Peacekeeping Operations and State Sovereignty: Dilemma of Host State Consent

Muhammad Ijaz Latif
Head of the Department, Department of International Relations, The Islamia University of Bahawalpur, Pakistan.
E-mail: ijaz.latif@iub.edu.pk

Rehman Afzal Khan
Lecturer, Government Degree College for Special Education Bahawalpur.
E-mail: rehman.afzal@yahoo.com

Abstract
Despite criticism and failures Peacekeeping operations has always remained important and sometimes the only available option to maintain peace and security in various international conflict zones. However, the mandate for such peacekeeping operations requires consent of the host state. This presents a complex situation of state sovereignty versus human security. This study explores different dimensions of this dilemma and analyzes the dynamics of peacekeeping operations in the context of host state consent, especially in the post cold war period. The basis and maintenance of mandate for peacekeeping operations is directly related to the consent of the parties involved and thus raise further the issue of sources of consent. Different situations present different scenario for consent. In the absence of consent from the host state, the determination of threshold to supersede state sovereignty and enforce global values is very critical not only as a condition for peacekeeping intervention but also to the outcome of such situations. The choice of peacekeeping or peace-enforcement, the timing and the role of world powers, all play an important role in determining the mandate, its maintenance and the success of a peacekeeping operation.

Keywords: Peacekeeping; Humanitarian Intervention; Human Security; State Sovereignty; Host State Consent

I. Introduction
Consent of host state in the context of peacekeeping operations has been and still is a critical issue. Post cold war era has different implications for peacekeeping operations. Therefore, the issue of host state consent as a reasonable condition for peacekeeping operations depends upon various other factors and represents a basic dilemma of state sovereignty versus human security. We have argued in this paper that the issue of consent cannot be dealt on its face value. Because many factors determine the nature as well as the level of requirement of host state consent such as type of conflict, timing of intervention, interests of world powers, domestic and external actors and nature of threats and challenges. Case of state sovereignty in post cold war period is conditional. Ground realities should determine the “mandate” for peacekeeping intervention. However, there are many challenges and complexities present. If the peacekeeping
operation does not ensure human security in first place then it is a futile exercise. To support our argument, and to explain the above-mentioned factors and complexity of the issue of host state consent, we have looked into the dilemmas of consent and some key aspects of host state consent in establishing peacekeeping.

II. Scope and Organization of Study

Scope of this study is limited to the issue of consent as a basic condition for establishing peacekeeping operations. Focus of this study is the critical importance of consent and its maintenance in different types of conflicts. Case examples have used to explore the dilemmas of consent. State sovereignty plays a critical role in the context of establishing mandate for intervention.

This study is organized in a way that it explores the basis for consent and its maintenance in first place. Before proceeding to various complexities of consent, this study presents the changed dynamics of peacekeeping in post cold war period. After presenting the basic transformation and its implications in post cold war period, this study explores the role of global values as a mandate for peacekeeping and analyzes the concept of peace-enforcement. Concept of State sovereignty is then revisited in the context of new global environment. The dilemma of sovereignty and human security is explored in the context of consent. Role of world powers in the issue of consent and lessons from past are discussed to understand the background of new concepts of consent such as responsibility to protect (R2P). The classical and global context of consent with respect to the future is discussed to explore future scenario. A conclusion of the analysis is presented to conclude the study.

III. Consent: Basis and Maintenance

First, we shall look into the basic question of why the issue of consent is so critical. Consent is critical for the presence of a peacekeeping force inside a country and provides it the required legal basis; otherwise, it will violate the Article 2(7) of UN Charter (Tsagourias, 2006, p.3). The issue of consent is therefore critical to UN collective security system because it ensures the sovereignty of state within the system. Moreover, there are no provisions within the Charter of UN for peacekeeping operations and it is the mandate given by Security Council that provides the legal basis for the operation (Jett, 2001, p.39). However, the issue of consent has different characteristics in case of inter-state and intra-state conflicts. Other important point is the point of intervention into the conflict i.e. pre-conflict, during conflict or post-conflict.

Once the host state or the main parties give the consent, the other important point is the maintenance of that consent. Success of a peacekeeping operation depends upon the maintenance of consent. A clear and comprehensive mandate and its smooth execution are required to maintain the consent (Tsagourias 2006, p.6). It is a difficult and cyclic activity. Even if the main parties to a conflict give their consent, there is no guarantee that such consent will be available at the local level for peacekeeping force, particularly if there is a weak command and control between the main parties (United Nations 2008). However, it is critical to maintain legitimacy. Because, legitimacy of peacekeeping forces influences local actors, generate support and provides the basis for consent, for example in Cambodia UNTAC lost legitimacy in the eyes of Khmer Rouge which then withdrew its consent and the mission was hindered whereas UNTAC remained legitimate in the eyes of Cambodian people and therefore was able to conduct a successful election.
IV. Consent: Post Cold War Dynamics

End of cold war had certain important implications for peacekeeping. Strict division during the cold war led to 20 million dead in more than 100 major conflicts around the world and United Nations was powerless to react because of 279 vetoes that were casted in the Security Council (Boutros-Ghali, 1992). This explains the impact of bipolarity on United Nations. The end of cold war however, changed the nature of peacekeeping operations. Two very important trends of post cold war years include persistence of civil wars where the brutality and violence was mostly directed towards civilians and the concern about human rights, individual security and good governance, and that came with increased interest of domestic intervention by international community and regional organizations (Keating and Andy, 2005, p.xxxii).

The transformation of peacekeeping is therefore of significant importance because it helps to understand the success and failures of peacekeeping after cold war. Post cold war focus of peacemaking has shifted towards human security in the context of international society (Newman and Richmond, 2001, p.4). One aspect of Brahimi report is the rethinking of human security (Peou, 2002, p.65). However, this shift in focus has led to complicate the issue of host state consent in the context of new “humanitarian intervention” and the state sovereignty. There is a real dilemma between the defense of humanity and defense of sovereignty, and it is unclear which principle should prevail when they are in conflict (Annan, 2000). At this point of discussion, it is of key importance to revisit the concept of sovereignty in the context of post cold war peacekeeping and to analyze the viability and applicability of classical “host state consent” oriented peacekeeping. This also involves the key debate about peacekeeping on the basis of consent from all parties or as an imposed solution to a situation (MacQueen, 2006, p.8).

V. Consent and Global Values: Peace-Enforcement

Macqueen (2006, p.9) has argued for using domestic and global values as a determinant of consent, which makes peacekeeping a voluntary process for states, based on the respect of their sovereignty to the extent that global values are not threatened for example the cases of genocide, when the local values refuse to act in accordance with the accepted universal values, state sovereignty must submit to global values. Consent for intervention in this situation will be granted from the global regime and not necessarily by the state concerned. In other words, two options are peacekeeping or peace enforcement. Peacekeeping versus peace enforcement needs some explanation considering different types of conflicts and who can give consent.

International law recognizes states and governments, international organizations, insurgents and liberation movements who can give their consent (Tsagourias, 2006, p.5). In inter-state conflicts, respective legitimate governments who are in effective control of their territory are supposed to give the consent. However, in case of intra-state conflicts the picture is complex. In case of failed states, it is very difficult to identify all the parties and obtain their consent. This leads to the implementation of peace enforcement instead of peacekeeping. Further, modern peacekeeping operations often have coercive powers but that is still different from the peace enforcement operations as in an enforcement,
there is a defined enemy of international society against whom the force is used, operation is neither impartial nor neutral, use of force is a central instrument, a solution is imposed by using force and it does not require any consent from the state whereas in case of peacekeeping operation with coercive powers, the use of force is not primary instrument but incidental, no target enemy but all parties are equal, no solution is imposed rather a mutual agreement between the parties is encouraged (Tsagourias, 2006, p.4).

VI. Revisiting Sovereignty in the New Global Environment

So far, it has been explored that the real contention is present between sovereignty and human security. We shall focus first on some legal aspects of humanitarian assistance and then we shall analyze sovereignty in new global political environment. International human rights law applies both in times of war and peace and states are obliged to respect, protect and fulfill the rights of those within their territory or jurisdiction, ICISS in 2001 stated that state sovereignty carries with it the responsibility to ensure the safety of the lives of the citizens and their welfare (Barber, 2009, p.396). It is an obligation on the part of the states to consent to and actively facilitate humanitarian assistance on the basis of customary international law (Barber, 2009, p.397). From this view, it looks simple and binding to all the states to consent to humanitarian assistance. Nevertheless, the non-state actors are in no obligation to follow the international law. During a civil war, when there is no state in control, the lives of non-combatants are in jeopardy. Sometimes in intra-state wars, the relief to the population can contradict with the war aims of one or other parties and make the task of humanitarian agencies much difficult (Boutros-Ghali, 1995).

Considering the legal bindings presented above, let us revisit the concept of sovereignty after cold war. Under modern understanding, sovereignty inheres in the people and the state’s sovereignty is therefore conditional and is challenged when government willfully take steps to cause death or wide spread suffering (Ademola, 2005). This means that if the state is not acting to protect the lives of the innocent people than it has no right to claim its sovereignty. Having said that it is argued that it does not becomes easy for the United Nations to intervene. In principle, it should, but in practical terms, it does not. States are suspicious of interventions because they often take it as a way of interference. Annan (2000) recognized the criticism about the humanitarian intervention that it can be used as a cover to interfere in the internal affairs of the sovereign states, and it can be used by the secessionist movements from the inside to deliberately provoke governments to commit gross human rights violations and trigger foreign intervention to support their cause.

On the other hand, the gross violations of human rights and genocide should not be allowed in the name of state sovereignty as this fails the whole concept of human security and questions the very existence of international organizations like the UN. States can no longer escape by using “sovereignty” from their obligation to address to the new threats that are present within their domestic domain, because if they do, the sovereignty and security interests of international community come in conflict with the national interests and sovereignty of one state (Chertoff, 2009).

VII. The Dilemma of Sovereignty and Human Security

Sovereignty of state or the human security is the real question. The organization, operation and results of peacekeeping operations in the 90s raise many questions about
the classical practices of “consent” by the international community. Kofi Annan has pointed to the same critical question in his report, “I also accept that the principles of sovereignty and non-interference offer vital protection to small and weak states. But to the critics I would pose this question: if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica—to gross and systematic violations of human rights that offend every precept of our common humanity?” (Annan, 2000, pp.47-48)

VIII. The Role of World Powers

The role of international community in general and the role of world powers in particular is an important factor that effects the peacekeeping establishment. The politics of race as well as the political and economic interests of powerful members of Security Council play a critical role in determining whether or when the interventions will be authorized by the Security Council and the most clear example is crisis in Rwanda where in spite of timely warnings by the UN force commander in Rwanda about the looming genocide of the Tutsis, powerful states on the Security Council especially the United States that actively blocked the UN security council intervention and just stood by while 800,000 people were put to death through state sponsored genocide (Mgbeoji, 2003, p.104).

The behavior of international community is the determinant factor in the success of a peacekeeping operation. There is a growing argument about the irresponsible behavior of international community that serves as a shield for human rights abuses like genocides and points to the timely responsibility of international community to move in timely and prevent from such crimes to happen (Daudelin, 2005, p.1). There are many examples which verify the slackness of international community in the context of in time humanitarian intervention. The politics of self-interest and priorities of the state can be seen in the comparison of Iraq’s aggression against Kuwait and Kosovo crisis. The relative ease of decision to authorize use of force present in the Iraqi invasion of Kuwait is absent in the case of Kosovo, despite the clear breach of UN Security Council resolutions by the Milosevic’s Serbia (Hannay, 2008, p.199).

Above cases, show that the interest-politics of world powers is still at the center of the agenda and it affects rather determines the actions of United Nations in the context of peacekeeping. Preventive diplomacy, peacemaking, peacekeeping or peace enforcement, all depends how the world powers use them and when. The role of UN Security Council has been increasingly reactive rather than proactive in dealing with armed conflicts and its failure to react initially when Israel initiated large-scale military incursion in Southern Lebanon in 2006 is an example of that (Nasu, 2007). However, it is important to understand that the world powers are the key players of the Security Council. The threat of Russian veto in Kosovo crisis resulted in the use of force without prior authorization of the UN and the same repeated in March 2003, in the case of United States attack on Iraq (Hannay, 2008, p.199).

IX. Consent: Lessons from the Past

UN was bypassed time and again by the powerful states. It is clear from the case of resolution 678 of Security Council in the context of first Iraq war that it just backed the United States in forming an ad hoc military alliance against Iraq (MacQueen, 2006, p.138). On one hand, NATO powers will intervene when and where they consider it
necessary and on the other hand, United Nations will have the task of cleaning up the mess of conflicts afterwards (Chandler, 2001). Does it mean the role of United Nations is over?

It is true that the UN has not played as active role as it should have played but there are reasons for that. The gap between the promises made by UN charter and its actual performance remain large to unacceptable extent (Thakur, 2006, p.298). This leads to another dimension of discussion and that is to see whether the United Nations is of future relevance in the context of consent and humanitarian intervention. In addition, what lessons it has learned from its constraints (structural and political) and inactions in the 90s. This diagnosis is widely accepted that United Nations lacks a system-wide strategic culture and a context driven approach for peacekeeping operations based on the identification of key challenges (Gowan, 2008). However, there are developments as well that mark that UN has positive prospects for peacekeeping despite the strong role of world powers. The role played by UN prior to Iraq war of 2003 was beyond expectations and it demonstrates its relevance for the future (Tardy, 2004).

X. Responsibility to Protect and Beyond

UN Secretary-General Boutros Boutros-Ghali’s An Agenda for Peace (1992) provided an encouragement to develop a more comprehensive and sustainable peace process for post-conflict portfolio (Franke and Warnecke, 2009). There were efforts during the 90s to set new directions such as “The right to intervene” by Bernard Kouchners but very important was the introduction of debate into the concept of “The responsibility to protect” presented by the International Commission on intervention and State Sovereignty (ICISS) (Evans, 2008, p.31). The responsibility to protect is an important step ahead in contracting the gap between the classical host state consent and human security in the global context. Responsibility to protect is however remains to be tested on practical implementation grounds.

Can states impose democracy, good governance and global values on other states and use it for “humanitarian intervention”. Within the context of applying “responsibility to protect” rule, the outcome should be carefully weighed to ensure that it will provide more good to the people than bad as it backfired in Iraq’s case (The Economist, 2008). There is however, no competitor to UN. United Nations strong image of a vehicle of collective action gives it the legitimacy while involving in a conflict (Berdal, 2003).

We can argue based on above discussion that there is not much difference of opinion about the sacredness of humanitarian regime and its supremacy over the sovereignty in the new liberal and global world. However, the real problem is not in the theoretical debates but present in the proper implementation. Some of the basic political insights of the Brahimi Agenda have been sidelined in the implementation process (Bellamy and Williams, 2004, p.183).

XI. Conclusion

Summing up the discussion, the issue of consent is directly linked with the Westphalian concept of state sovereignty. However, in the globalized world of twenty first century, the concept of state sovereignty is conditional to the universal human values. Having said that, the dimension of humanitarian intervention in scenarios where consent cannot be given by the states or the main parties involved and is imposed in the
form of peace enforcement has its own complications. The biggest challenge is the intent of external factors involved. There are examples of interventions bypassing UN and promoting states own agenda by using “humanitarian intervention” or by imposing global values example democracy. Weak states feel more vulnerable in this context. The role of powerful states in the UN is the key to the success or failure of a peacekeeping operation. However, unilateral actions of powerful states seriously undermine the credibility of the UN and dent the legitimacy of the UN as an agent of collective peace and security to all the nations of the world.

The discussion above shows that consent in its classical format should not be used as a hard and fast rule for peacekeeping. Different type of conflicts offer different challenges and therefore each case should be considered on its own merits and demerits. Sovereignty on the other hand, comes with a responsibility to avoid conflict with the universally accepted human values. Responsibility to protect (R2P) still needs to be evaluated in detail through application on ground. However, it is easier said than done. The role of world powers, resources available to the UN, states self-interests are some of the important factors, which makes it difficult to implement.

References


