LAW, POLICY AND PRACTICE: THE UNITED NATIONS COLLECTIVE SECURITY REGIME AND THE CONTRIBUTION OF THE NEW ZEALAND DEFENCE FORCE

Claire Breen*

I. Introduction

This article considers New Zealand's participation in the United Nations' (UN) regime of collective security as embodied in the Charter of the United Nations (the Charter). It focuses on the participation of the New Zealand Defence Force (NZDF) in three peace support operations: Cambodia, East Timor/ Timor Leste and Afghanistan. These three case studies allow consideration of the manner in which New Zealand has contributed to an evolving security environment which has seen a dynamic interpretation of the legal bases by which the UN seeks to fulfil its purpose of maintaining international peace and security. The work of the NZDF in these three operations demonstrates both how the law and policy considerations underpinning peace support operations play out in practice. The NZDF's participation in peace support operations reaffirms that the nature of peace and security is a complex combination of international and domestic law and policy. Finally, the reality of the work of the NZDF also exemplifies the porous nature of the interrelationship between war-fighting and peace support. The multi-faceted functions of the NZDF, stemming from the complex combination of law and policy, provide tangible examples of the manner in which military functions positively affect socio-economic conditions and the furtherance of peace and security and, as such, are demonstrative of the evolving collective security regime.

II. The Establishment and Deployment of Peace Support Operations: International and Domestic Law and Policy

The basic international legal regime underpinning the creation of peace support operations, embodied in the UN Charter,[1] has remained largely constant since the inception of the UN. What has changed, however, are the challenges to international peace and security: an increasing number of intra-state conflicts[2] resulting in an increasing number of peace support

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1 Charter of the United Nations.

2 Between 2000 and 2009 only 3 of the total of 30 major armed conflicts were interstate. See L Harbon and P Wallensteen "Appendix 2A: Patterns of major armed conflicts, 2000-2009" in "Armaments, Disarmament and International Security" in *SIPRI Yearbook 2010* (Oxford

operations that are themselves increasingly complex.[3] This changing environment spawned a series of policy documents, both from within the UN and external to that Organisation. At the level of domestic law, s 5 of the Defence Act 1990 provides the legal basis for the deployment of NZDF personnel. However, such deployment comes at the direction of the Government and, inasmuch as policy impacts upon law in the international arena, the deployment of NZDF personnel is also subject to domestic policy issues including, inter alia, New Zealand's strategic environment which itself is informed by New Zealand's membership of the international community.

A. Peace Support Operations: International Law and Policy

The legal basis of UN peace support operations are found in the principle of collective security whereby the UN, as representative of the international community of its members, allows the use of force only to counter a threat to international peace and security.[4] The Security Council is the UN organ charged with the maintenance of international peace and security. It is also the main UN organ with responsibility for the establishment of peacekeeping operations. In making these determinations, the Council must consider the balance to be struck generally between the twin principles of maintaining peace and security[5] and respecting State sovereignty.[6] Article 25 of the Charter obliges Member States to "agree to accept and carry out the decisions of the Security Council". The acknowledgment in art 29 that the Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions has become particularly significant given the ad hoc nature of peace support operations as a means of maintaining international peace and security.

Chapters VI and VII largely embody the collective security regime of the UN and constitute the legal basis for peace support operations. Article 36 is a key provision to the establishment of such operations as it states "The Security Council may, at any stage of a dispute of the nature referred to in art 33 or of a situation of like nature, *recommend appropriate procedures or*

University Press, Oxford, 2010).

3   In 2009, 54 multilateral peace operations were conducted in 34 locations. The annual total of active peace operations fell in 2009, after a steady rise between 2002 and 2008. The number of deployed personnel increased into 2009 and resulted from troop reinforcement for existing operations, most significantly for the International Security Assistance Force (ISAF) in Afghanistan. See K Soder and K Karlsson "Appendix 3A: Multilateral Peace Operations, 2009" in "Armaments, Disarmament and International Security" in *SIPRI Yearbook 2010* (Oxford University Press, Oxford, 2010).

4   Charter of the United Nations, art 1.

5   Ibid.

6   Charter of the United Nations, art 2. The International Court of Justice has opined on the need for balance in favour of State sovereignty: see *The Corfu Channel case (United Kingdom v Albania); Assessment for Compensation (Merits)* [1949] ICJ Rep 244; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua vs United States of America) (Merits)* [1986] ICJ Rep 14 at [202].

methods of adjustment" (emphasis added).[7] Should measures under Chapter VI prove ineffective in resolving an international dispute, Chapter VII outlines the action that the UN may take with respect to threats to the peace, breaches of the peace, and acts of aggression. Article 39 provides that once the Security Council determines the existence of any threat to, or breach of, the peace it can adopt measures to enforce international peace. These measures are regarded as enforcement operations that "seek to impose the will of the Security Council by direct military or economic action".[8] However, given that arts 43 to 49 never came into effect, the Charter provisions around peace enforcement limit the Security Council response to decision on its part under art 39 to the means of enforcement provided for in arts 41 and 42. Peace support operations established under Chapter VI may subsequently be expanded to include mandates wholly or partly referring to Chapter VII.[9] Whether authorised under Chapter VI or VII, each operation must be designed to meet the requirements of each new situation.

The deployment of peace support missions raises other issues of international law around the rights and responsibilities of peace support personnel. The General Convention on the Privileges and Immunities of the United Nations accords peace support personnel, as experts performing missions for the United Nations, such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions.[10] The Model Status of Forces Agreement for Peacekeeping Operations provides for exclusive jurisdiction of contributing states over the acts of their personnel.[11] The Convention on the Safety of United Nations and Associated Personnel seeks to strengthen the legal protection afforded to UN and associated personnel by prohibiting attacks committed against

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7   Article 33(1) of the Charter of the United Nations provides:
     1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
     2. The Security Council shall, when it deems necessary, call upon the parties to settle their disputes by such means.
8   A J Bellamy "The 'Next Stage' in Peace Operations Theory?" in A J Bellamy and P Williams *Peace Operations and Global Order* (Frank Cass, London, 2004) 22; M Berdal "Lessons Not Learned: the Use of Force in 'Peace Operations' in the 1990s" in A Adejbajo and C L Sriram (eds) *Managing Armed Conflicts in the 21st Century* (Frank Cass, London, 2001) 56; M W Doyle and N Sambanis "Making Peace: Successes" in M W Doyle and N Sambanis *Making War and Building Peace: United Nations Peace Operations* (Princeton University Press, Princeton, 2006) 332-334; M Pugh "Peace Enforcement" in T G Weiss and S Daws (eds) *The Oxford Handbook on the United Nations* (Oxford University Press, Oxford, 2007) 371.
9   M Shaw *International Law* (6th ed, Cambridge University Press, Cambridge, 2008) 1257.
10   General Convention on the Privileges and Immunities of the United Nations (adopted 13 February 1946, entered into force 17 September 1046) art VI.
11   *Model Status-of-Forces Agreement for Peace-keeping Operations* UN Doc A/45/594 (1990).

them and punishing perpetrators of such attacks.[12] In terms of the Geneva Conventions and their Additional Protocols,[13] and international humanitarian law generally, the Secretary-General has stated:[14]

> The fundamental principles and rules of international humanitarian law … are applicable to United Nations Forces when in situations of armed conflict they are actively engaged therein as combatants, to the extent and for the duration of their engagement. They are accordingly applicable in enforcement actions, or in peacekeeping operations when the use of force is permissible in self-defence.

According to the official United Nations Peacekeeping Operations: Principles and Guidance (the Capstone Doctrine) this statement sets out the "fundamental principles and rules of international law that may be applicable to United Nations peacekeepers".[15]

The UN has also given further guidance on peace support operations. According to Secretary-General Boutros-Ghali's report, An Agenda for Peace, in order for peacemaking and peacekeeping operations to be truly successful, they had to include efforts both to identify and to support structures that would consolidate peace and advance a sense of confidence and well-being.[16] The Brahimi Report laid out a clear peace-building strategy,[17] and called for

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12 Convention on the Safety of United Nations and Associated Personnel (adopted 9 December 1994, entered into force 15 January 1999).

13 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (adopted 12 August 1949, entered into force 21 October 1950); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (adopted 12 August 1949, entered into force 21 October 1950); Geneva Convention relative to the Treatment of Prisoners of War (adopted 12 August 1949, entered into force 21 October 1950); Geneva Convention relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950); Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978); Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (adopted 8 June 1977, entered into force 7 December 1978); Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the adoption of an additional distinctive emblem (Protocol III) (adopted 8 December 2005, entered into force 14 January 2007).

14 *Bulletin on the Observance of UN Forces of International Humanitarian Law* ST/SGB/1999/13 (1999). See also A Sari "Status of Forces and Status of Mission Agreements under the ESDP: The EU's Evolving Practice" (2008) 19(1) EJIL 67; J Saur "Lawful Peacekeeping: Applicability of International Humanitarian Law to United Nations Peacekeeping Operations" (2007) 58 Hastings LJ 479; N Jain "A Separate Law for Peacekeepers: The Clash between the Security Council and the International Criminal Court" (2005) 16(2) EJIL 239; D Shraga "UN Peacekeeping Operations: Applicability of International Humanitarian Law and Responsibility for Operations-Related Damage" (2000) 94(2) AJIL 406.

15 United Nations Department of Peacekeeping Operations *United Nations Peacekeeping Operations: Principles and Guidance* (United Nations Department of Peacekeeping Operations, New York, 2008) 15-16.

16 *An Agenda for Peace, Preventive Diplomacy, Peacemaking and Peace-keeping* UN Doc A/47/277 - S/24111 (1992) at [55] ["An Agenda for Peace"].

17 *Report of the Panel on United Nations Peace Operations* UN Doc A/55/305 - S/2000/809 (2000) at [36]-[46] ["Brahimi Report"].

clear, credible and achievable mandates for peacekeeping.[18] In a similar vein, Secretary-General Annan, in his Millennium Report, stated that "every step towards reducing poverty and achieving broad-based economic growth is a step toward conflict prevention".[19] This view was echoed by the International Commission on Intervention and State Sovereignty (ICISS) which stated:[20]

> True and lasting reconciliation occurs with sustained daily efforts at repairing infrastructure, at rebuilding housing, at planting and harvesting, and cooperating in other productive activities. External support for reconciliation efforts must be conscious of the need to encourage this cooperation, and dynamically linked to joint development efforts between former adversaries.

These views were endorsed in the Report of the High Level Panel on Threats, Challenges and Change. According to the Panel "[R]esources spent on implementation of peace agreements and peacebuilding are one of the best investments that can be made for conflict prevention – States that have experienced civil war face a high risk of recurrence."[21] The Report also noted that:[22]

> Along with establishing security, the core task of peacebuilding is to build effective public institutions that, through negotiations with civil society, can establish a consensual framework for governing within the rule of law. Relatively cheap investments in civilian security through police, judicial and rule-of-law reform, local capacity-building for human rights and reconciliation, and local capacity-building for public sector service delivery can greatly benefit long-term peacebuilding.

Collectively, these reports constitute a rethinking of international policy underpinning peace support operations and the recognition that, in situations where violence has continued for a long time, it would be short-sighted to neglect the health, education, and other ongoing needs of the civilian population. Bridging the gap between expensive, large-scale, short-term, externally driven humanitarian interventions and the more grassroots, longer-term, locally-driven, capacity-building development interventions that must take root in the transition has been particularly influential.[23]

The Secretary-General's Supplement to an Agenda for Peace had emphasised three important principles of peacekeeping: the consent of the parties, impartiality, and the non-use of force.[24] However, increasing deployments

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18 Ibid, at [56]-[63]. See also S C Breau "The Impact of the Responsibility to Protect on Peacekeeping" (2006) 11(3) JC & SL 429 at 430-431.

19 *We the Peoples: The Role of the United Nations in the 21st century* UN Doc A/54/2000 (2000) at [202] ["We the Peoples"].

20 International Commission on Intervention and State Sovereignty *Responsibility to Protect: International Commission on Intervention and State Sovereignty* (International Development Research Centre, Ottawa, 2001) at [5.4] ["Responsibility to Protect"].

21 United Nations High-Level Panel on Threats, Challenges and Change *Our Shared Responsibility* UN Doc A/59/565 (2004) at [221] ["Our Shared Responsibility"].

22 Ibid, at [229].

23 M Griffin "The Helmet and the Hoe: Linkages between United Nations Development Assistance and Conflict Management" (2003) 9 Glob Gov 199 at 203.

24 *An Agenda for Peace, Preventive Diplomacy, Peacemaking and Peace-keeping* UN Doc A/50/60, supp, (1995) at [33].

of Chapter VII peace enforcement missions required a re-evaluation of the application of these three principles. The Brahimi Report reaffirmed the three principles of peacekeeping identified in Supplement to an Agenda for Peace as being the "bedrock principles of peacekeeping". However, the Report also noted that consent could sometimes be manipulated and that impartiality must take into account adherence to UN principles so that equal treatment where one party is violating such principles would not be acceptable.[25] The Report also called for "robust rules of engagement against those who renege on their commitments to a peace accord or otherwise seek to undermine it by violence"[26] and improved standby arrangements to enable forces to, "meet the need for the robust peacekeeping forces that the Panel has advocated".[27]

B. Peace Support Operations: New Zealand Law and Policy

The preceding paragraphs set out the international context against which New Zealand must determine if and how to deploy NZDF personnel. The legal basis for the deployment of NZDF personnel in peace support operations is found in s 5 of the Defence Act 1990 which states:

> The Governor-General may from time to time, in the name and on behalf of the Sovereign, continue to raise and maintain armed forces, either in New Zealand or elsewhere, for the following purposes:
> (a) the defence of New Zealand, and of any area for the defence of which New Zealand is responsible under any Act:
> (b) the protection of the interests of New Zealand, whether in New Zealand or elsewhere:
> (c) the contribution of forces under collective security treaties, agreements, or arrangements:
> (d) the contribution of forces to, or for any of the purposes of, the United Nations, or in association with other organisations or States and in accordance with the principles of the Charter of the United Nations: …

New Zealand has also indicated its acceptance of treaties pertaining to the rights and responsibilities of its peace support personnel through treaty ratification[28] as well as the incorporation of a range of international legal obligations into domestic law.[29]

Contributions to peace support operations are one of New Zealand's most tangible commitments to collective security and the rule of law.[30] The Government directs the deployment of NZDF personnel in support of peace

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25 Brahimi Report, above n 17, [48].
26 Ibid, at [55].
27 Ibid, at [86].
28 General Convention on the Privileges and Immunities of the United Nations 1946 was ratified by New Zealand in 1947 and the Convention on the Safety of United Nations and Associated Personnel 1994 was ratified by New Zealand in 1998.
29 See for example the United Nations Act 1941; the Geneva Conventions Act 1958; the International Crimes and International Criminal Court Act 2000; and the International War Crimes Tribunals Act 1995.
30 New Zealand Ministry of Foreign Affairs and Trade "Security" (2010) <http://www.mfat.govt.nz/Foreign-Relations/1-Global-Issues/International-Security/4-Peacekeeping-Operations.php>.

support operations. Governmental decision-making in this regard is guided by a central defence outcome, which is a New Zealand that is secure and protected from external threats now and in the future.[31] The NZDF has identified New Zealand's security interests and its Defence Policy Objectives as being the defence of New Zealand and the protection of its people, land, territorial waters, exclusive economic zone, natural resources and critical infrastructure; the meeting of New Zealand's alliance commitments to Australia by maintaining a close defence partnership in pursuit of common security interests; assisting in the maintenance of security in the South Pacific and to provide assistance to Pacific neighbours; appropriate participation in the maintenance of security in the Asia-Pacific region; and contributing to global security and peacekeeping through participation in the full range of UN and other appropriate multilateral peace support and humanitarian operations.[32] Against this background, the primary mission of the NZDF is:[33]

> to secure New Zealand against external threat, to protect our sovereign interests, including in the Exclusive Economic Zone (EEZ), and to be able to take action to meet likely contingencies in our strategic area of interest.

The NZDF has stated that these objectives must be considered in light of New Zealand's strategic environment and the implications therein arising from non-conventional global and regional security challenges, including increasing intra-state conflict; threats to the NZDF deployed abroad in multilateral operations; and problems arising from weak governments in the South Pacific region and beyond. New Zealand, and the NZDF in particular, is under increasing pressure from the international community to intervene to restore stability within or between countries. The NZDF seeks to respond to such pressure by deploying, as of mid-2010, more than 800 personnel on fourteen separate operations in ten countries, including contributions to five UN-led missions, as well as participating in overseas training exercises, deployments, and diplomacy.[34]

The strategic environment in which New Zealand operates also has implications for the manner in which the NZDF must respond to the State's security interests. The NZDF trains for conventional military operations, asymmetric threats and to respond to challenges including containing the fall-out from increasing intra-state conflict and the breakdown of law and order in failing states.[35] The NZDF trains to conduct (and win) war-fighting operations, including operations among the populace, with a view to enabling it to conduct peace support operations and stability and support

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31   New Zealand Defence Force *Statement of Intent 2010 - 2013* (New Zealand Defence Force, Wellington, 2010) 10-11.
32   Ibid, at [12].
33   Ibid.
34   Ibid, at [14].
35   New Zealand Defence Force *Foundations of New Zealand Military Doctrine* (2nd ed, New Zealand Defence Force, Wellington, 2008) at [1.8].

operations more effectively.[36] In this regard, the NZDF also recognises that the over-riding consideration in conducting peace support operations, in circumstances requiring military containment, is that the military instrument is but one component of the total effort required to achieving a lasting peace.[37] However, this component is central as it is the military that can compel de-escalation and enforce compliance thereby providing a stable security environment within which others can operate as part of an overall approach to confrontation management.[38]

Within the arenas of international and domestic law and policy, therefore, the maintenance of peace and security is now often predicated on multi-dimensional peace support operations. The ensuing case studies are indicative of the various strategies that the UN has adopted in its efforts to maintain international peace and security. The contribution of the NZDF to this effort demonstrates the flexibility with which military functions are to be viewed.

III. The Socio-Economic Effects of Demining in Cambodia

The UN's presence Cambodia originated in the Paris Conference on Cambodia, which resulted in four agreements outlining the strategy for bringing an end to the Cambodian civil war.[39] In that sense the origin of the UN's presence was typical. However, the manner in which it fulfilled its mandate was atypical, at that time. In particular, the Security Council was invited to establish the United Nations Transitional Authority in Cambodia (UNTAC), the mandate of which had been set out in some detail in the Comprehensive Settlement Agreement (CSA). The Security Council had fully supported the Paris Peace Agreements[40] and it requested the Secretary-General to submit a report to it on the implementation of UNTAC.[41] The Secretary-General's subsequent report detailed the proposed implementation plan for UNTAC.[42] The Council endorsed the report, and by Resolution 745 it established UNTAC for a period not to exceed 18 months.[43]

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36   Ibid, at [1.11]-[1.22].
37   Ibid, at [8.16]-[8.18].
38   Ibid, at [8.19]-[8.20].
39   The Paris Conference on Cambodia concluded with four documents: the Final Act of the Paris Conference on Cambodia (1992) 31 ILM 180; the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict (1992) 31 ILM 183; the Agreement Concerning the Sovereignty, Independence, Territorial Integrity and Inviolability, Neutrality and National Unity of Cambodia (1992) 31 ILM 200; and the Declaration on the Rehabilitation and Reconstruction of Cambodia (1992) 31 ILM 203. See also S Ratner "The Cambodia Settlement Agreements" (1993) 87 AJIL 1.
40   *The Situation in Cambodia* SC Res 718, UN SCOR, 3015th mtg (1991).
41   Ibid, at [4].
42   *Report on Cambodia* S/23613 (1992) ["Secretary-General's Report on Cambodia"].
43   See generally G Curtis "Transition To What? Cambodia, UNTAC and the Peace Process" United Nations Research Institute for Social Development, Geneva, 1993).

However, prior to the establishment and deployment of UNTAC, and following the recommendation of the Secretary-General, the Security Council had established the United Nations Advance Mission in Cambodia (UNAMIC).[44] UNAMIC consisted of civilian and military liaison staff, a military mine awareness unit, and logistics and support personnel. It was deployed with the aim of assisting the Cambodian parties to maintain the cease-fire and to prepare for the deployment of UNTAC. The Security Council had expanded the mandate of UNAMIC to include training in mine clearance for Cambodians and the initiation of a mine clearance programme.[45] In particular, UNAMIC was to deploy small teams of military personnel with experience in training civilian populations on how to avoid injury from mines or booby traps. At the end of December 1991 the Secretary-General reported to the Security Council on the need to expand the mandate of UNAMIC to undertake, on an urgent basis, a major de-mining effort. This effort was to begin before the establishment of UNTAC to prepare the ground for the safe and orderly repatriation of Cambodian refugees and displaced persons.[46] UNAMIC was succeeded by UNTAC in March 1991.

The UNTAC operation consisted of armed peacekeepers, police monitors, election observers and civilian administrators from thirty-four States, including New Zealand. The civilian administration component had as its aim to create a neutral political environment so that free and fair elections could be held. The military component was aimed at the creation of a peaceful country.[47] According to section 3(1)(d) of the CSA detailing UNTAC's military functions UNTAC was to, inter alia, assist with clearing mines and undertaking training programmes in mine clearance and a mine awareness programme among the Cambodian people.[48] UNTAC took over and expanded the landmine programmes that had been established by UNAMIC. Within Cambodia, the Cambodian Mine Action Centre (CMAC) was established and undertook long-term programmes in mine-awareness, marking and clearance. UNTAC's Mine Clearance Training Unit (MCTU) taught Cambodians to identify, locate and destroy land mines and to mark minefields, and promoted mine awareness among the general public. The MCTU was organised into mine clearance training teams and mine clearance supervisory teams.

The NZDF's contribution to UNTAC was twofold. In mid-1992, the Army deployed forty communication specialists to establish and maintain a communications network. Working with their Australian counterparts, the

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44 *The Situation in Cambodia* SC Res 717, UN SCOR, 3014th mtg (1991).

45 *The Situation in Cambodia* SC Res 728, UN SCOR, 3029th mtg (1992).

46 Ibid.

47 *The Situation in Cambodia* SC Res 745, UN SCOR, 3057th mtg (1992). See generally T Duffy "Towards a Culture of Human Rights in Cambodia" (1994) 16 HRQ 82; Ratner, above n 39, 9-25.

48 Secretary-General's Report on Cambodia, above n 42, [54], [80] and [90(e)]. See also United Nations "Cambodia-UNAMIC: Background" <http://www.un.org/en/peacekeeping/missions/past/unamicbackgr.html>.

signallers provided the UN with facilities which linked more than fifty villages and towns throughout the country. The Royal New Zealand Navy sent a contingent of thirty personnel to serve in Cambodia. The Navy's task was to patrol Cambodia's inland and coastal waters. The NZDF also assisted in the repatriation of many Vietnamese. However, its main contribution related to UNTAC's demining programme. NZDF demining specialists helped the UN to establish the MCTU and the CMAC. New Zealand engineers were among the first mine clearing specialists to arrive in Cambodia. NZDF personnel set up a demining school, organised lessons and instructional aids, and set about developing training programmes and teaching Cambodians standard operating procedures so that mine clearing could be done cohesively and effectively. The NZDF trained demobilised soldiers forming them into a demining platoon thereby introducing them to the humanitarian mine clearance factor. Initially, the aim of the NZDF was to clear tracts of land that could be used to resettle people from refugee camps on the Thai border. After the initial push to make Cambodia self-reliant as far as demining was concerned, the NZDF continued to supply a small team of technical advisers and logisticians.[49] Towards the end of its mandate, the MCTU worked to equip CMAC to function after UNTAC's withdrawal. By August 1993, as a result of the work done by UNTAC in collaboration with the Cambodian parties and NGOs, more than four million square metres of Cambodian territory had been cleared of mines. About 37,000 mines and other unexploded ordnances had been destroyed and some 2,300 Cambodians trained in mine clearance techniques.

Demining protects peace support personnel both from landmine injuries and it assists in the creation of a secure environment, also beneficial to peace support personnel. Demining affords similar protections to the civilian population but it also has a much larger socio-economic effect. According to *An Agenda for Peace*:[50]

> De-mining should be emphasised in the terms of reference of peace-keeping operations and is crucially important in the restoration of activity when peace-building is under way: agriculture cannot be revived without de-mining and the restoration of transport may require the laying of hard surface roads to prevent re-mining.

In Cambodia, most landmine survivors require long hospital stays and extensive rehabilitation but there are also indirect health consequences of landmines including increases in the incidence of waterborne diseases, diarrhoea, malnutrition, infectious diseases and the spread of HIV linked to increased use of blood. Poverty is the one factor most closely associated with long-term pain and the household of a landmine victim is often caught in a

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49   New Zealand Defence Force *Report of the New Zealand Defence Force* (New Zealand Defence Force, Wellington, 2008) 102. See also J Martin "Ridding Cambodia of a Deadly Legacy" *Army News* (New Zealand, 9 December 2008) ["Ridding Cambodia of a Deadly Legacy"]; J Martin "Cambodia - helping rebuild a nation" *Defence Update Newsletter* (New Zealand, 2005).

50   *An Agenda for Peace*, above n 16, [58].

poverty trap.[51] Few Cambodians with disabilities have access to education and adult survivors often cannot afford education for their children.[52] Accessible inclusive or special education is seldom available which may reduce employment prospects later on.[53] In 2009, in its initial report to the Committee on Economic, Social and Cultural Rights, the Cambodian Government observed that the State covers an area of 181,035 sq km[54] and that 85 percent of the population made its living through farming and hunting. The Report noted that the main obstacle to agricultural development was landmines,[55] which are frequently planted in rural areas and cause injuries to persons whose livelihoods are reliant on activities such as farming, collecting wood, fetching water or tending animals.[56] Two or three mines or a mere suspicion thereof may render a patch of land unusable.[57] The mining of roads or other physical infrastructure undermines trading activities. Consequently, mines impede investment and economic growth.[58] Cambodia's recent report under the Universal Periodic Review mechanism reiterated the linkage between the problem of landmines and efforts towards making rural land available more freely and more equitably.[59]

The positive effects of a demining programme are not confined to removing the physical and economic impediments caused by landmines. The view of the NZDF was that manual (rather than mechanical) clearance techniques were often more sustainable, and could provide employment for de-mobilised

51   K Berg Harpviken and J Isaksen *Reclaiming the Fields of War: Mainstreaming Mine Action in Development* (United Nations Procurement Division, New York, 2004) 34.

52   International Campaign to Ban Landmines "Landmine Monitor Report 2009: Toward a Mine Free World" (Country Report Cambodia, 2009) <http://the-monitor.org/index.php/publications/display?act=submit&pqs_year=2009&pqs_type=lm&pqs_report=cambodia&pqs_section>.

53   International Campaign to Ban Landmines "Landmine Monitor 2009: Landmines and Children" (2009) 3-4 <http://www.the-monitor.org/index.php/content/view/full/24273>; Handicap International *Voices from the Ground: Landmine and Explosive Remnants of War Survivors Speak out on Victim Assistance* (Handicap International, Brussels, 2009), 210. See also Royal Government of Cambodia "Second and Third Report on the Implementation of the Convention on the Rights of the Child in Cambodia 2000 – 2007" CRC/C/KHM/CO/2 (2009) [127], [152]-[153] cf CRC/C/11/Add.16 (1997) at [140], [142].

54   *Implementation of the International Covenant on Social Economic and Cultural Rights: Initial Report, Cambodia* E/C.12/KHM/1 (2009) at [8].

55   Ibid, at [75], [393]-[402]. See also Berg Harpviken and Isaksen, above n 51, 25 and 26-28.

56   Berg Harpviken and Isaksen, above n 52, 25. See also S Lanjouw et al "Rehabilitating Health Services in Cambodia: the Challenge of Coordination in Chronic Political emergencies" (1999) 14(3) Health Policy Plann 229; N Andersson et al "Social Cost of Land Mines in Four Countries: Afghanistan, Bosnia, Cambodia, and Mozambique" (1995) 311 Br Med J 718; D Meddings et al "Circumstances Around Weapon Injury in Cambodia after Departure of a Peacekeeping Force: Prospective Cohort Study" (1999) 319 Br Med J 412; E Stover et al "Medical and Social Consequences of Land Mines in Cambodia" (1994) 272(5) J Am Med Assoc 331.

57   International Campaign to Ban Landmines "What is a landmine?" (2010) <http://www.icbl.org/index.php/icbl/Problem/Landmines/What-is-a-Landmine>.

58   Berg Harpviken and Isaksen, above n 51, 25-28.

59   United Nations Human Rights Council Working Group *National Report – Cambodia – Corrigendum* UN Doc A/HRC/WG.6/6/KHM/1, Universal Periodic Review (2009) at [42].

soldiers in many mine-affected countries where labour remains cheap and education standards were low. Training Teams are useful in establishing a force of effectively trained local mine clearance personnel. Quality assurance, operations, logistics and financial management advice are often necessary to build confidence in a national programme and thus continue to attract international aid and funding.[60] Therefore, demining is both a military and a humanitarian matter.[61]

The participation of the NZDF in the Cambodian de-mining programme is reflective, on the one hand, of the view that military personnel remain as much at risk as the local population where a significant legacy mine threat exists so that mine awareness training remains routine for operational missions. The military function of de-mining feeds into a longer term humanitarian and development function as, according to the NZDF, every effort is made to concurrently build local training capacity, in order to reduce the need for continuing international assistance. The view from New Zealand is that mine action assistance is an integral component in peacekeeping and peace building if long-term sustainable development is to be achieved.[62] It echoes the view advanced in An Agenda for Peace that inasmuch as:[63]

> demilitarized zones may serve the cause of preventive diplomacy and preventive deployment to avoid conflict, so may demilitarization assist in keeping the peace or in post-conflict peace-building, as a measure for heightening the sense of security and encouraging the parties to turn their energies to the work of peaceful restoration of their societies.

IV. From East Timor to Timor Leste: New Zealand Peace Support in the Transition to Independence

New Zealand contributed in varying degrees to the array of peace support operations that saw Indonesian-occupied East Timor transition to the independent state of Timor Leste.[64] The UN peace support mission to

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60　Martin "Ridding Cambodia of a Deadly Legacy", above n 49.

61　See generally J Grayson *Mine Action and Development: Merging Strategies* (United Nations Institute for Disarmament Research, Geneva, 2003), note 3 citing the United Nations Policy on Mine Action: *Assistance in Mine Action* GA Res 53/26, A/RES/53/26, annex II (1998) at [10]; R Roberts and G Littlejohn "Mine Action and Development" in R Roberts and G Littlejohn *Maximising the Impact – Tailoring Mine Action to Development Needs* (PRIO, Oslo, 2005), 2; R Roberts "Cambodia: Linking Mine Action And Development At The Community Level" in R Roberts and G Littlejohn *Maximising the Impact – Tailoring Mine Action to Development Needs* (PRIO, Oslo, 2005) 6-7.

62　New Zealand Campaign Against Landmines (CALM) "Disarmament Minister Phil Goff launches Landmine Monitor 2006" (press release, 28 September 2006) <http://calm.org.nz/?p=19>. See also Berg Harpviken and Isaksen, above n 51, 35. K Berg Harpviken and B A Skara "Humanitarian Mine Action and Peacebuilding" (2003) 24(5) Third World Q 809; K Berg Harpviken and R Roberts (eds) *Preparing the Ground for Peace: Mine Action in Support of Peacebuilding* (PRIO, Oslo, 2004).

63　Agenda for Peace, above n 16, [58].

64　New Zealand had also been part of a Core Group (along with Australia, Japan, the United Kingdom and the United States) that had come together on the East Timor issue to take national diplomatic action in support of the UN, particularly the Secretariat, to build

Cambodia has been described as opening the decade of the post-Cold War era of complex peacekeeping whilst the operations in East Timor were described as the twentieth century's final "experience of the novel institution that emerged from the paralysis of the UN system of collective security during the Cold War".[65] The Indonesian occupation of the former Portuguese colony of East Timor, in 1975, precipitated over two decades of oppression and gross human rights violations.[66] Indonesia was finally forced to participate in tripartite negotiations on the future of East Timor, which culminated in three agreements that were concluded between Indonesia, Portugal, and the UN on 5 May 1999.[67] Indonesia agreed to hold a 'popular consultation' in East Timor to decide whether the latter would achieve autonomy under continued Indonesian rule or whether it would become an independent State. The UN presence in East Timor stemmed from the agreement that the ballot was to be conducted by the UN.[68] Crucially, Indonesia was to have responsibility for maintaining peace and security in East Timor and it was also to assist the UN in its tasks.[69] By virtue of Resolution 1246, the UN Mission in East Timor (UNAMET) was deployed for one year to conduct and certify the ballot. New Zealand contributed five military liaison officers (as well as ten civilian police) to that mission and subsequently increased that number.[70]

The outcome of the ballot, which had a turnout of almost 98 percent, indicated that 78.5 percent of East Timorese had voted for independence from Indonesia. In response, pro-Indonesian militia and the Indonesian army launched a campaign of wide-scale violence, destroying houses and buildings

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pressure on Indonesia to fulfil its obligations under the 5 May Agreements. See S Eldon "East Timor" in D M Malone (ed) *The UN Security Council: From the Cold War to the 21st Century* (Rienner, Boulder, 2004) 552-555.

65 R Thakur "Cambodia, East Timor and the Brahimi Report" (2001) 8(3) IP 115; R Thakur and A Schnabel "Cascading Generations of Peacekeeping: Across the Mogadishu line to Kosovo and Timor" in R Thakur and A Schnabel *United Nations Peacekeeping Operations: Ad Hoc Missions, Permanent Engagement* (United Nations University Press, Tokyo, 2001).

66 See for example K Ishizuka "Peacekeeping in East Timor: The Experience of UNMISET" (2003) 10(3) IP 44; M Jardine "East Timor, the United Nations, and the International Community: Force Feeding Human Rights into the Institutionalised Jaws of Failure" (2000) 12(1) Global Change, Peace and Security 47, 48-49; M Dee "'Coalitions of the Willing' and Humanitarian Intervention: Australia's Involvement with INTERFET" (2001) 8(3) IP 1, 3-4; R Peren "East Timor: questions, questions" (1999) 24(4) NZIR 10.

67 Agreement Between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor (5 May 1999), UN Doc S/1999/513, annex I (1999) ["Agreement Between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor"]; Agreement Regarding the Modalities for the Popular Consultation of the East Timorese Through a Direct Ballot (5 May 1999), UN Doc S/1999/513, annex II (1999); and East Timor Popular Consultation (5 May 1999), S/1999/513, annex III (1999) ["East Timor Popular Consultation"]. The latter two Agreements were concluded between the Governments of Indonesia and Portugal and the United Nations Secretary-General See also W Maley "The UN and East Timor" (2001) 12(1) Global Change, Peace and Security 63, 74-75.

68 Agreement between the Republic of Indonesia and the Portuguese Republic on the question of East Timor, ibid, at art 1.

69 East Timor Popular Consultation, ibid, at art 1.

70 J Martin "Timor Ten years On" *Army News* (New Zealand, 15 September 2009).

and demolishing towns and villages. More than 200,000 refugees were forced across the border into West Timor.[71] Ultimately, UNAMET was evacuated to Australia.[72] This turn of events raised significant issues for Indonesia and its security responsibilities under the 5 May Agreements. The Asia Pacific Economic Cooperation meeting in Auckland in September 1999 provided a timely forum for high level discussion and co-ordination. Indonesian resistance to the prospect of an international military force waned and on 12 September 1999 it sought international assistance. The Security Council authorised the Chapter VII deployment of a multi-national coalition operation, International Force East Timor (INTERFET) on the bases that the situation in East Timor constituted a threat to peace and security and the inability of the UN to deploy a peace enforcement mission with the requisite speed. The operation was tasked with restoring peace and security in East Timor, protecting and supporting UNAMET in carrying out its tasks and, within force capabilities, facilitating humanitarian assistance operations. Participating States were authorised to take all necessary measures to fulfil the mandate.[73] INTERFET was to remain in place until a UN transitional administration, including a peacekeeping operation, was approved, assembled and deployed to East Timor.[74]

INTERFET, which was Australian-led, began its deployment to East Timor on 20 September 1999 by which stage the East Timorese infrastructure had been badly damaged. The judicial and detention systems were not operating, no commercial activity was being conducted and there was no effective administration.[75] The first tasks facing INTERFET were to seek out and disarm approximately 10,000 militias and to patrol the border to stop the flow of arms and reinforcements from West Timor.[76] New Zealand had been watching developments in East Timor closely.[77] Cabinet had approved the enhancement of NZDF equipment and the Chief of the Defence force was authorised to begin operational planning.[78] The New Zealand contribution

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71   New Zealand Defence Force "Timor-Leste, New Zealand History" (2010) <http://www.nzdf.mil.nz/operations/deployments/east-timor/history.htm>.

72   T Findlay *Use of Force in UN Peace Operations* (Oxford University Press, Oxford, 2002) 287-288. I Martin and A Mayer-Rieckh "The United Nations and East Timor: From Self-Determination to State-Building" (2005) 12(1) IP 125; S Chesterman "East Timor in Transition: Self-Determination, State-building and the United Nations" (2002) 9(1) IP 45, 60-62.

73   *The Situation in East Timor* SC Res 1264, UN SCOR, 4045th mtg (1999) at [3].

74   Ibid, at [10-11]. See also Doyle and Sambanis, above n 8, 243-256. S Eldon, above n 64, 559-560.

75   M Kelly "Transitional Justice in Peace Operations: Shaping the Twilight Zone in Somalia and East Timor" (2001) 4 Yrbk Intl Hum L 213, 245.

76   Dee, above n 66, 12.

77   Phil Gibbons "The Urban Area During Stability Missions Case Study: East Timor, 140-144, in RW Glenn, Capital Preservation: Preparing for Urban Operations in the Twenty-First Century" (proceedings of the RAND Arroyo-TRADOC-MCWL-OSD Urban Operations Conference, Santa Monica, March 2000); P Goff "East Timor: lessons and implications" (1999) 24(4) NZIR 2.

78   New Zealand Audit Office *New Zealand Defence Force: Deployment to East Timor* (Controller and Auditor-General, Wellington, 2001) 22-25. See generally J Crawford and G Harper *Operation East Timor: The New Zealand Defence Force in East Timor 1999-2001* (Reed Publishing: Auckland, 2001) chapter 2.

to INTERFET, with over one thousand personnel including a whole infantry battalion, a frigate and a helicopter squadron,[79] was indicative of the approach taken more generally by INTERFET which was to demonstrate to the militia that its troops were well-trained, well-armed and authorised to use force.[80] The main tasks of the NZDF contribution were to provide border security in the New Zealand sector, helicopter support to the force, staff officers to UN Headquarters, and training support to the East Timor Defence Force.[81]

New Zealand peace support personnel were located mainly around the town of Suai and along East Timor's southern border with West Timor. Their roles included the provision and maintenance of security, to both the UN and the local police, by carrying out patrols and vehicle checkpoints, as well as observing and following the militia.[82] New Zealand armoured personnel carriers patrolled day and night, as did soldiers on foot.[83] These tasks reflected INTERFET's mandate to use force to both keep and, where necessary, restore the peace between the militia and INTERFET as well as between the Timorese and the departing Indonesian army. This approach allowed INTERFET work on restoring confidence and a sense of safety and security for the East Timorese.[84] Once the towns were secured, patrols moved into the outlying areas gathering information for humanitarian aid organisations on population numbers, availability of food and whether there were any problems with the militia. The NZDF also engaged in other peace support roles. In Suai, these roles included processing refugees from West Timor, liaising with local organisations and NGOs, assisting the Civilian Police to investigate crime, recovering bodies and preparing for the August 2001 elections.[85] It constructed buildings, logged timber, constructed and improved the defences of the battalion's headquarters and company locations, roofed schools and churches and helped to restore electricity in Suai.[86] English language lessons and medical aid were also provided.[87] One positive consequence of such activities resulted in the return to the area of Cova Lima of more than 25,000 refugees.[88]

The Indonesian People's Consultative Assembly formally recognised the result of the popular consultation on 19 October 1999 by which stage INTERFET had succeeded in restoring order. Both events facilitated the

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79 New Zealand Defence Force *The New Zealand Defence Force: Deployment to East Timor* (NZDF IP, 2001) 10-12. New Zealand Defence Force "Timor Leste, New Zealand History", above n 71.

80 Martin and Mayer-Rieckh, above n 72.

81 New Zealand Defence Force "Timor Leste - FAQ and History" (2009) <http://www.nzdf. mil.nz/operations/deployments/east-timor/update.htm>. See also S Hoadley "Lessons from New Zealand's engagement with East Timor 1999-2003" (2003) 28(3) NZIR 20.

82 New Zealand Defence Force "Timor Leste, New Zealand History", above n 71.

83 Martin and Mayer-Rieckh, above n 72.

84 Crawford and Harper, above n 78, 132-140.

85 Ibid, at 113-116.

86 Ibid, at 116.

87 Ibid, at 115.

88 Ibid, at 132-140.

Security Council's passing of Resolution 1272, on 25 October 1999, which established the United Nations Traditional Administration East Timor (UNTAET) to administer the territory pending elections and the installation of a sovereign independent government. UNTAET's mandate was to: provide security and to maintain law and order throughout the territory of East Timor; establish an effective administration; assist in the development of civil and social services; ensure the coordination and delivery of humanitarian assistance, rehabilitation and development assistance; support capacity building for self-government; and assist in the establishment of conditions for sustainable development.[89] It was authorised to take all necessary measures to fulfil its mandate[90] which had created an integrated, multidimensional peacekeeping operation accorded with the full administrative powers of a State.[91] East Timor was the first occasion that the UN, through UNTAET, had exercised sovereignty over a non-self-governing territory.[92]

In February 2000, command of military operations was transferred from INTERFET to UNTAET. As with INTERFET, UNTAET was an Australian-led coalition of troop contributing. New Zealand sent the second largest contingent.[93] The NZDF's role with INTERFET, in establishing a secure and orderly environment in Cova Lima, had laid the foundations for the deployment of subsequent NZDF personnel under UNTAET.[94] The NZDF retained a Battalion Group covering an area of operations of approximately 1,700 square kilometres in the south-west of the country including a long section of the border with West Timor. This area was characterised by poor infrastructure, difficult supply routes, limited communications, and considerable destruction by the retreating militia.[95] Members of the NZDF based in Cova Lima further developed the role of Civilian Military Affairs, which enhanced the link between New Zealand peace support personnel and the East Timorese. This linkage made the delivery of humanitarian assistance easier and allowed the NZDF to obtain valuable information on the activities of the militia. The creation of a secure environment in Cova Lima was important for the security of NZDF personnel.

In terms of peace support and nation-building, this aspect of the NZDF's work also allowed the East Timorese to plant crops, construct buildings and occupy previously empty villages.[96] Along with Australian and Portuguese

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89   *The Situation in East Timor* SC Res 1272, UN SCOR, 4047th mtg (1999) at [2] ["Security Council Resolution 1272 on East Timor"]. See also United Nations Secretary-General "Report on the Situation in East Timor" SC Doc S/1999/1024 (1999c) at [29].

90   Security Council Resolution 1272 on East Timor, ibid, at [4].

91   Martin and Mayer-Rieckh, above n 72, 134-135.

92   Chesterman, above n 72, 46. See also P O Richmond and J Franks "Liberal Peacebuilding in Timor Leste: the Emperor's New Clothes?" (2008) 15(2) IP 185; A Suhrke "Peacekeepers as Nation-Builders: Dilemmas of the UN in East Timor" (2001) 8(4) IP 1; J Sanderson "The Cambodia Experience: A success story still?" in Thakur and Schnabel, above n 69, 159.

93   Report of the Controller and Auditor-General, above n 78, 11.

94   Crawford and Harper, above n 78, 132.

95   Report of the Controller and Auditor-General, above n 78, 11.

96   Crawford and Harper, above n 78, 147-148.

forces, the NZDF also focused on establishing and developing the Falantil Force Defence Timor Leste (F-FDTL), the establishment of which had been provided for under UNTAET.[97] The NZDF units and personnel were also heavily involved in preparations for the elections for a constituent assembly to draft the new constitution for East Timor, conducting additional patrols and ensuring that the ballots took place in a secure and peaceful environment. In addition to the task of providing security, New Zealand provided a wide range of other assistance towards UNTAET's goal of nation-building in the form of development aid, police and prison-officers, legal officers and other specialist expertise.[98]

The achievement of a series of milestones between August 2001 and May 2002 resulted in the transition of power from UNTAET to the newly independent state of Timor Leste on 20 May 2002,[99] the date upon which UNTAET's mandate ended. The New Zealand Battalion Group returned to New Zealand in November 2002 and the New Zealand commitment became three personnel in Dili, two military observers and one military assistant to the Force Commander.[100] The UN maintained a post-independence presence in the form of the United Nations Mission of Support in East Timor (UNMISET), which had a civilian component, a civilian police component, and a military component. UNMISET's mandate was to provide: assistance to core administrative structures critical to the viability and political stability of Timor Leste, as well as interim law enforcement and public security, and to assist in the development of the Timorese police. UNMISET was also to contribute to the maintenance of the external and internal security of Timor Leste.[101] New Zealand contributed a Small Arms Training Team to assist

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97   United Nations Transitional Administration in East Timor *On the Establishment of a Defence Force for East Timor* UNTAET/REG/2001/1 (2001) s 2.2. See generally D Ball "The Defence of East Timor: A Recipe For Disaster?" (2002) 14(3) Global Change, Peace and Security 175; L Hood "Security Sector Reform in East Timor, 1999–2004" (2006) 13(1) IP 60.

98   Crawford and Harper, above n 78, 157-158. B K Greener "New Zealand's Military and Policing Efforts in the Pacific" (2008) Australian Defence Force Journal 177.

99   The Constituent Assembly was elected. It was charged with drafting and adopting a new Constitution. It was also charged with establishing the framework for future elections and a transition to full independence. The East Timorese Council of Ministers of the Second Transitional Government was sworn-in. In January 2002, the Constituent Assembly voted to transform itself into East Timor's first legislature upon final approval of the Constitution. The President of the Constituent Assembly President Francisco Guterres signed a resolution adopting an assembly recommendation that UNTAET hand over sovereignty to elected Timorese government institutions on 20 May 2002. In March 2002, East Timor's Constituent Assembly signed into force the Territory's first Constitution. Xanana Gusmao was appointed president-elect of East Timor following presidential elections on 14 April. On 20 May 2002 East Timor became an independent nation. See "East Timor, UNTAET Background" <http://www.un.org/en/peacekeeping/missions/past/etimor/UntaetB.htm>.

100 New Zealand Defence Force "Timor Leste, New Zealand History", above n 71.

101 *The Situation in East Timor* SC Res 1410, UN SCOR, 4534th mtg (2002) at [2]-[4] ["Security Council Resolution 1410 on East Timor"]. See also Agreement between the Democratic Republic of East Timor and the United Nations Concerning the Status of the United

the developing F-FDTL.[102] The NZDF also contributed Military Observers whose duties included patrolling villages, talking to villagers about the security situation, reuniting families and repatriating refugees.[103] UNMISET was underpinned by internationally accepted human rights principles[104] but its mandate also authorised it, as a Chapter VII mission, to take the necessary actions to fulfil its mandate.[105] UNMISET's mandate was completed in May 2005.[106]

UNMISET was replaced by the United Nations Office in Timor-Leste (UNOTIL). UNOTIL was mandated to secure the foundations for a stable country by providing, inter alia, support to the development of critical State institutions, the police and the Border Patrol Unit (BPU). UNOTIL was also mandated to provide training in observance of democratic governance and human rights.[107] NZDF personnel deployed under UNOTIL worked as Military Training Advisors. Their role was to teach and mentor the BPUs and to facilitate meetings between the Units and the Indonesian Army. In addition to border security and helping to bring order to Timor Leste, army engineers built roads and schools and established clean water supplies. Soldiers helped teach English and NZDF medical personnel provided medical treatment to locals.[108] Such activities have been described from within the NZDF as being a positive change as it meant that there was no longer a requirement for a peacekeeping mission, rather the focus became one of capacity building.[109]

Unfortunately, such optimism was short-lived as Timor Leste experienced a major political, humanitarian, and security crisis between April and June 2006 caused by tensions in and between its defence force and its police force.[110] In response, the Security Council agreed to prolong UNOTIL's mandate and to request the Secretary-General to present new recommendations taking into account the need for a strengthened UN presence. In response to its concern over the still fragile security, political and humanitarian situation in Timor Leste and the threat posed by weapons unaccounted for and the significant number of displaced persons, the Council established the United

Nations Mission of Support in East Timor (signed 20 May 2002). Available at The Timor-Leste Institute for Development Monitoring and Analysis (La'o Hamutuk) <http://www.laohamutuk.org/reports/UN/02UNMISETSOMA.htm>.

102 New Zealand Defence Force "Timor Leste – FAQ and History", above n 81.

103 New Zealand Defence Force "Time's Changing in Timor" (press release, 28 June 2005) <http://www.scoop.co.nz/stories/PO0506/S00304.htm%3Ehttp:/www.scoop.co.nz/stories/PO0506/S00304.htm>.

104 Security Council Resolution 1410 on East Timor, above n 101, at [5].

105 Ibid, at [6].

106 United Nations "East Timor UNMISET Background" <http://www.un.org/en/peacekeeping/missions/past/unmiset/background.html>.

107 *The Situation in Timor Leste* SC Res 1599, UN SCOR, 5171st mtg (2005) at [2]-[3] ["Security Council Resolution 1599 on Timor Leste"].

108 New Zealand Defence Force "Timor Leste, New Zealand History", above n 71.

109 NZDF (2005), supra note 103.

110 United Nations Secretary-General "Report on Timor-Leste Pursuant to Security Council Resolution 1690 (2006)" SC Doc S/2006/628 (2006) at [2]-[23].

Nations Integrated Mission in Timor-Leste (UNMIT),[111] which replaced UNOTIL. UNMIT's mandate was extensive and, in essence, it was designed to support the State, society, and Government and relevant institutions of Timor Leste with a view to consolidating stability, enhancing a culture of democratic governance, bringing about a process of national reconciliation, fostering social cohesion and facilitating political dialogue. It was charged with restoring and maintaining security and further strengthening the national capacity for the monitoring, promotion and protection of human rights. UNMIT was also mandated to cooperate and to coordinate with UN agencies, funds and programmes and all relevant partners with a view to making maximum use of assistance in post-conflict peacebuilding and capacity-building.[112] The Security Council also called upon international security forces to cooperate fully with, and to provide assistance to, UNMIT for the implementation of the mission's mandate.[113]

Against this background, Timor Leste urgently requested police and military assistance from Australia, New Zealand, Malaysia and Portugal.[114] On 25 May 2006, the Prime Minister announced that the NZDF would deploy in support of the Timorese Government.[115] The following day the International Stabilisation Force (ISF) was deployed and began securing key installations in Timor Leste.[116] By mid-July, there were two hundred and four New Zealand Army soldiers serving in an area of operations east of Dili. They patrolled and carried out security operations by foot and vehicle. The NZDF presence had a calming effect on the city and allowed the return of normal patterns of life. Shops reopened and local children returned to school. New Zealand soldiers also confiscated over 1,500 weapons between May and July 2006.[117] The presence of the ISF and UNMIT also facilitated the largely peaceful presidential run-off elections in Timor Leste in 2007. As of May 2010, the NZDF retained a presence in Timor Leste but the improving security situation has meant that its presence has been reduced. According to the Commander Joint Forces New Zealand, the focus of the ISF is evolving from a security and stabilisation role to supporting the capacity building of both the defence and the police force of Timor Leste without the need for the ISF.[118]

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111   *The Situation in Timor Leste* SC Res 1704, UN SCOR, 5516th mgt (2006) ["Security Council Resolution 1704 on Timor Leste"].

112   Ibid, at [4].

113   Ibid, at [5].

114   See also United Nations Secretary-General "Letter dated 24 May 2006 from the Secretary-General addressed to the President of the Security Council" SC Doc S/2006/319 (2006).

115   New Zealand Defence Force "Timor Leste, New Zealand History", above n 71.

116   The Arrangement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste Concerning the Restoration and Maintenance of Security in Timor-Leste, applied to the New Zealand deployment in Timor-Leste. See the Timor Leste Institute for Development Monitoring and Analysis (La'o Hamutuk) available at <http://www.laohamutuk.org/reports/UN/06SOFAs.html#New_Zealand>.

117   New Zealand Defence Force "An update of key NZDF activities in Timor Leste" (18 May 2010) <http://www.nzdf.mil.nz/operations/deployments/east-timor/default.htm>.

118   Ibid.

A total of seven peace operations, some with peace enforcement mandates, were established by the Security Council as it supported the process of Timor Leste's independence. Underpinning these mandates were numerous legally binding Security Council resolutions equipping the UN, as a legal entity in its own right and as a body made up of troop (and civilian) contributing nations, to adopt a range of measures to maintain international peace and security. Much of the NZDF's activities in light of these resolutions demonstrate a Chapter VII peace enforcement mandate in action. They are also a concrete example at a local level of the linkage between peace and security. A demonstrable security presence, legally authorised and equipped to use force to provide a secure environment had the dual effect of protecting NZDF personnel and providing a secure environment for the East Timorese with normalcy breeding normalcy at the local, national and regional level.

V. New Zealand Peace Support in Afghanistan: (Re)Constructing Peace at the Provincial Level

Similarly to the recent peace support missions deployed to Timor Leste, the approach to collective security in the context of Afghanistan is a combination of a regional stabilisation effort combined with a UN-mandated initiative. The international presence in Afghanistan can be traced back to 2001 when the Security Council called on Member States to provide long-term assistance for the social and economic reconstruction and rehabilitation of Afghanistan.[119] The outcome of this resolution was the establishment of an international presence in Afghanistan primarily comprising a military strand in the form of International Security Assistance Force (ISAF), a security and development mission,[120] and a civilian strand in the form of the United Nations Assistance Mission to Afghanistan (UNAMA).[121] New Zealand contributes to the ISAF in Afghanistan. The NZDF currently leads the Bamyan Provincial Reconstruction Team, provides a Special Forces contingent and staff to ISAF Headquarters, assists in training the Afghan National Army, and contributes to UNAMA.[122]

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119 *The Situation in Afghanistan* SC Res 1378, UN SCOR, 4415th mtg (2001) at [4]. In Resolution 1378, the Council has also reaffirmed its previous Resolutions: 1267, 1333, 1363, 1368 and 1373. Resolution 1378 was expressly reaffirmed in Resolution 1383. See T D Bosi "Post-Conflict Reconstruction: The United Nations' Involvement in Afghanistan" (2003) 19 NY L Sch J Hum Rts 819.

120 The United States-led Operation Enduring Freedom is the second major active military operations in Afghanistan.

121 *The Situation in Afghanistan* SC Res 1401, UN SCOR, 4501st mtg (2002) ["Security Council Resolution 1401 on Afghanistan"].

122 New Zealand Defence Force *Annual Report 2010 New Zealand Defence Force* (New Zealand Defence Force, Wellington, 2010) 14.

Although ISAF's mandate has evolved over the past decade,[123] its core function remains the establishment of a secure environment, using all necessary force. In effecting its mandate, ISAF has assisted the Afghan authorities in providing security and stability, thereby creating the conditions for the fulfilment of the other aspect of its mandate: reconstruction, development and effective governance as per the Bonn Agreement and the Afghan Compact, the Afghanistan National Development Strategy and decisions made by the Government of Afghanistan. Such operations also aim to establish a secure environment in which local, domestic and international actors, such as UNAMA, can operate.[124] The peace support operation in Afghanistan has resulted in a greater convergence between military and non-military tasks so that military forces have been playing an increasing role in the conduct of humanitarian and development missions, previously regarded as being the domain of civilian actors.[125] This convergence can be seen in the establishment of Provincial Reconstruction Teams (PRTs), consisting of military and civilian personnel, throughout Afghanistan to carry out stabilisation and reconstruction and development activities in support of ISAF's mandate. The PRTs' civilian components have responsibility for political, economic, humanitarian and social matters. The PRTs' military components focus on increasing security and stability in the area and building security sector capacity.

Since September 2003, New Zealand has maintained a PRT (NZPRT) in Bamyan Province.[126] The NZPRT is tasked with maintaining security, which it does by conducting frequent presence patrols throughout the province. One of its key functions has been the provision of security and stability to facilitate the delivery of Government assistance, capacity building, and governance improvements. According to the head of the NZPRT in Bamyan, security was only part of the mission "[w]inning the people over is what will win this war; this means improving the lives of Afghans."[127] Embedded within the NZPRT

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123 *The Situation in Afghanistan* SC Res 1413, UN SCOR, 4541st mtg (2002); SC Res 1444, UN SCOR, 4651st mtg (2002); SC Res 1510, UN SCOR, 4840th mtg (2003); SC Res 1563, UN SCOR, 5038th mtg (2004); SC Res 1623, UN SCOR, 5260th mtg (2005); SC Res 1776, UN SCOR, 5744th mtg (2007); SC Res 1806, UN SCOR, 5857th mtg (2008); SC Res 1833, UN SCOR, 5977th mtg (2008); SC Res 1868, UN SCOR, 6098th mtg (2009). See also *The Situation in Afghanistan and its Implications for International Peace and Security* UN Doc A/62/722–S/2008/159 (2008) at [64].

124 B Rietjens et al *Enhancing the Footprint: Stakeholders in Afghan Reconstruction* (2009) 39(1) Parameters 22, 36.

125 M Ryan "The Military and Reconstruction Operations" (2007/08) 37 Parameters 58. See also M J MacNerney "Stabilisation and Reconstruction in Afghanistan: Are PRTs a Model or a Muddle?" (2005/06) 34(4) Parameters 32, 34; C Freeman "Security, Governance and Statebuilding in Afghanistan" (2007) 14(1) IP 1.

126 Originally, the Provincial Reconstruction Team was originally part of New Zealand's contribution to Operation Enduring Freedom. Since November 2006, the Provincial Reconstruction Team has operated under the command of International Security Assistance Force.

127 New Zealand Defence Force "Afghanistan: Mission Re-Alignment, quoting Group Captain Greg Elliott" *One Force* (New Zealand, October 2009).

is an American military contingent and the combined personnel are heavily involved in major road infrastructure, health and education programmes and have jointly facilitated the successful delivery of over six hundred projects since the deployment of the NZPRT.[128]

The NZPRT supports the provincial and local government by providing advice and assistance to the Provincial Governor, the Afghan National Police and district sub-governors. It also identifies, prepares and provides project management for the New Zealand aid (NZAID) programme projects within the region. These projects are contracted to Afghan companies which hire local workers to assist with the completion of these projects thereby providing both employment and new amenities in the region.[129] The NZPRT has also introduced a robust Development Plan that includes Terms of Reference for Sector Working Group representatives to ensure it meets both mission and local expectations.[130]

In addition to its work on the re-building of Bamyan Province's physical infrastructure, the NZPRT has had a particular impact on some basic social (re)development with regard to health, education and security in the form of its training of local police.[131] In terms of health, the United States initiated clinics' are the result of a combined effort between the NZPRT and United States military personnel working in the Bamyan province. The clinics were organised so that people in remote areas could access basic health care, both for themselves and their animals. The NZPRT team includes nurses and medics and together with their United States counterparts, including United States veterinarians, it has run all-day multi-purpose clinics in a number of remote villages which have little or no medical facilities.[132] The NZPRT has also provided security for the medical teams when they travel to hold the clinics.

The NZPRT has assisted local leaders responsible for education in the province to meet in order to draft an education plan. This process also allowed the local leaders to familiarise themselves with strategic planning. The meeting was also regarded by the NZPRT as being opportune in modelling good conference management and delivery and, as such, the participants were mentored in preparation and delivery. The meeting was also a practical example of preparing local leaders to assume responsibility for the development and outputs of their departments.[133] In the previous year, the NZPRT opened Bamyan Boys School. It had overseen the school's

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128 L Fletcher BEM News: Feature Stories: Reflections from the Province of Bamyan, Afghanistan (NZDF, New Zealand June 2009) http://www.army.mil.nz/at-a-glance/news/feature-stories/feature-story-readonly.htm@guid=%7B784aaff8-4014-478e-ac99-0d1c6a1f9f08%7D.htm.

129 NZDF NZPRT - FAQ: Deployment of the NZPRT to Afghanistan (October 2010), <http://www.nzdf.mil.nz/operations/deployments/afghanistan/nz-prt/faq.htm>.

130 Fletcher, above n 128.

131 NZDF "Kiwi medics in Afghanistan Defence" *Defence Update Newsletter* (July 2004).

132 Ibid.

133 Major L Smith Education Working Group - Bamyan Province Reserve Forces Feature Stories (NZDF, New Zealand, 5 September 2007) <http://www.reserves.mil.nz/about-us/feature-stories/featurestoryreadonly.htm@guid=%7Bc92ba1c-0716-4538-9c5c-a4f1c9f5ae82%7D.htm>.

building process and had helped with planning, organising contractors and the allocation of $500,000 worth of funds provided by NZAID. Within the NZPRT, the view has been expressed that:[134]

> This boys' school is a success on many levels. It is unique in the province as a two storey building and is a very visible and tangible example of progress towards a positive future for the people of Bamyan.

The development and up-skilling of the Afghan National Police (ANP), with the ultimate aim of increasing security and stability, has been one of the New Zealand Government's key areas of assistance in Afghanistan.[135] New Zealand Police have worked very closely with the NZPRT and much of the former's work has its basis in the earlier achievements of the NZPRT. By 2007, a Regional Training Centre was fully functional and had trained over 2,000 trainees, 1,600 of whom had returned to their police districts within the Province. The new Bamyan Provincial Police Headquarters building was nearing completion, pay-roll reform had progressed well and the ANP restructure was underway.[136] These successes stemmed from earlier work by the NZPRT such as an NZAID-funded literacy programme as learning to read and write had been identified as one of the biggest hurdles facing Afghan policemen and women. The NZPRT also trained instructors in order to build capacity in the local force. In 2004, it was responsible for creating the basics of an effective traffic police force in the Bamyan province in a situation where for many of the people being trained donkeys were their main form of transport.[137] The NZPRT donated two of its Toyota Hiluxs to the Bamyan police to use as training vehicles. It trained the local police in vehicle maintenance, driver evaluation and driver training. The police were instructed in vehicle checkpoint drills: skills which local police need to help maintain security in the local area.[138]

The role of the NZPRT in Bamyan has been described as one of capacity building so that the local council can develop the skills to be self-governing.[139] More recently, the view has been expressed that the role of the NZPRT has not been to develop plans to contend with the immediacy of insurgency. Rather, it was to give effect to the Afghan government and ISAF's aim of establishing a secure environment as "[s]ecurity improvements occur when the population sees growth in governance capacity and tangible development effort."[140] The

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134 New Zealand Defence Force "Kiwi Troops Boost Education in Afghanistan" (press release, 20 December 2006) <http://www.nzdf.mil.nz/news/media-releases/20061220-ktbeia.htm>.

135 J Martin "News: Feature Stories, Kiwis in Afghanistan - Three years on" (NZDF, New Zealand, 2006) <http://www.nzdf.mil.nz/operations/deployments/afghanistan/articles/2006/20060906-kia.htm.

136 M Edghill Policing in Afghanistan (NZDF, November, 2007) <http://www.nzdf.mil.nz/operations/deployments/afghanistan/articles/default.htm>.

137 NZDF "New Zealanders help rebuild Bamyan police force" *Defence Update Newsletter* (New Zealand, July 2004).

138 Ibid.

139 Martin above n 135, quoting Air Force engineer Squadron Leader Shane Meighan.

140 NZDF "Afghanistan: A Kiwi Perspective, quoting Lieutenant Colonel Jeremy Ramsden" 2 *One Force* (New Zealand, April, 2009).

complex and immensely challenging situation in Afghanistan has meant that the military could only respond in a limited fashion. Consequently, the challenge was to integrate the security line of operation (ISAF) with the governance responsibility (the Afghan government) and development (UNAMA) lines to produce a combined effect. For ISAF, this meant genuine engagement, showing "operational patience", understanding the long game, and positioning for it. For UNAMA, it meant giving effect to their mandate responsibilities. For the Afghan government, it meant extending appropriate governance and dealing with corruption.[141]

As the work of the NZPRT demonstrates, the necessities of reconstruction have frequently drawn ISAF into activities that go well beyond its originally intended mission of providing direct security. Although many military forces might agree that they are not the appropriate actors to be performing non-security-related tasks within the traditional humanitarian domain, there are many areas where tenuous security conditions prevent humanitarian organisations, which may be deliberately targeted by insurgents, from establishing a presence. In such situations, military involvement in non-military activities is necessary to provide a temporary gap and gain momentum for reaching the primary military goal: the creation of stability.[142]

VI. Law, Policy and Practice: The UN Collective Security Regime and the Contribution of the NZDF

The preceding case studies are indicative of the manner in which law, policy and practice underpinning peace support as an aspect of the collective regime is evolving. The peace support operations that were deployed to Cambodia are an early example of the manner in which the legal and policy developments underpinning peace support and its role in the maintenance of international peace and security have played out in practice in the last twenty years. At the level of international law, the Paris Agreements are indicative of the Chapter VI approach to peace and security emphasising the settlement of disputes by peaceful means as provided for in art 33. The subsequent establishment of UNTAC, in accordance with the Report of the Secretary-General, by Security Council Resolution 745 is an example of the pacific approach to collective security provisions in action as provided for, rather awkwardly, in art 36. Both the peace agreements and Resolution 745 are indicative of the multi-dimensional approach to peace support. More generally, UNTAC's mandate to oversee elections and to promote human rights, activities which were designed to facilitate international investment and economic development, reflect the recommendations in An Agenda for

141 Ibid.
142 Rietjens et al, above n 124, 22.

Peace[143] and the Report of the High Level Panel on Threats, Challenges and Change[144] that structures that would consolidate peace and advance a sense of confidence and well-being ought to be identified and resourced.[145]

In particular, the work of the NZDF in Cambodia is a concrete example of the emphasis placed on demining by the Secretary-General in An Agenda for Peace. The work of the NZDF engineers indicates that a primarily military function may also positively benefit the security and socio-economic development of the civilian population. In the short term, training programmes provided education and employment for demobilised soldiers which may have included former adversaries in the Cambodian conflict and which in turn supported the sustained daily cooperative efforts of post-conflict reconstruction of the type later identified by the ICISS.[146] In the longer term, the process of demining facilitated the securing of the physical environment, rendering agricultural land usable which facilitated economic growth in a State where agriculture provides the main source of income. A more secure physical environment also resulted in a reduction of landmine injuries which had both physical and psychological benefits for the individual and the community. As the case study of Cambodia shows, increased physical, socio-economic, and personal security stemming from demining suggests that the latter is one of those structures which advances a sense of confidence and well-being and which also facilitates increased economic and social security. Such initiatives have also been identified as factors relevant to the success of peacekeeping and post-conflict peace-building.[147] It is a step towards poverty reduction and the achievement a broad-based economic growth of the type later identified in the Millennium Report.[148]

Similarly to the situation in Cambodia, the UN presence in East Timor originated in one of three peace agreements. Further, immediate comparisons can be drawn between the deployment of UNTAC and UNAMET given the latter's mandate to oversee the ballot on the future status of East Timor in an "extremely tense and volatile situation"[149] or Chapter VI situation. Whilst the deployment of UNAMET may be deemed to have been an appropriate collective security response under art 36, the requirement of the Security Council to deal with the catastrophic post-ballot violence is indicative of the rapidity with which security situations may change prompting a collective security regime that is capable of responding in an equally rapid and appropriate fashion. In this instance, the international legal basis underpinning the collective security regime was able to function adequately. The Security Council was able to approve the creation and deployment of INTERFET as an immediate but

143 An Agenda for Peace, above n 16.
144 Our Shared Responsibility, above n 21.
145 An Agenda for Peace, above n 16, at [55].
146 Responsibility to Protect, above n 20, at [5.4].
147 Agenda for Peace, above n 16, at [58].
148 We the Peoples, above n 19, at [202].
149 *The Situation in East Timor* SC Res 1246, UN SCOR, 4013th mtg (1999) at [4].

interim response to an international threat to peace and security until a UN peace support operation (UNTAET) could be mandated and deployed. The rationale for the art 39 classification of the situation in East Timor recognises that a deterioration in a security situation and the escalation of violence per se were no longer the sole bases of determining a threat to international peace and security. Rather, violence against and large-scale displacement and relocation of East Timorese civilians, the worsening humanitarian situation in East Timor, and reports indicating that systematic, widespread and flagrant violations of international humanitarian and human rights law were being committed also formed the basis for its Chapter VII response. The INTERFET and UNTAET mandates were an application of art 42 which empowers the Council to take necessary action to maintain or restore international peace and security. In terms of an evolving collective security regime, however, UNTAET is of greatest significance because of the Security Council's accordance to it of ground-breaking sovereign powers over East Timor as part of its endeavours to restore international peace and security.

Inasmuch as the legal bases of INTERFET and UNTAET were an attempt to restore security by quelling the conflict between factions in East Timor, which is an expected response, the emphasis on restoring a secure civilian environment further builds on the UN endeavours in Cambodia. Equally, inasmuch as the demining role of NZDF engineers is a concrete example of what may be achieved, and according to the UN and others must now be sought to be achieved, the role of the NZDF in East Timor demonstrates what may and must be accomplished to at least try to meet the requirements of a collective security response under Chapter VII. Thus, the restoration of peace by the NZDF between the various actors in East Timor, as well as its endeavours to rebuild local infrastructure, was indicative of the application of a collective security regime that was characterised not merely by the absence of conflict but also by the presence of a safe and secure environment for civilians who were able to rebuild their homes, schools and churches, and plant crops. Such activities echo not only the linkages made by the Secretary-General in the Millennium Report between poverty reduction, economic growth and conflict prevention[150] but also foreshadow the observations of the ICISS that such activities, both by peace support personnel and civilians, facilitate true and lasting reconciliation.[151] Similarly, the Chapter VII mandate of UNMISET to provide assistance to core administrative structures and to contribute to the maintenance of the external and internal security of Timor Leste[152] is illustrative of a broad-based approach to the maintenance of international peace and security.

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150 We the Peoples, above n 19, at [202].
151 Responsibility to Protect, above n 20.
152 Security Council Resolution 1410 on East Timor, above n 101, at [2]-[4]. See also Agreement between the Democratic Republic of East Timor and the United Nations Concerning the Status of the United Nations Mission of Support in East Timor (signed 20 May 2002) available at The Timor Leste Institute for Development Monitoring and Analysis (La'o Hamutuk) <http://www.laohamutuk.org/reports/UN/02UNMISETSOMA.htm>.

Whilst the peace support operations up to this point had effectively achieved their aim, which was to support the decision-making process as provided for in the 5 May Peace Agreements regarding the future status of East Timor, these achievements did not satisfy the Security Council that it had fully countered the threat posed to international peace and security in the region. Whilst the creation of an elected government and the promulgation of human rights under UNTAC's mandate largely signalled the end of the need for on-going peace support operations in Cambodia by the Security Council, the creation of UNMISET to respond to challenges to the short and long-term security and stability of Timor Leste as necessary for the maintenance of peace and security in the region[153] are indicative of a more holistic and long-term legal response to the requirements of an effective collective security regime. As the application by the NZDF of UNMISET's mandate shows, the training of emergent police and defence forces and the utilisation of Military Observers to talk with Timorese villagers about the security situation and to reunite families are indicative of the types of activities that may be employed to counter threats posed to international peace and security. The Security Council's creation of UNOTIL as a reflection of its on-going full commitment to the promotion of long-lasting stability in Timor-Leste,[154] is a further example of the Council's role in maintaining peace and security by recommending appropriate procedures or methods of adjustment in response to situations that endanger the peace. The capacity building contribution of Military training advisors by the NZDF and the construction of infrastructure, the provision of medical treatment and English lessons by UNOTIL are practical examples of the UN's views on the consolidation of peace support from An Agenda for Peace through to the Millennium Report.

That peace support can be a lengthy process is borne out by the need of the UN to establish UNMIT in response to the crisis faced by the Government of Timor Leste in 2006. The Council noted that while the manifestations of the crisis in Timor-Leste were political and institutional, poverty and its associated deprivations, including high urban unemployment, especially for youth, also contributed to the crisis.[155] In many ways, this observation bears out some of the triggers of conflict that had been identified by the UN over the previous fourteen years. Although UNMIT was a Chapter VI initiative, it was supported by ISF which was the second rapid regional response initiative deployed by the UN to the area. The creation of a Chapter VI UN mission to be supported by a regional security and stabilisation force is illustrative of the two pronged approach adopted by the Security Council as it sought to meet its responsibilities around the maintenance of international peace and security in Timor Leste. In the short-term, the contribution of the NZDF had served

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153 Security Council Resolution 1410 on East Timor, ibid, at [15].
154 Security Council Resolution 1599 on Timor Leste, above n 107, at [13].
155 Security Council Resolution 1704 on Timor Leste, above n 111, at [11].

to provide a calming atmosphere which created an environment within which Timorese people could consolidate peace by returning to daily life. In the longer term, the combined efforts of the NZDF and the Timorese are a further example of the benefits flowing from a holistic view of collective security.

The case study of Afghanistan contains many similarities to Timor Leste and Cambodia. Similarly to Timor Leste, there is a two-pronged approach to peace support in Afghanistan with the deployment of ISAF and UNAMA. ISAF operates in conjunction with UNAMA with the latter operating under a Chapter VI mandate which emphasises the centrality of focused recovery and reconstruction assistance to the peace process.[156] UNAMA, both as a multidimensional peace operation in its own right as well as being an operation intertwined with ISAF, advances the doctrinal shift first advanced in An Agenda for Peace of a more holistic approach to peace support as the basis of a more effective collective security regime. Perhaps the greatest point of distinction between peace support in Cambodia, Timor Leste and Afghanistan is that the latter initiative was established after that State was invaded by the US-led Operation Enduring Freedom in response to the terrorist attacks of September 11, 2001. The presence of the North Atlantic Treaty Organisation (NATO) is indicative of a further evolution in the collective regime security as the Security Council, operating under Chapter VII, has delegated the major stabilisation role to NATO which in turn operates in support of the Afghan Government and in the reconstruction of Afghanistan.

The work of the NZDF in Afghanistan brings together elements of its work in Cambodia and Timor Leste. The link between demining as a military function to protect military personnel and the immediate and long term socio-economic impact of such work is an early illustration of the benefits of a more secure environment. Similarly in Timor Leste, the process of defusing the various episodes of conflict and unrest pre and post-independence along with local restructuring activities all contributed to local security. The peace support operations to which the NZDF is contributing in Afghanistan are a more advanced version of the work undertaken in Cambodia and Timor Leste. However, in contrast to Timor Leste and, to a lesser degree Cambodia, the NZDF contribution to peace support in Afghanistan is primarily through the NATO-led ISAF and its participation in the new initiative of PRTs.

The work of the NZPRT in Bamyan Province provides some of the clearest examples to date of the evolution of the manner in which the primary military goal, the creation of stability, may be achieved. Military security may be only

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156 Security Council Resolution 1401 on Afghanistan, above n 121. See also *Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions* UN Doc S/2001/1154, A/56/875–S/2002/278 (2001) at [98(h)]. In establishing the United Nations Assistance Mission to Afghanistan, the Security Council reaffirmed both its previous Resolutions on Afghanistan in particular its Resolutions 1378, 1383, 1386 and recalled all relevant General Assembly Resolutions, in particular Resolution 56/220.

part of the mission but in Afghanistan, and Timor Leste and Cambodia, the defusing of conflict has enhanced the lives of the local population. It has not only released them from the immediate insecurity that accompanies conflict but the ensuing relative peace and stability has allowed the NZPRT to assist with the (re)creation of jobs in the local economy, whether they stem from local policing or construction efforts, improve the basic health of the local population which can return to the growing of crops and raising of livestock. All of these activities, on the part of the NZPRT and the local population, ought to create the conditions for improved health and well-being in the physiological, economic and social sense as advocated for in An Agenda for Peace,[157] the Millennium Report,[158] the Responsibility to Protect[159] and the Report of the High Level Panel on Threats, Challenges and Change[160] as being necessary for the maintenance of peace and security at the local, national and/or international levels.

VII. Conclusion

The Security Council is empowered to achieve the UN's aim of maintaining international peace and security. To put such principles into effect it passes legally binding resolutions forming the bases of peace support operations. This legal mechanism is dynamic giving rise to mandates that form the basis of complex peace support operations that are designed to respond to situations the continuance of which may endanger international peace and security and/or mandates and/or threats to, or breaches of, the peace.

The case studies pertaining to Cambodia, East Timor / Timor Leste, and Afghanistan contextualise the variety of responses needed by the UN and Troop Contributing States, such as New Zealand, to maintain international peace and security. In the Cambodian context, UNTAC was mandated to support peace by overseeing free and fair elections and the establishment of a democratic society with a view to facilitating on-going international investment and economic development. However, as the work of the NZDF engineers in Cambodia indicates, a specific military function designed to provide a more secure and stable environment for peace support personnel can simultaneously provide physical and socio-economic security and stability to the civilian population both immediately and in the long term. The NZDF presences in East Timor/Timor Leste continued in a similar vein but are also demonstrative of the fact that a broad-spectrum military role of securing and stabilising the environment facilitated socio-economic stabilisation and security by the East Timorese at the local and national level. Finally, the creation of PRTs in Afghanistan demonstrates a more cohesive attempt to

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157 An Agenda for Peace, above n 16.
158 We the Peoples, above n 19.
159 Responsibility to Protect, above n 19, 20.
160 Ibid, at [229].

harness the benefits stemming from security and stabilisation in the military sense and the socio-economic sense. The work of the NZPRT exemplifies the practical outcomes stemming from a more holistic view of security.

Overall, the application of the collective security regime as provided for in Chapters VI and VII of the UN Charter has the capacity to recognise and to facilitate the need for a holistic approach to the maintenance of international peace and security as identified by the UN and other actors as well as by the constituent members of the Organisation, such as New Zealand.