

1996

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INTERNATIONAL PEACE: THE LESSONS OF THE FIRST FIFTY
YEARS**

Rosalyn Higgins

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Recommended Citation

Higgins, Rosalyn (1996) "Address: THE UNITED NATIONS ROLE IN MAINTAINING INTERNATIONAL PEACE: THE LESSONS OF THE FIRST FIFTY YEARS," *NYLS Journal of International and Comparative Law*. Vol. 16 : No. 1 , Article 5.

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THE UNITED NATIONS ROLE IN MAINTAINING INTERNATIONAL PEACE: THE LESSONS OF THE FIRST FIFTY YEARS

ADDRESS DELIVERED BY

PROFESSOR ROSALYN HIGGINS

THE 1995 OTTO L. WALTER

DISTINGUISHED INTERNATIONAL FELLOW

DEAN HARRY H. WELLINGTON: The Otto L. Walter Distinguished International Fellows Program, as many of you may know, brings scholars, practitioners, and public officials in the international field together with students, faculty, trustees, and special guests for dialogue. It also is an occasion for a public lecture. Today our distinguished lecturer is Professor Rosalyn Higgins, someone I have known for many years. Professor Higgins is a deep and incisive scholar and a polished lawyer; her formal introduction will come shortly. I know that we can look forward to a most informative address from a professor who is an active participant in the affairs of our world.

I want to say something about the man who makes this program possible, and it is the case that this program is due largely to the vision and generosity of a single man. For more than two decades, the New York Law School has been strengthened by its association with Dr. Otto Walter. As a member of our adjunct faculty and an active alumnus, he has shared with our community the rich experience of a half-century of distinguished practice in the field of international law and taxation. In 1986, Dr. Walter also became an important benefactor of this institution with the establishment of the Otto L. Walter Distinguished International Fellows Program. I should say that I also credit him with having helped to position this school as a serious applicant for and now a recipient of a \$2 million grant from the Starr Foundation. This grant will endow a professorship of international trade and finance and will help to support the operation of a Center for International Law at this school.

Dr. Walter's own career as a practitioner, an authority in the taxation of international transactions, with admissions to both the German and New York bars, has been an outstanding success by any measure. Today, at the age of eighty-eight, he maintains an active practice in New York at the firm of Walter, Conston, Alexander and Green, which he founded, and also practices at a law firm in Munich. He is a graduate of Munich University, the University of Erlangen, and, I am happy to report, of the New York Law School. He has lectured and published widely. It is a great pleasure to introduce my friend, Dr. Otto Walter.

DR. OTTO L. WALTER: I am deeply grateful to Professor Higgins for accepting the award of fellowship for 1995 and to Dean Wellington for helping to bring it about. Professor Higgins is not only a worthy successor in the prestigious line of Walter Fellows we have heard at this school in the past, her career in academia and in public life is superlative. After receiving an undergraduate and a master's degree from Cambridge University and a doctorate from Yale University, she started a brilliant career as a lecturer, teacher, and writer, particularly in the fields of public international law, human rights, foreign policy, and international peace-keeping. Her first teaching post was at the University of Kent, a post which she combined with a visiting fellowship at the London School of Economics, where she has been a tenured professor since 1981. In addition, she has been active as a visiting professor at both Yale and Stanford Universities. Since 1984, she has been a member of the Committee on Human Rights, established by the International Covenant of Civil and Political Rights.

While teaching, Professor Higgins found time to author several books, close to one hundred articles, three theses, and numerous legal opinions. Her main claim to fame may be her collection of United Nations documents published under the title, *United Nations Peace-Keeping Documents and Commentary: 1969-1981*. She received a certificate of merit from the American Society of International Law and is now a member of its executive committee and a vice-president. Her newest work, published by Oxford University Press in 1994, is the revised and annotated text of her widely-acclaimed series of fifteen lectures, held at the Hague Academy before a group that included some of the leading international lawyers of our time. The book is entitled *Problems and Process: International Law and How We Use It*. The strange subtitle, or somewhat strange subtitle, is due to the fact that in it Professor Higgins has posited the difference between normative and public law. *Problems and Process* is a fascinating trip through the field of international law; I found it hard to put down.

In addition to her writing, Professor Higgins has been active on the Board of Editors of the American Field of International Law, the British Yearbook of International Law, and a number of other publications. Among the honors she has gathered through the decades, I would like to mention four: she was made Queen's Counsel in 1986; a member of the Institute of the International Law in 1987; a Bencher of the Inner Temple in 1988; and, least but not last, she has been selected to become a Distinguished Fellow of the Otto L. Walter Fellowship of the New York Law School. The subject of Professor Higgins's lecture today is the United Nations role in maintaining international peace.

PROFESSOR ROSALYN HIGGINS:¹ I am very honored to be invited to speak to you as an Otto Walter Distinguished Fellow, partly because of the privilege of being associated with the name of Dr. Walter and partly because of the distinction of those fellows who have gone before me. I have chosen as my topic, "The United Nations Role in Maintaining International Peace: The Lessons of the First Fifty Years." The history of the United Nations, 1945-1995, in the field of peace and security, would represent a scholarly enterprise of several volumes. One is struck first of all by the sheer magnitude of all that has happened relating to the U.N.'s role in world peace and security during these years: the texts, the problems, the attempts, the developments, the successes, the failures, the new problems, all come teeming upon each other. But looking back over the last fifty years, it seems to me that certain trends and patterns are clearly discernable. We cannot understand where we are now and what problems the United Nations faces today in the field of peace and security without understanding what was intended and what has occurred in the intervening time. Only then can we explore what is happening today and the implications for tomorrow.

And so I begin with the first phase: what was intended? To look at the text of the United Nations Charter and to remind ourselves of what was originally intended is to see how far we've come from the original ideas of the founding fathers. The Charter was intended to provide a comprehensive set of prescriptions on conflict resolution and the use of force. On the one hand, there were the provisions for settling disputes between states and the prescriptions as to when force could or could not

1. This is the text of the 1995 Otto L. Walter Distinguished Fellow Lecture delivered at the Stiefel Reading Room at New York Law School on March 16, 1995. The revised and footnoted version of this lecture appears as an article in the 1995 United Nations Jubilee Issue of the European Journal of International Law (Rosalyne Higgins, *Peace and Security: Achievements and Failures*, 6 EUR. J. INT'L L. 445 (1995)).

be used. On the other was the intended capability of the United Nations itself to provide collective security, if necessary, by enforcing the peace. Chapter 6 of the Charter indicates the appropriate methods for settling international disputes and gives the Security Council certain powers in relation to these dispute settlement methods. As to the entitlement of states to use force, the matter was meant to be resolved by the combined application of Article 2(4) and Article 51 of the Charter. All use of force, save in self-defense, was prohibited under Article 2(4). Article 51 did not entirely match Article 2(4), in that under Article 2(4) a state could use force if an armed attack occurs; but Article 51 prohibited the threat or use of force. And years later, in the case *Nicaragua v. United States*, the International Court of Justice was further to underline that Articles 2(4) and 51 are not fully obverse sides of the same coin. By its finding that not all illegal uses of force constitute an armed attack and that the right of self-defense is available only when there is a full armed attack, the Charter envisages that states could reasonably be required to abstain from the use of force, save in self-defense, through the provision of collective security by the Security Council.

Article 39 of the Charter empowers the Security Council to determine the existence of a threat to or a breach of the peace and to recommend or decide upon measures to maintain or restore international peace. Article 40 provides for provisional measures, Article 41 provides for non-forcible sanctions, including diplomatic and economic sanctions, and Article 42 provides for military enforcement measures to be carried out by forces made available to the Security Council under special agreements envisaged in Article 43. The Security Council would thus be able to order economic and diplomatic sanctions and also, if it so chose, military sanctions. Forces were to be available and the decision to use them in particular circumstances would be binding on all concerned. A military staff committee was to be established to deal with the military planning and logistical aspects as well as to advise the Council on a number other military matters.

I now turn to the second phase: what actually happened and the developments up to 1990. The failure of the United Nations to put in place this envisaged collective security system has had several major consequences, each of which characterizes the second phase in the last half-century. The first is that states have come to rely, as much as they have been able to legally, militarily, and politically speaking, on the unilateral use of force. Unilateral military actions have been engaged in by various of the major powers: by invoking an invitation from the state concerned—for example, the Soviet Union in Hungary, or again in Afghanistan; by invoking the protection of one's nationals—for example,

the United Kingdom in Suez and the United States in Grenada; or by invoking an extended notion of self-defense, including the protection of one's nationals abroad—for example, the United States' actions in Libya. The period from 1956 to 1990 was characterized by a long list of unilateral uses of force or accompanied by some effort to articulate the justifications by reference to Articles 2(4) and 51. Paramilitary groups not officially under the control of the state emerged early in this period with the operations of the *Fedayeen* across the Egyptian-Israeli borders in the early 1950s. By the 1980s the phenomenon of terrorism—sometimes state-sponsored, sometimes not—had become a major political factor of the era. The impotence felt by states in the face of this phenomenon also encouraged the unilateral use of force against those states deemed to have instigated and supported terrorist acts, as well as reprisal raids, directed against such groups themselves.

A second consequence was that the United Nations decided that the absence of the agreements intended under Article 43, which it had never been able to put in place because of the Cold War, made impossible an obligatory call upon members to participate in military enforcement. Military interposition, upon the request of the receiving state and with the participation of those members of the U.N. who volunteered, *would* be possible. Thus, the notion of peace-keeping was born. In 1957, with the U.N. Emergency Force in operation, Dag Hammarskjöld issued his famous summary report of 1957, which would operate as a model for peace-keeping operations for the next thirty-five years. Central to those understandings were that peace-keeping would be by consent, force would be used only in self-defense (later, in the Cyprus operation, coming after the difficulties of the U.N. operation in the Congo, that was extended to force to protect the integrity of the mandate and the freedom of movement), and peace-keeping would not be used to determine political outcomes within a country. In 1962, the International Court of Justice confirmed the legality of such peace-keeping actions, in both Suez and the Congo. What was left open was the question of whether enforcement action, with states volunteering to participate rather than being commanded, could also be lawful in the absence of the intended agreements under Article 43 of the Charter. It was also envisaged that the permanent members of the Security Council would not be involved in U.N. peace-keeping, although collective security under the Charter had been predicated exactly on leadership and control by the permanent members. Part of the role of peace-keeping was to exclude the rivalries of the Cold War from areas to which it had not yet spread. In later years this principle became qualified. United Kingdom participation in Cyprus, French participation in Lebanon, and, in due course, as the Cold War

began to recede, United States and Soviet participation in the Middle East, began the long road back toward the idea of major power responsibility in peace-keeping.

As early as the Congo activities in 1960 and the Cyprus action in 1964, U.N. peace-keeping operations had begun to undertake ancillary functions: persuasion and negotiation with local military personnel and officials; humanitarian relief; the provision of safe passage for convoys; and protection for the cultivation of crops. But while creative activity occurred to maximize the possibilities, throughout this period—apart from a brief flurry about the ability of the Organization of American States to impose sanctions upon Cuba without reference to the U.N. and an aborted action by the Organization of African States in relation to the Chad-Libya dispute—there were virtually no developments relating to the use of regional agencies. Matters relating to regional agencies remained dormant. NATO and the Warsaw Pact continued their growth as collective self-defense agreements, agreeing on one thing only, namely, that they were not regional arrangements and could thus act without the prior permission of the United Nations.

And so I come to the third phase: the developments since the end of the Cold War. Following the end of the Cold War there has been a marked decline in the unilateral use of force by the United States outside of the United Nations. Since the coincidence of its own objectives and those of the United Nations in the response to the Iraqi invasion of Kuwait, the advantage has been seen in the United States of making the United Nations the center of its foreign policy—though I understand that this once again is under reconsideration in the new Congress. The disappearance of the old hostile Soviet Union has made the Security Council a more comfortable environment. There has been a substantial common interest in peace and security matters among the United States, France, and the United Kingdom, with much common ground also with the Russian Federation. Although China remains uneasy, it doesn't feel strongly enough to veto.

The Gulf War was an event of global importance, securing the liberation of Kuwait and restoring self-confidence to the United Nations. The mechanism eventually used was an authorization to states acting in a coalition to use "all necessary means," a phrase clearly understood as a reference to the use of force against Iraq, if Iraq failed to comply by a future specified date with a series of Security Council resolutions. Thus due warning was given and time was bought for finalizing military arrangements under United States command. In contrast to the action in 1950 in Korea, the Iraq operation was not a United Nations command; rather, it was an authorized operation in which states were understood to

be able to act in support of, and within the parameters of, Security Council resolutions. The Gulf War was important in showing that the United Nations was prepared for long-term commitment to economic sanctions at the conclusion of hostilities if all the stipulated conditions were not met. And it was important too for the first manifestations of the need to also deal with the humanitarian aspects of the problem, by addressing the predicament of Kurds through the imposition of safe havens. But it was an imposition with the consent of the Iraqi government—a consent periodically challenged in word and in deed. Western States decided that they would patrol no-fly zones to ensure respect for those zones, asserting that action to be based on the U.N. resolutions, though not specifically authorized by them. So we now had the new phenomenon of action authorized by the U.N. through, it was said, an absence of protest about the action rather than through a specific resolution authorizing it. Developments were now to come thick and fast.

The Secretary-General issued his famous *Agenda for Peace*, a bold initiative in which specific proposals were made for new U.N. roles and new U.N. methods. In the peace and security area, there was a remarkable new topology offered without ever in terms rejecting the old categories of enforcement and peace-keeping. The talk was now of peace-making, peace-building, peace-enforcement, and humanitarian assistance. And in all of these, apparently, there was to be peace-keeping support. By implication, peace-keeping was thus no longer to be confined to overseeing ordered and agreed cease-fires. The U.N. could, apparently in the absence of the classic preconditions for the deployment, deliver humanitarian aid, provide for democratic elections, and facilitate the monitoring of human rights. U.N. peace-keeping had in fact already been deployed in support of some of these tasks, but with the prior agreement of both parties for a cessation of hostilities and the achievement of the agreed outcome. So the role of the U.N. in Namibia in bringing elections, or in Nicaragua in monitoring rights abuses, had met with a substantial success: the former operated on the basis of South Africa's consent to the Namibia peace-plan; the latter on the basis of the Guatemala Agreements. Dr. Boutros-Ghali's *Agenda for Peace* essentially removed the condition that prior agreements be firmly in place. The *Agenda for Peace* further spoke of the need for military support for such operations, opening the way to an enforcement element within peace-keeping operations and thus setting aside the long-standing distinction between enforcement and peace-keeping.

How were these new all-embracing objectives and overlapping functions to be achieved? The answer was for the long dormant chapter concerned with regional agencies to be revived. From the moment he

arrived at the United Nations, Dr. Boutros-Ghali, who had already written in his youth a leading study on the topic, sought to put regional organizations back into center play. In his annual reports he wrote of the support they could provide. He observed with perspicacity in his 1992 report that the moment was ripe because both regional organizations and the United Nations were redefining their missions after the end of the Cold War. The *Agenda for Peace* provided the opportunity to expand on the subject. Referring to a new complementarity, he suggested that the potential of regional organizations should be utilized across the new topology of functions that he had identified: preventative diplomacy, peace-making, peace-keeping, and peace-building. The proposals for this new complementarity had a dual basis. The first was to meet a very practical need. In the 60s, 70s, and early 80s, great efforts had been made by successive Secretaries-General, key Secretariat personnel, and dedicated military collaborators to build up the U.N.'s military capabilities: staff training had been urged, Secretariat handling skills deepened, liaisons with national decision-makers were established, and stand-by provisions were recommended. But at the end of the day, the U.N. members, with few exceptions, had not been prepared to earmark forces for U.N. use and Secretariat operational command skills remained limited.

In any event, most of these efforts had been directed at classic U.N. peace-keeping and not at either enforcement or the new envisaged functions of peace-making and peace-building. As to enforcement, it rapidly became clear that, notwithstanding the end of the Cold War, U.N. members were not at all inclined to put the original intentions of Article 43 agreements into place, though they now could have done so. Quite simply, they did not wish the U.N. to have either standing U.N. forces or forces on stand-by that could be called into operation upon decision of the Security Council. With more and more new-style peace-keeping envisaged, and indeed already occurring, it was apparent that the U.N. could not either materially or financially provide for its ever expanding program. The second reason for the drive to involve U.N. regional organizations in the U.N.'s peace and security activities was, said the Secretary-General in *Agenda for Peace*, to contribute to "a deeper sense of participation, consensus and democratization in international affairs." This stated reason reflected the alienation felt by many states in the face of the preponderance of the so-called P3, the three permanent members, the United States, France, and the United Kingdom. This suggestion would only have made sense if regional organizations around the world would assume these burdens; whereas the reality is that the organization best equipped to do so is NATO, which was also looking for a new role.

And the United States, France, and the United Kingdom are, of course, critically important members of NATO, as well as of the Security Council.

The involvement of U.N. regional organizations has not had the effect of enlarging the sense of a broader participation and the history to date of the role that regional organizations could play has not been very encouraging. In the first place, most regional organizations are not fitted for military collective security or peace support. Further, it may be the case that far from being the best place to resolve a problem within the region, regional organizations are perceived by one of the protagonists as irretrievably committed to the other side. The Arab League could hardly be expected to resolve the Arab-Israeli dispute. The theoretical advantages of the regional approach, that is to say, familiarity with the parties and the issues, are offset by the practical disadvantages of partisanship and local rivalries. The Arab League and the Gulf Cooperation Council played no significant role in the Iraq-Kuwait dispute. The Organization of African Unity has been unable to assist in Somalia or Angola. ASEAN has made a negligible contribution to the problems of Cambodia. And even in Central America, it was the Contradora process, rather than the Organization of American States, which provided the initial regional impulse for peace-keeping. Why should it be supposed that a new partnership could now be forged between regional organizations, often not equipped to undertake military activities, and the U.N.?

The post-Gulf War period has been characterized by the rising expectations of the international community. A reluctance on the part of major states was coupled with a determination within the senior levels of the U.N. secretariat to force the U.N. from the constraints of the past and to harness new possibilities. And the way in which this combination of factors has become operational on the ground is extraordinary. The United Nations has some fifteen peace-keeping operations presently in force, thirteen of them mounted in the last three years. These considerations have underlain the regional imperative as well as other forms of novel delegation of powers. The encouragement of regionalism, however loosely defined, has led in my view to disturbing phenomena. We have seen the proliferation of institutions involved in the former Yugoslavia, as much for reasons of competition and of regional politics as of appropriate functional capacity. It all began with the embargo by the European Community, its observer mission in Yugoslavia, discussions in the CSCE and the WEU, and the eventual and tardy reference to the U.N. Thereafter, once again, the U.N., NATO, and the WEU have all been involved. Elsewhere, the Security Council has, after the event, approved peace-keeping activities, for example, of the CIS in Georgia, and it has relied on a grouping of states, the ECOWAS in Liberia, that don't

constitute a regional agency. In short, everything is now being tried and often simultaneously.

A major effort has been made to establish a working relationship between the U.N. and NATO, and it has been put into operation in the former Yugoslavia. The legal basis of this collaboration, as with so much that today happens under the new flexible pragmatism, remains somewhat uncertain. Articles 52 and 53 of the Charter do refer to possibilities for regional agencies, but NATO has never been regarded as a regional arrangement or agency; instead, it has been seen as a collective self-defense pact. But NATO nonetheless responded to the Security Council's request to regional bodies in January 1993 to study ways and means to maintain international peace and security within their areas and to improve coordination with the U.N. NATO's basic mandate, let alone the fact that it is not a regional organization, might have been thought to have presented a further problem because the central mandate under Article 5 of the North Atlantic Treaties states that the parties agree that an armed attack against one or more of them is considered an attack on them all. Without a formal treaty amendment to allow it either to act in circumstances other than an attack on one of the members or out of area, NATO has in fact systematically adopted a new role—that of peace support operation for the U.N. The commitment is not as a generalized commitment to the U.N., but is to be done by reference to NATO's own procedures and with the acknowledgement that the Security Council has the primary responsibility. However, within five months of stating its position, NATO was acting out of area in circumstances where no member had been attacked and in circumstances where it was not a regional agency under the Charter. Is it easy to define whether NATO's role is enforcement or based within a humanitarian aid, new-style peace-keeping mission? From NATO's perspective, it is engaged in four tasks: it monitors the no-fly zones; it is meant to enforce the no-fly zones; it offers close air support to U.N. personnel; and it is meant to engage in air strikes to protect safe areas. But decision-making in relation to these procedures is complex and is in fact weighted in favor of inaction. Close air support requires a request by those on the ground, but neither the U.N. command nor the Secretary-General's special representative would allow it unless an attack is still in progress. As for air strikes, a dual request, dual key system operates. Both NATO and the U.N. can request the action and both have to agree, so there is really a veto on the use of air strikes on both sides. NATO's impatience with the U.N.'s response in late 1994, when NATO wanted to act but the U.N. was reluctant, was evident.

So I come to the next phase, which I call: A Time for Stock Taking. While there remains a general reluctance to impose the measures envisaged under Articles 41 and 42 of the Charter (the sanctions measures), the rate of use of economic sanctions has undoubtedly increased since the end of the Cold War. From 1945 to 1990, we saw just the arms embargo against South Africa in 1977 and the comprehensive sanctions against Rhodesia from 1966-79. Recently, we have seen the wide-ranging sanctions against Iraq, against Yugoslavia, against Somalia, against Serbia Montenegro, against Liberia, against Libya, economic measures against Haiti and against parts of Angola. The tempo is manifestly increasing. It also remains the case that in the absence of the agreements envisaged under Article 43 of the Charter, the U.N. has never yet decided upon military enforcement. The reasons for the inability of the U.N. to put enforcement measures into place during the Cold War are well-rehearsed. It has to be said that there is a general consensus that no one wishes to put that initial possibility in place, and that being so, it necessarily follows that the only alternative is pragmatism. For all the rhetoric at the end of the Cold War that the U.N. would now be able to act as it was meant to under the Charter and enforce the peace, it clearly is not so. It has chosen not to be able to act as it was meant to, and the appetite for enforcement has turned out to be transitory and extremely limited. It is perceived that only a handful of states have an enforcement capacity; they find the burden onerous, financially, militarily, and in terms of public opinion.

The concomitant of a growing global democracy is a free press, and the opinion there expressed is often nationalistic. The refusal to recognize from the outset and most certainly at several discrete moments—such as the shelling of Dubrovnik or the destruction of Vukovar—that the situation in the former Yugoslavia is a violence across state lines (recognized as such by the international community) and thus requiring enforcement is woeful. It reflects a variety of factors: a desire not to repeat too rapidly the Gulf experience, a sense that on this occasion there was no national interest, and a despair about not being able to impose a political solution. A state which is attacked in a manner of extraordinary barbarity is entitled to expect the Security Council to take military action under Chapter 7 and not to disqualify itself by reference to dispute settlement difficulties. The constant invocation by national leaders of the lack of a national interest in military enforcement in the former Yugoslavia merely evidences a problem at the heart of the new-style flexible measures. Collective security under the Charter was never meant to be predicated upon short-term national interests. It was the long-term interest in international peace and security that was meant to be the motivating factor. If the enforcement of peace

is to be left to a decision by those with the capability as to whether the attacks upon a state matters or not, the reality is that the U.N. has no real collective security capability at all. Insisting that situations manifestly calling for enforcement are in fact situations calling for new style peace-keeping operations is simply a turning away from unpleasant realities.

While it is in my view lamentable that states have failed to seize the opportunity offered by the end of the Cold War, so far as effective U.N. enforcement is concerned, the lessons that the U.N. itself seems to draw from the Bosnia debacle are disturbing. Instead of deciding by reference to objective criteria the category of U.N. action required, the contemporary thinking seems to be resolutely against differentiation. We have thus seen the character of the operation change from moment to moment or have within it totally irreconcilable elements. I want to read a quotation from Kofi Annan, the U.N. Under Secretary-General for peace-keeping operations (for whom I have a great admiration, although some of his comments disturb me). He has stated that "the international community now wants the United Nations to demarcate boundaries, to control heavy weapons, to quell anarchy, to guarantee humanitarian aid. There are clearly tasks that call for teeth and muscle, in other words," he says, "there are increasing demands that the U.N. now enforce the peace as originally envisaged in the Charter." However, any demands that the U.N. now enforce the peace as originally envisaged in the Charter will certainly not be met by treating situations requiring enforcement as requiring what he calls "muscular peace-keeping." That is not what the Charter envisaged. What the Bosnia experience shows is that when peace-keepers, whose prime mandate is to deliver humanitarian aid, are in place, then all realistic prospect of enforcing the peace has gone. The enforcement of the protection of the victims has effectively been put aside by this selection of method of U.N. operation. And insofar as resolutions make some later provision for protection, such as the establishment of safe havens, enforcement of these too becomes intertwined with the protection of the U.N. personnel on the ground. The safety of the peace-keepers becomes, in effect, the sole consideration and even then the fear of reprisals against national contingents serving in the U.N. operation becomes the dominant factor and there is no realistic enforcement of any sort, even when NATO capability has been put in place. The failure in the former Yugoslavia to protect the designated safe areas because of fears of the safety of U.N. personnel reveals the profound disagreements within the expanded U.N. peace-keeping system. NATO had put in place the capacity to respond to a U.N. request for air strikes, but when these were asked for by the Nordic battalion, for example, they received neither the support of the U.N. commander in Bosnia, Sir Michael Rose, nor of Mr.

Akashi, the Secretary-General's Special Representative. As the U.N.'s policy is that air strikes can only take place when an attack is in progress, it hardly needs to be explained that that condition will rarely if ever, be met. The policy is in fact an invitation for frequent attacks on the U.N. of a short duration.

So it is time to call for a pause and to take stock of the recent efforts of the U.N. I offer some tentative conclusions in my final remarks. First, the U.N. must face the issue of an enforcement capability and its responsibilities in this regard. The authorization of coalition forces appears to be all that is on offer and the United States has also made it clear that it would not place its forces under a unified command. This technique is not necessarily unacceptable, but it is also clear that it ensures that enforcement will only occur when there is a perceived national interest in doing so on the part of the major military powers. States, especially those that rely on self-defense alone, are entitled under the Charter to turn to the Security Council if they are attacked. But the members of the U.N. have turned away from the opportunity provided by the end of the Cold War to rectify the situation. Second, while the rigidities of the Cold War should not constrain us in the forthcoming phase of the U.N.'s life, this does not mean that all legal consideration should be put on one side, and that the only factor should be pragmatism. The continued understanding of the ground rules about the circumstance in which enforcement on the one hand and peace-keeping on the other is to be appropriate is the best guarantee of respect for the U.N. and of the achievement of its objectives. Third, while the desire by the U.N. Secretariat to acquire flexibility is understandable, its disadvantages have been underestimated. Pragmatism must have its limits if contributors and protagonists alike are to know what to expect. Today, we have swung so far from principle towards flexible pragmatism that there is no clear understanding of what the U.N. may or should do in different particular circumstances. Fourth, enforcement should remain clearly differentiated from peace-keeping. Peace-keeping mandates should not contain within them an enforcement function. To speak of the need for more "muscular peace-keeping" is simply evidence that the wrong mandate was chosen from the start. Although the U.N. may endeavor to separate out these combined functions, the protagonists will inevitably perceive calls from the U.N. to NATO as entailing a loss of U.N. impartiality. The incoherence in decision-making and the confusion in the various command structures encourages contempt for a U.N. seen both as weak and partisan. Fifth, it follows from all of this that the technique of establishing safe havens is not to be regarded as desirable.

Sixth, there's little advantage and considerable disadvantage in setting aside classic peace-keeping in favor of the new mixed function peace-keeping enumerated in Dr. Boutros Ghali's *Agenda for Peace*. This has served to sow the seeds of uncertainty and confusion and has placed in jeopardy, perhaps irredeemably, all that has so painstakingly been brought up over the years in U.N. peace-keeping operations. Seventh, no peace-keeping force should be put in the field without prior agreement on a cease-fire and a realistic political prospect of the seriousness of that undertaking. The key peace-keeping function must remain the security of peace on the ground and only then should ancillary functions be added. Humanitarian assistance, electoral observation, and human rights monitoring should be in addition to, and not take the place of, the securing of peace. Never again should the U.N. engage in a form of peace-keeping as in Yugoslavia, which endeavors to provide food while allowing the slaughter to continue. Eighth, the experiment in achieving a secure environment, perhaps through the efforts of individual states, before putting U.N. peace-keeping operations in place to maintain the peace and perhaps engage in ancillary functions should be allowed to continue. The Somalia and Haiti experiences point, to date, in somewhat different directions. The lesson seems to be that the provision in the first place of a secure environment by one state so that the U.N. can proceed to the second humanitarian phase is only likely to be achieved if a dictator is required to depart and a new democratic government installed. Where there are collapsed structures of state authority, as in Somalia, the mission will almost certainly not succeed. Finally, it remains an inescapable truth that financial commitment is the yardstick of the seriousness of an intention to maintain peace. In the absence of material provision, there is no real political realm to keep the peace. Throughout the history of the United Nations, its members have not been willing to pay the modest sums needed to secure the performance of its tasks. In this alone, nothing has changed since the end of the Cold War; the traditional financial irresponsibility continues unabated into this new era. After fifty years, so much has happened in United Nations peace-keeping, but the journey ahead remains a daunting and disturbing one.

Postscript: In the intervening period between the delivery of this lecture in March 1995 and its publication, important developments have occurred in Bosnia. NATO was authorized to engage in repeated air strikes to require the Bosnia Serbs to withdraw certain heavy artillery out of range of the designated "safe areas." And this military action led in due course to the Dayton Accords and new tasks for NATO and the U.N. But this change of policy occurred only because Croatian forces, and then Bosnian

forces, made significant military advances on the ground. Without those advances, there is no reason to suppose that the U.N. would have moved to a more robust policy to secure its mandate under the relevant resolution.

