), 55–70, dissects an important role the UK prime minister now played.

language, demanding under Chapter VII an immediate end to hostilities by both sides to avert a 'humanitarian catastrophe' and to lay conditions for dialogue but also reminded the FRY of its sovereign obligation to protect international humanitarian personnel.<sup>92</sup> One month later, it endorsed a ceasefire agreement between Belgrade authorities and the OSCE and demanded cooperation by both Serbian and Albanian leaderships with two verification missions, one by the OSCE on the ground, and one by NATO in the air.<sup>93</sup> It also repeated the Chapter VII basis of its demands on FRY in Resolutions 1160 and 1199, although this time Russia and China abstained.

Nonetheless, the US and most of its NATO partners (particularly the UK and Canada) interpreted these resolutions in terms of the lessons they had drawn from 1991: that the Security Council had failed when it refused to authorize bombing in Croatia at the time of Vukovar or Dubrovnik and in Bosnia in the summer of 1992 (although such proposals never reached the Council), that (as US Secretary of State Albright repeated often) they had to pledge 'never again' and make up for the failure of 'Europe' (the EU), and that Russian rhetoric suggested the Council would refuse force again. This time, they would ignore the Security Council and take a parallel track based on Contact Group diplomacy and NATO force.<sup>94</sup> And, in fact, NATO, the Contact Group, the G8, and US diplomats were already moving rapidly on a parallel track in the summer of 1998 with NATO military preparations, an official NATO threat to Milošević, rushed diplomatic negotiations in Belgrade, and then, in February 1999, a time-limited 'peace conference' at Rambouillet, France. Secretary-General Kofi Annan did brief the Council frequently, but with much stronger language than his predecessor's. In February, the Council's Canadian presidency chose not to seek authorization for NATO bombing from the Council so as to avoid a feared Russian veto, and two days after the bombing began, on March 26, Russia did table a resolution calling for an immediate end to the operation. Its defeat, with only Russia, China, and Namibia voting in favour, has been interpreted, as Heinbecker writes, as a 'major moral victory for the proponents of military action'.<sup>95</sup>

Despite this apparent standoff on the use of force and the subsequent and major debate over whether internationally illegal action (the NATO operation) can nonetheless be internationally legitimate,<sup>96</sup> British foreign-office lawyers took care to find a formulation that would retain the Council's authority in such matters

<sup>92</sup> SC Res. 1199. <sup>93</sup> SC Res. 1203 of 24 Oct. 1998.

<sup>94</sup> Paul Heinbecker, Canadian permanent representative at the time, argues that this decision was based on the assumption that Russia would veto any Council authorization of the use of force, though this was never tested, and that to avoid being in this position, Russia 'could accept the Council's being bypassed'. He also adds that 'the same approach' was proposed to the US by the French ambassador to Washington, Jean-David Levitte (whose prior posting was to the UN), in Mar. 2003 for Iraq (p. 540 in his detailed account of 1998–9, 'Kosovo', in Malone, (ed.), *The UN Security Council*, 537–50).

<sup>95</sup> Heinbecker, 'Kosovo', 542.

<sup>96</sup> See, for example, Adam Roberts, 'NATO's "Humanitarian War" over Kosovo', *Survival* 41, no. 3 (Autumn 1999), 102–23; and Albrecht Schnabel and Ramesh Thakur (eds.), *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action, and International Citizenship* (New York and Tokyo: United Nations University Press, 2000).

by defining this use of force, as the UK permanent representative told the Council on the day it began, 'as an exceptional measure to prevent an overwhelming [imminent] humanitarian catastrophe... exclusively'.<sup>97</sup> On 14 May, the Council sought to restore UNHCR to its rightful role as lead humanitarian agency including refugee protection against the assertion by NATO commanders in Albania, Macedonia, and Kosovo, and it endorsed the G8 package used in June to end the bombing.<sup>98</sup> Moreover, 77 days of bombing succeeded only in producing two ceasefire agreements with NATO (for Yugoslav security forces to withdraw from the territory entirely, and for KLA to 'undertake' to demobilize within the province) that would lay the conditions, as in Croatia in early 1992, for the Security Council to authorize a peacekeeping force. It did not resolve the underlying conflict over Kosovo's status. Although NATO was now willing to lead this force (KFOR), at US insistence so its troops would not be under UN command, Resolution 1244 of 10 June 1999 was also only an interim agreement, refusing to take a political position on the conflict by leaving FRY (Serbian) territorial integrity intact while granting Kosovo *extensive* political autonomy. The diplomatic task returned to the Security Council and a UN transitional administration the UN Interim Administration Mission in Kosovo (UNMIK). Like UNPROFOR, UNMIK was increasingly criticized by both parties as an obstacle to its own political goals. Pressure to end its mandate and to move toward final status came, as in Bosnia, from impatience in the US and Europe at the cost of troops and aid, despite the absence of conditions for sovereignty.<sup>99</sup> The Council thus requested the SG in May 2005 to commission a report (written by Kai Eide)<sup>100</sup> and appointed a negotiator (former Finnish president Martti Ahtisaari) as UN Special Envoy to initiate a negotiating process on final status in 2005, but by March 2007, Ahtisaari insisted that compromise was unattainable.<sup>101</sup> After sixteen years, the Security

<sup>97</sup> Sir Jeremy Greenstock, as quoted by Heinbecker, 'Kosovo', 542. This argumentation is rather disingenuous, given the order of events and its humanitarian consequences, but its importance remains, including its repeat in relation to Iraq in early 2003.

<sup>98</sup> SC Res. 1239 of 14 May 1999. Heinbecker describes in detail the G8 role, sought explicitly to avoid the publicness and formality of the Security Council, i.e. have no press, no voting, no veto, in 'Kosovo', 543–7.

<sup>99</sup> The reason is generally assumed to be the threat to regional stability that a rampage of Albanian violence against minority Serbs in Mar. 2004 revived (although low-intensity violence was a feature of daily life throughout the 1999–2004 period) and the view that this was a consequence of growing Albanian frustration with UNMIK and impatience which would only intensify over coming years. In fact, the reason was the impending economic crisis predicted in 2004 for 2005, its threat to peace, declining donor interest, and the alternative solution to which (foreign finance) required resolution of Kosovo's status. See Susan L. Woodward, 'Does Kosovo's Status Matter? On the International Management of Statehood', *Südosteuropa* 55, no. 1 (Spring 2007), 1–25.

<sup>100</sup> UN doc S/2005/635 of 7 Oct. 2005.

<sup>101</sup> By 10 Mar. 2007, UN Envoy Martti Ahtisaari and his team had held seventeen rounds of direct talks with the two parties (Belgrade and Pristina) and twenty-six expert missions to each capital. The two sides remained completely at odds with no compromise in sight, leading to the necessity of an imposed solution, he argued. (Transcript of Ahtisaari press conference that day, [www.unosek.org](http://www.unosek.org)). On 3 Apr. 2007, the Security Council began discussion of the action it should take on the most contentious issue since September 1991. Not all analysts agree (see, for example, Thomas Fleiner, in an interview with Valérie de Graffenried, 'Mieux vaut dix ans de négociations qu'un jour de guerre civile au Kosovo', *Le Temps*, 3 Feb. 2007), and the early stages of the Security Council debate included demands from a number of countries, with Russia leading, that a new UN envoy be selected to replace Ahtisaari.

Council had to confront the issue raised by European decisions in 1991 and by its own willingness to provide the instruments for European policy (and later, of US policy, too) rather than assert its own, collective policy. Although the EU had already set the key international precedent in 1991 and was committed in 2007 to take on the role of implementing a Council decision on Kosovo's status, it was more divided by the threat of the Kosovo precedent than any other decision on the former Yugoslavia.

## CONCLUSION

The wars in Yugoslavia had disproportionate influence, given its relative size, death toll in the wars, and strategic insignificance to the major powers, on international practice and norms. Some resulted from Security Council actions, such as the creation of ICTY and the idea of international tribunals to prosecute war crimes in internal conflicts, and some resulted from angry reaction to Security Council actions, such as the increasing militarization of approaches to internal wars, humanitarian crisis, and other global threats promoted by a US-led coalition and supported by international outrage at the Council's alleged failure to authorize war in Bosnia, which was manifest first on the Kosovo question in 1999 and then in 2002–3 in Afghanistan and Iraq.

Because the prevailing criticism of the Council regards its policies toward Bosnia and the use of force, it is notable that a Bosnian NGO, the Research and Documentation Centre, which is painstakingly identifying all actual war casualties, reported in June 2007 not only that the actual numbers (about 100,000) were less than half of that claimed at various times during the war but that almost half of all deaths (and more than half of civilian casualties) occurred in May–August 1992.<sup>102</sup> One plausible explanation is that the military and humanitarian deployment by the Security Council in June–August did achieve the first of their two goals, to save lives while waiting for a political settlement, with striking effectiveness. This chapter has argued that the Council did fail, but in other regards whose importance for global collective security and the peaceful resolution of related disputes worldwide is far greater for those who want to prevent war in the first place than for its authorization of force once war has begun. The Council failed to defend the territorial integrity of a UN member state, and it then failed to establish and enforce rules on the recognition of statehood and borders, even though disputes over the two were the cause of the six Yugoslav wars and were well known in advance. It also failed in its implementation of Chapter VIII of the Charter, by

allowing European and US policies (including their many disagreements) to define Security Council policy rather than the reverse. Finally, it failed to provide transparent explanations of the policy and political-military strategy on which its resolutions were based, thereby preventing those who opposed to do so constructively and the Council itself to know when, and why, its own actions (as in Bosnia) may be vindicated. While the US and European powers and organizations bear full responsibility for the errors in the Yugoslav wars, the Security Council bears the larger moral responsibility, for never having sought to craft a policy of its own independent of the actions of its members, permanent and non-permanent, either for the Yugoslav conflicts or for the generic problem which it will continue to face, in Kosovo and in many other countries in the world.

<sup>102</sup> Among others, see Nidzara Ahmetasevic, 'Justice Report: Bosnia's Book of the Dead', *Balkan Investigative Reporting Network (BIRN)*, 21 Jun. 2007 ([www.birn.eu.com/en/88/10/3377/](http://www.birn.eu.com/en/88/10/3377/)).