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Legal Aspect in Peace Keeping Operation and Nepal

Naresh Giri*

Abstract

The United Nations (UN) Charter is the constitution of the UN, that underpins the operational framework of the UN, encompassing the peacekeeping mission to create conditions for lasting peace in conflict-torn countries. Nepal involved in all peace initiatives taken by the UN and largest troop contributor to the UN peacekeeping missions carrying the beacon of peace in the world initiated by Nepal's enlightened son, Gautam Buddha. This study aims to identify the legal basis of the UN peacekeeping operations implied in the UN Charter and other international law concerning the influence of Buddha's teaching of peace and non-violence on the global norms of peace. This study also aims to analyze Nepal's adherence to human rights law and humanitarian law, as well as the legal aspects of Nepal's participation in UN peacekeeping operations. Methodologically, the study follows a doctrinal approach, focusing on the examination of legal doctrines. The researcher draws upon multilateral conventions, resolutions of the General Assembly and Security Council, decisions of the International Court of Justice, reports, Nepal's correspondence to the UN, speeches by the Nepali delegation in the UN General Assembly, Nepali laws related to UN peacekeeping, and journal articles as sources of data. This paper argues that as a birthplace of Buddha, Nepal needs to negotiate with the UN to expand its role in securing policy-level and command-level positions in UN peace initiatives, enabling it to contribute more to enhance the legal norms for peacekeeping operations with oriental knowledge of world peace.

Keywords: International law, human rights law, humanitarian law, peacekeeping, Nepali Army

Introduction

The discourse surrounding matters of conflict and resolution predates the emergence of the modern nation-state. After the devastating Second World War, the United Nations (UN) was created to maintain international peace and security as its core objective. The UN carried out various peace initiatives, including conflict prevention, peacemaking, peacekeeping, peace enforcement, and peacebuilding. Nepal actively supports all these UN peace initiatives and has become the largest troop contributor in peacekeeping at present. The questions to be asked

* Bench Officer, High Court Biratnagar
Email ID : naresh3334444@gmail.com

in this context are: What are the major legal provisions regarding peacekeeping operations? How do legal aspects shape UN peacekeeping operations? What are the implications of Nepal's contribution to UN peacekeeping operations? These are the questions that this article aims to answer.

Even within the context of ancient tribal societies, inherent to the early epochs of human civilization, intertribal conflicts were a recurring phenomenon. Engels & Hunt (2010) described the American Indian tribe in which the men of the defeated tribe were either killed or adopted as brothers into the victor's tribe. Women were also taken as wives or adopted as members of the victor's tribe along with their surviving children. Throughout antiquity, numerous philosophers from both the Eastern and Western traditions dedicated their intellectual endeavors to attain the paramount ideal of peace as an alternative to conflict and warfare. Foremost among these efforts is the teaching of Buddha, which underscores the principles of peace and non-violence.

The evolution of warfare attained a heightened level of sophistication within the institutionalized state framework. The establishment of modernized military forces and advanced weaponry systems contributed to the increased complexity and destructiveness of armed conflicts. After the devastating First World War spanning from 1914 AD to 1918 AD, nations came to a consensus to establish the League of Nations in 1920 AD. The League of Nations employed military advisers and several military commissions to facilitate the negotiation of peace agreements and the resolution of international disputes among its constituent member states. In select instances, most notably the Saar Basin region from 1920 AD to 1935 AD and the Leticia Port along the Colombia-Peru border from 1933 AD to 1934 AD, the League of Nations instituted administrative commissions for territorial governance and deployed international forces, contributed by its member states, to uphold law and order within these regions (Mathias, 2017, p. 139).

The League of Nations proved ineffective in preventing the outbreak of the Second World War, which commenced in 1939 AD. In the waning phase of the Second World War, delegates from fifty nations assembled in San Francisco, California, USA, between April 25 and June 26, 1945, as part of the UN Conference on International Organization which adopted the UN Charter (United Nations, 2023). Despite peacekeeping already being in practice under the auspices of the League of Nations, the drafters of the UN Charter did not explicitly mention UN peacekeeping operations. This is why the mandates of peacekeeping operations should be sought in chapters VI, VII, and VIII of the UN Charter.

During the San Francisco Conference, invitations were extended to nations that had declared war on Germany and Japan (ibid.). Nepal, while providing military support to Great Britain and its Nepali Army fighting alongside the Allied Powers, did not formally declare war against Germany and Japan. Consequently, despite its status as an independent sovereign nation and its active participation in the Allied cause, Nepal missed the opportunity to become a founding member of the United Nations. It wasn't until 1955 AD that Nepal became a member of the UN. Subsequently, Nepal commenced its involvement in UN peacekeeping operations in 1958 AD. Today Nepal stands as the largest troop-contributing nation to UN peacekeeping missions ([United Nations Peacekeeping, 2023](#)).

This article posits that Hinduism, Confucianism, and Buddhism constitute the three major branches of Oriental philosophy deeply rooted in humanism, nonviolence, and world peace. The principles of Panchasheel, derived from Buddha's teachings, serve as the foundation of

modern human rights law and humanitarian law. Human rights law, humanitarian law, and the mandates of the UN Security Council form the principal legal framework for UN peacekeeping operations. Additionally, the UN Charter holds the position of a general norm, or in Kelsen's words, a 'Grundnorm' (Riddall, 1999) from which the legality of all UN endeavors derive their validity. Nepal, the birthplace of Buddha, has become a significant contributor of troops to UN peacekeeping operations. Through active participation in peacekeeping operations, Nepal promotes the values of Panchsheel, non-violence, and world peace.

Literature Review

Efron & Ravid (2019) described three approaches to literature review: systematic, traditional-narrative, and hermeneutic-phenomenological. I employed the traditional narrative approach, which is best suited for social science research, while the systematic approach is more suitable for pure science, and the hermeneutic-phenomenological approach is more appropriate for literary research. I conducted a comprehensive review of both theoretical and empirical literature to identify gaps in my area of interest. Subsequently, I tried to address these gaps in my research.

Theoretical Review

The Natural School of Jurisprudence is among the oldest schools of legal philosophy. Naturalist philosophers believe that certain principles of human conduct can be discovered through human reason (Riddall, 1999, p.55). Natural law principles are universal and applicable to all types of societies indiscriminately. A suitable analogy of natural law is the mathematical axioms, which remain valid even when misunderstood or undiscovered (Freeman & Lloyd of Hampstead, 2014).

The Natural School of Jurisprudence did not have its beginnings confined exclusively to the realm of law; it also extended its influence into the domains of politics, philosophy, and logic. However, it was the works of Greek philosophers such as Plato and Aristotle, as well as the writings of the Roman philosophers Cicero, Zeno, and others, that laid the foundational groundwork for naturalist thought. In the Eastern world, the Natural School developed as a religious philosophy. Chinese cosmopolitanism "Tianxia" means "rule under the heaven" which is inspired by Confucianism. Ruling the world by human heartedness having perfect equal rights, perfect justice, and perfect governance only ensures harmonious world (Chun, 2012, p. 29). In Hinduism, the ethos of '*Vasudhaiva Kutumbakam*' envisioned the entire world as one family (Bhattarai & Nepali, 2021, p. 123). Buddhism is primarily dedicated to peace and non-violence. Its central objective is to identify the causes of suffering and offer a path to alleviate it. In Buddhist philosophy, ignorance is considered the root cause of suffering, and knowledge is the means to overcome that ignorance (Pandey, 2019, p. 338). The commonality among all three branches of Oriental philosophy is their shared focus on respecting, protecting, and promoting human values, life, virtue, and dignity.

In Hinduism, dharma (righteousness), ahimsa (non-violence), daya (compassion), abhaya (fearlessness), and the recognition of the unity of existence are the supreme virtues of humankind. Today, these ideals constitute the foundational principles of the United Nations Organization (Sangroula, 2010, 203). Buddha's teaching of Panchashila serves as the cornerstone of non-violence and proper conduct, encapsulated in its Panchsheel: the reverence for life by refraining from killing, the respect for others' property through abstaining from

theft, the acknowledgment of our pure nature by avoiding sexual misconduct, the appreciation of honesty by refraining from lying, and the maintenance of a clear mind by steering clear of intoxicants (Do, 2019, p.219). In this context, Subedi (1999) refuted the notion that international law including human rights principles is exclusively a Western concept. He argued that the lack of extensive literature exploring and analyzing the historical practices of ancient states in Asia, Africa, and other regions does not imply that human rights are solely rooted in Christian Western civilization. According to his perspective, the universality of human rights is founded on universal values that can be identified in the major civilizations of the world (p.49).

Empirical Review

The UN was established in 1945 AD ‘to save succeeding generations from the scourge of war’(Charter of the United Nations and Statute of the International Court of Justice, 1945). The fundamental difference between the UN and its predecessor, the League of Nations, lies in their respective focuses, which are reflected in their respective constitutions. The Charter of the UN begins with 'we the peoples of the United Nations,' (ibid.) while the Covenant of the League of Nations begins with 'the high contracting parties,' (The Covenant of the League of Nations, 1920) signifying that the League was focused on states, whereas the UN places a greater emphasis on the well-being of people. The main purpose of establishing the UN is to maintain international peace and security. Peacekeeping has evolved into one of the primary tools used by the UN to achieve this purpose (United Nations, 2010, p.13).

The UN Charter serves as the constitution of the UN, guiding all its endeavors. While peacekeeping is not explicitly mentioned in the Charter, Parts VI, VII, and VIII are dedicated to maintaining international peace and security. The legality of UN peacekeeping operations should be sought within these chapters of the UN Charter. Former UN Secretary-General Dag Hammarskjold rightly said that UN peacekeeping operations are a product of 'Chapter six and a half' of the Charter (cited in Acharya, 2019, p.360). In functional terms, the Capstone Doctrine specifies that the UN Charter, human rights law, international humanitarian law, and the mandate of the Security Council are the four pillars of the normative framework of UN peacekeeping operations (United Nations, 2010, p. 13-16).

As soon as Nepal became a member of the UN in 1955 AD, it sent five military observers to the United Nations Observer Group in Lebanon (UNOGIL) in 1958 AD (Singh, 2023, p. 23) scholars, theorists, and practitioners have highlighted that dialogue-based or two-way communication is the most effective way of informing, engaging, and influencing a foreign audience in favor of a country's foreign policy. State and non-state actors are considered effective vehicles for conducting two[1]way communication. However, theorists, scholars, and practitioners have neglected the role of military power (hard power resource with soft power behavior as appropriate. During the Cold War, Nepal was a minor contributor to UN peacekeeping, supplying only a handful of military observers. However, the country's contribution to peacekeeping missions increased after the dismantling of the Union of Soviet Socialist Republics (USSR) in 1991 (Sotomayor, 2013, p. 293). Nepali peacekeepers have not faced any significant objections from the host government due to their dedication, bravery, neutrality, integrity, and professionalism (Bhattarai & Nepali, 2021, p. 43). The UN and the international community appraised Nepali peacekeepers for their professionalism, loyalty, impartiality, and dedication (Hamal, 2014, p. 188). In recognition of Nepal's contribution to

UN peacekeeping, the UN Secretary-General, who went to Oslo in 1988 to receive the Nobel Peace Prize, included Ratna Gurung from the Nepal Army in his entourage (Acharya, 2019; Bhattarai & Nepali, 2021; Hamal, 2014; Pandey, 2072). UN Secretary-General Kofi Annan also chose a Nepali peacekeeper to accompany him to receive the Nobel Peace Prize in 2001 when the UN and its Secretary-General were awarded the prize (Singh, 2023, p. 27) scholars, theorists, and practitioners have highlighted that dialogue-based or two-way communication is the most effective way of informing, engaging, and influencing a foreign audience in favor of a country's foreign policy. State and non-state actors are considered effective vehicles for conducting two[1]way communication. However, theorists, scholars, and practitioners have neglected the role of military power (hard power resource with soft power behavior as appropriate).

Research Gap

The general understanding of participating in UN peacekeeping by Nepal is reduced by some to the concept of kamaune (earning) (Bhattarai & Nepali, 2021, p. 123). For Acharya (2019), participation in UN peacekeeping could be a good source of experience and income (p.369). Sotomayor (2013) claimed that Nepali peacekeepers can earn in six months what they would make in ten years of service at home. Additionally, a significant portion of the pay and allowances earned by soldiers on UN missions is contributed to the Nepali Army Welfare Fund (p.304). While much of the available literature focuses on the monetary benefits of involvement in UN peacekeeping missions, few studies have been conducted from the perspective of Nepal's contribution to the promotion of the norm of world peace from the birthplace of Lord Buddha. Recognizing this gap, this study aims to analyze the legal norms of peacekeeping operations and Nepal's role in implementing and strengthening them.

Methodology

According to Creswell & Creswell (2018), the research approach involves philosophical world view, designs, and research method (p.43):

Theoretical Framework

The worldview of this study is based on the natural school of jurisprudence, which assumes that truth can be identified through right reasoning. Law is a universal, immutable, and constant body of permanent truths that are not affected by human belief and experience. Violence and causing suffering to others result from ignorance. World peace can be achieved through the elimination of violence using knowledge and just laws.

Conceptual Framework

The researcher has attempted to apply the naturalist concept of jurisprudence applicable to the study. Excessive positivism promoted formalism, materialism, and mechanism, which, in turn, led to the emergence of fascist and Nazi laws. The formation of the United Nations, the trials following World War II, and the global acceptance of human rights laws signify the incorporation of moral content into positive law. Fuller (1958) emphasized the internal morality of order, which is essential for validating all laws. He attempted to address the question of 'what ought to be done' by providing methods of reflection, exchanging views with others, and imagining various situations that might be presented (p.668). It is accepted that there are

some human goods like life, knowledge, play, aesthetic experience, sociability (friendship), practicable reasonableness, and religion which are indiscriminately desirable to all human beings (Finnis, 2011). Laws ought to carry a humanistic feature, whether they are domestic or international.

Kelsen (1952) defined international law as a body of rules which regulate the conduct of the states in their intercourse with one another (p.3). In modern times, the scope of international law has widened. Besides regulating states, it also governs international personalities such as entities legally proximate to states, entities recognized as belligerents, international administration of territories before independence, international organizations, and individuals (Crawford, 2012). The UN Charter is supreme among all international laws due to its nearly universal membership and the provision in Article 103 of the Charter, which states that “in the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail” (Charter of the United Nations and Statute of the International Court of Justice, 1945). Sovereign equality is a core principle of the UN Charter; however, inherent inequalities among countries create asymmetry, hindering states from fully benefiting from international legal provisions in practice (Giri, 2023, p.75).

Though every activity of the UN is the UN Charter in action, the function of peacekeeping is not explicitly provided for in the Charter. Peacekeeping missions are mandated by the Security Council to achieve world peace, which is the core objective of the UN. Capstone Doctrine defined peacekeeping as preserving the peace which evolved from a primarily military model of observing cease-fires and the separation of forces after inter-state wars to incorporate a complex model with various elements like military, police, and civilian. Peacekeeping is closely related to other similar concepts like peace enforcement, conflict prevention, peacemaking, and peacebuilding (United Nations, 2010). As peacekeeping operations are deployed in conflict-ridden zones, human rights law, humanitarian law, and the specific mandate of the Security Council function simultaneously. Nepal, one of the major troop contributors, can have its contribution analyzed with reference to its adherence to legal norms in promoting global peace.

Research Method

The study relied on legal doctrine as sources of data obtained from multilateral conventions, resolutions of the General Assembly and Security Council, decisions of the International Court of Justice, reports, Nepal’s correspondence to the UN, speeches by the Nepali delegation in the UN General Assembly, Nepali laws related to UN peacekeeping, journal articles, and more. The research method included the analysis and interpretation of qualitative data obtained from secondary sources.

Research Design

This study employed a qualitative research design with a doctrinal method. The research design included both inductive and deductive reasoning approaches. The study primarily adopted an inductive approach, progressing from specific to general, to analyze the legal aspects of peacekeeping operations with specific reference to Nepal's involvement. Additionally, it employed a deductive approach, drawing upon the naturalist theory, to enhance the understanding of the legal aspects of peacekeeping operations.

Analytical tools and materials

The study utilized legal doctrine as source of data, drawn from various multilateral conventions, resolutions, court decisions, reports, and legal materials related to Nepal's involvement in UN peacekeeping. Analytical tools encompassed a range of secondary sources such as speeches, laws, and journal articles. The collected data were analyzed and interpreted using a qualitative, subjective approach.

Interpretative perspectives, and strategies

Interpretative perspectives involve historical, philosophical, and socio-legal lenses to contextualize legal principles. The study acknowledged and accepted the subjectivity of the researcher during the interpretation of findings. The research employed both inductive and deductive reasoning, with an inductive approach focusing on specific legal aspects of peacekeeping operations and a deductive approach drawing upon naturalist theory for a broader understanding.

Data, interpretation, discussion, and analysis***Legal Provisions of Peacekeeping Operation***

The term 'peace' has garnered significant academic attention across a multitude of disciplines, encompassing religion, philosophy, and politics. Notably, Buddhism exhibits a profound dedication to the concept of peace, emphasizing both inner and global peace. The adherence to principles of inner serenity and non-violence by an individual is regarded as a constructive contribution to global peace (Kraft, 1992, p.2). The formation of the League of Nations and, subsequently, the United Nations (UN) was a direct response to the disillusionment with materialistic approaches and the devastating impact of the first and second world wars, aimed at realizing the ideal of world peace.

The UN is closely modeled on its predecessor, the League of Nations. The basic foundation of peacekeeping is already present in the Covenant of the League of Nations. In its preamble, the Covenant set the objective of achieving international peace and security (The Covenant of the League of Nations, 1920). To achieve this objective, the League was involved in what would now be designated as peacekeeping. Shortly after its establishment in 2020 AD, the League established a military commission to monitor the provisional boundary line, which had assigned Vilna to Lithuania in the same year (James, 1999, p.155). The League was involved in interim administration, establishing commissions of inquiry, ensuring the free city status of Danzig, and conducting plebiscites. (ibid.).

While peacekeeping was already conducted under the League of Nations, the authors of the UN Charter did not explicitly mention it. However, the Capstone Doctrine identifies the UN Charter, human rights, international humanitarian law, and the mandate of the Security Council as the normative framework for UN peacekeeping (United Nations, 2010).

UN Charter

The UN Charter primarily focuses on maintaining international peace and security, and peacekeeping operations are the tools used by the UN to achieve these goals. As an institution or function related to the UN is the UN Charter in action, peacekeeping operations are connected to fulfilling the provisions of Chapters VI, VII, and VIII. These chapters deal with the pacific

settlement of disputes, actions regarding threats to the peace, breaches of the peace, and acts of aggression, as well as regional arrangements, respectively (Charter of the United Nations and Statute of the International Court of Justice, 1945).

United Nations peacekeeping missions have typically been linked to Chapter VI of the Charter. Nonetheless, when passing a resolution to approve the deployment of a UN peacekeeping mission, the Security Council is not required to reference a particular chapter of the Charter and has never used Chapter VI. In recent times, the Security Council has established a precedent of invoking Chapter VII of the Charter when authorizing the deployment of UN peacekeeping operations in unstable post-conflict environments where the government is unable to uphold security and public order (*ibid*, p. 13-14). Chapter VIII of the UN Charter allows for regional arrangements for the peaceful settlement of local disputes. The African Union Mission in Somalia (AMISOM) is an example of such a regional peacekeeping mission (Williams, 2018).

Human Rights

International human rights law constitutes a fundamental component of the normative structure guiding United Nations peacekeeping missions (United Nations, 2010, p. 14). Universal Declaration of Human Rights (1948) stipulates that human rights and fundamental freedoms are universal and inherent to all individuals simply by being human. The root cause of conflict often lies in the denial of these human rights, prompting individuals to rebel against tyranny and oppression as a last resort. Seán MacStíofáin rightly pointed out that “most revolutions are not caused by revolutionaries in the first place, but by the stupidity and brutality of governments” (cited in Parker, 2021, p. 1112). So respect, protection, and promotion of human rights in post-conflict zone is core aspects of peacekeeping for achieving lasting peace. There are several UN conventions related to human rights; however, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Optional Protocol to the International Covenant on Civil and Political Rights, and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at abolishing the death penalty, collectively constitute what is known as the international bill of human rights.

Peacekeepers have a paramount obligation to safeguard the well-being of vulnerable populations within conflict zones. They are unequivocally prohibited from capitalizing on the precarious circumstances of local residents. Peacekeepers must remain cognizant of the imperative to refrain from any misconduct or transgression of the human rights of both the local populace and their colleagues, both in their public and private capacities. Those persons found culpable of human rights violations in past are ineligible for participation in subsequent peacekeeping missions.

The human rights due diligence policy (United Nations, 2015a) is grounded in the obligations dictated by international law, specifically, the imperative to uphold, foster, and stimulate compliance with international humanitarian, human rights, and refugee law. This policy applies to all United Nations entities that extend assistance to non-United Nations security forces. Consequently, it is not restricted solely to peacekeeping operations and special political missions but extends its purview to encompass all United Nations offices, agencies, funds, and programs involved in such activities.

International Humanitarian Law

International humanitarian law, often referred to as the 'law of war' or the 'law of armed conflict,' is of paramount importance for peacekeepers deployed in regions marked by armed conflict where violence may be ongoing or conflict could reignite. One of the prime responsibilities of peacekeepers is the protection of the victim of the conflict. They must possess a comprehensive understanding of humanitarian law. Secretary-General's Bulletin: Observance by United Nations Forces of International Humanitarian Law (1999) established the basic principles of humanitarian law applicable to enforcement actions or peacekeeping operations when the use of force is permitted in self-defense. The Four Geneva Conventions of 1949, along with their three Additional Protocols, are the primary documents that constitute humanitarian law.

The First Geneva Convention protects wounded and sick soldiers on land during times of war, while the Second Geneva Convention safeguards wounded, sick, and shipwrecked military personnel at sea during war. The Third Geneva Convention pertains to the treatment of prisoners of war, and the Fourth Geneva Convention extends protections to civilians, including those in occupied territories. Additionally, Protocol I enhances the protection of victims in international armed conflicts, while Protocol II strengthens the regulations surrounding non-international armed conflicts and imposes constraints on the conduct of warfare. Notably, Protocol II marked the world's first-ever international treaty exclusively dedicated to addressing situations of non-international armed conflicts. Protocol III deals with additional distinctive emblems (The Geneva Conventions of 1949 and Their Additional Protocols - ICRC, 1949).

Mandate of Security Council

Article 24 entrusted the Security Council with the primary responsibility for the maintenance of international peace and security (Charter of the United Nations and Statute of the International Court of Justice, 1945). A peacekeeping operation is one of the important tools employed by the Security Council in its mission to maintain international peace and security. United Nations peacekeeping missions are initiated following authorization by the United Nations Security Council. The specific responsibilities and duties of a United Nations peacekeeping mission are outlined within the mandate issued by the Security Council. These mandates are tailored to suit the particular circumstances of each situation, reflecting the unique characteristics of the conflict and the challenges it poses. Given that United Nations peacekeeping missions are typically dispatched to facilitate the execution of a cease-fire or a broader peace accord, the content and scope of Security Council mandates are influenced by the terms and conditions agreed upon by the conflicting parties (United Nations, 2010, p. 16).

The legal foundation for UN peace missions is not direct. In reality, the specific terms of any mandate emerge from negotiations involving the permanent members of the Security Council. Mandates can occasionally become muddled due to varying perspectives among the influential powers, resulting in excessive ambiguity (Wagle, 2022, p.256).

Procedural Aspect of the UN Peacekeeping

Generally, UN peacekeeping operations are mandated by the Security Council. However, the United Nations Emergency Force (UNEF) was an exceptional case created by the General Assembly after the military invasion of Egyptian territory by Israel, France, and the United Kingdom in 1956 (Goodrich & Rosner, 1957) the feature that was most emphasized by its supporters was the provision for the use of collective forces to keep the peace. It was the failure

of this particular feature of the Charter system to become effective which was mainly responsible for the subsequent decline of confidence in the UN as a peace organization. For a time, hopes were rekindled by the role of the United Nations in meeting aggression in Korea. Recent events in the Middle East, particularly the establishment of the United Nations Emergency Force (UNEF). Typically, the UN Secretary-General submits a report to the Security Council that outlines the mission's suggested mandate, roles, makeup, and deployment. Subsequently, the Security Council passed a resolution to establish the mission based on this report. Afterward, the Secretary-General initiates the process of staffing and equipping the mission, encompassing troop and police units as well as civilian personnel (Cameron, 2017, p. 56).

The UN Truce Supervision Organization, established in May 1948 with its headquarters in Jerusalem, and the Military Observer Group, founded in January 1948 to examine and facilitate the resolution of the conflict between India and Pakistan (known as 'UNMOGIP'), represent early forms of peacekeeping (Mathias, 2017, p.139-140). UN peacekeepers started to sacrifice for the noble cause of peace from the very beginning of UN peacekeeping. UN mediator in Palestine, Count Folke Bernadotte was assassinated in September 1948. In *Reparation for Injuries Suffered in the Service of the United Nations* case (1948) International Court of Justice (ICJ) recognized the UN as an international legal person. The Court determined that the Organization was designed to carry out duties and possess privileges that can only be justified by having a significant degree of international standing and the ability to engage on the international stage. As a result, the Organization could initiate a claim and to classify it as an international action seeking redress for the harm it had suffered.

The scope of peace operations varies according to their mandates, which can encompass several vital functions. These missions may involve deploying to prevent the eruption of conflicts or the spillover of hostilities across borders. In post-ceasefire scenarios, they play a crucial role in stabilizing conflict situations, aiming to establish a conducive environment for negotiating lasting peace agreements. Peace operations may also assist in the implementation of comprehensive peace accords. Moreover, they are often tasked with guiding states or territories through transitions toward stable governance founded on democratic principles, effective governance, and economic development (Mandates and the Legal Basis for Peacekeeping, 2023).

Mathias (2017) identified three cardinal principles of the traditional model of peacekeeping: first, consent of the parties, second, impartiality and third, non-use of force except in self-defense or the defense of the mandate (p.140). Aryal et al (2011) referred to these as a framework of four principles: first, a ceasefire agreement between conflicting parties; second, an agreement between the parties on the presence of UN peacekeeping forces; third, the UN's impartial stance regarding the conflict; and fourth, the restriction on the use of force by UN peacekeepers, except in cases of self-defense (p. 79). Suy (1988) also supported the principle of consent to accept a UN peace-keeping force in their territories by parties and the principle of non-combatant charter of UN troops except in lawful self-defense. He gave the example of UNEF I where the UN emergency force was withdrawn by the Secretary-General as soon as Egypt withdrew its consent (p.318).

Peacekeeping, in its literal sense, entails the preservation of peace aftermath of conflicts. However, UN peacekeeping operations are often deployed in situations where there is no peace to be kept. "Starting with the UN Mission in Sierra Leone (UNAMSIL), which was established

in 1999, the Security Council began routinely introducing language in its resolutions expressly authorizing peacekeeping missions to use force to protect civilians, the so-called ‘POC mandates’ (for Protection of Civilians)” (Mathias, 2017, p. 140). While this new language used by the Security Council can be interpreted as providing flexibility for peacekeepers to use force being the party of conflict, the essence of peacekeeping is not to escalate the conflict but to create and preserve peace.

The Report of the High-level Independent Panel on Peace Operations (2015) (HIPPO report) recommends adopting four crucial shifts for enhancing the effectiveness of UN peace operations. First and foremost, it emphasizes that politics should steer the design and implementation of peace operations. Second, the entire spectrum of UN peace operations needs to be employed with greater flexibility to address evolving needs on the ground. Third, there is a call for a more robust and inclusive peace and security partnership to be forged for the future. Lastly, the report suggests that the UN Secretariat must pivot towards a more field-focused approach, and UN peace operations should prioritize a people-centered perspective (p. 10).

Nepal's Contribution to the UN Peacekeeping Operations

As UN peacekeeping is not expressly provisioned in the UN Charter, UN peacekeeping can be considered as out of necessity and aroused from practice (Mathias, 2017, p.139). “United Nations peacekeeping operations has been guided by a largely unwritten body of principles and informed by the experiences of the many thousands of men and women who have served in the more than 60 operations launched since 1948” (United Nations, 2010, p.8). As Nepal has been actively participating in UN peacekeeping missions since 1958 and currently stands as one of the significant troop-contributing nations within UN peacekeeping operations, its extensive experience and substantial contributions undeniably have played a pivotal role in shaping the principles of peacekeeping and the norms governing world peace.

The Constitution of Nepal which is the supreme law of the land provides that international law, the principle of Panchsheel, nonalignment, norms of world peace, and the UN Charter are Nepal’s foreign policy guidelines (Government of Nepal, 2015, Article 51 (m)(1)). Nepal continuously supports major endeavors undertaken by the UN, including peacekeeping operations. From 1992 AD and 2002 AD, Nepal Police and Nepal Armed Police force also joined UN peacekeeping respectively. While writing this paper, Nepal is the largest contributor of troops in peacekeeping operations, with a total of 7,279 personnel involved. This contingent includes 45 experts, 180 Formed Police Units, 60 Individual Police, 139 Staff Officers, and 5,875 Troops (United Nations Peacekeeping, 2023). From 1958 AD to the time of this writing, 76 peacekeepers from Nepal died (Nepal, 2019), and many of them were injured for the noble cause of international peace and security. This scale of dedication and sacrifice is not only motivated by the financial factor, ideological fervor, and institutional motive but also the result of Nepal’s foreign policy objectives of international law, world peace, and the UN charter (Bhattarai & Nepali, 2021, p. 128).

Though National Security Policy 2075 is not publicly available, its predecessor, National Security Policy 2073, provisioned for compliance with human rights and international law. In working policy 2.8.7.1, there is a provision to 'contribute to world peace by participating in global peace initiatives through the United Nations' (GoN Ministry of Defence, 2073). The Army Service Rule (2069), bans army personnel who have been found guilty of human rights

violations from participating in peacekeeping missions. The Ministry of Defence enacted the Peacekeeping Force Selection Directives (2075), to ensure the fair selection of peacekeepers from Nepal. In Chapter 6 of the Nepal Army Act (2063), there is a provision for the Army Welfare Fund. This provision allows for the deduction of a prescribed percentage from the funds received for rendering service by the Nepal Army while deployed in peacekeeping missions. The collected amount is then used for the welfare of both incumbent and former personnel of the Nepal Army and their families.

After joining the UN in 1955, Nepal participated in the 11th session of the General Assembly. In its very first address in the General Assembly debate, the Nepali representative expressed support for the establishment of the UN Emergency Force, considering it a significant and commendable step towards strengthening the world organization (Sharma, 1958, p.428). Koirala (1960) while participating 15th General Assembly debate said: “creation and development of a world police force, or peace force, a force accountable to all humanity, which will gradually become more and more powerful than any national Power or coalition of Powers, a force whose only task will be to preserve world peace against infringement by any nation, great or small” (p.255).

During the twenty-second session of the General Assembly, King Mahendra outlined Nepal's perspective on the UN, UN peacekeeping, and the importance of the teachings of Nepal's enlightened son, Buddha, in promoting world peace:

[T]he only real alternative to the United Nations is an even more powerful United Nations ... We have tried not only to adhere to the spirit of the Charter but also to fulfill all our financial pledges for its activities including the peace-keeping operations. Let us work collectively and in harmony for the noble cause of peace progress and human brotherhood which this great Organization so eloquently symbolizes. To this goal, in a most sublime form, Lord Buddha beckoned us more than twenty-five hundred years ago (Shaha, 1967, p.3).

Bellamy & Williams (2013) identified five clusters of motivating rationales for providing peacekeepers: political, economic, security, institutional, and normative concerns (p.18). The normative factor is country contributes to peacekeeping because that particular country believes that contributing to world peace is the right thing to do. In Nepal's case, as the birthplace of Buddha, the country aspires to convey a message of peace to the world. Remarkably, Nepal actively contributed to UN peacekeeping operations even during its civil war. Even during the peace process within the country, Nepal continued to send peacekeepers while the United Nations Mission in Nepal (UNMIN) was operating within the country. This happened only because Nepal gives high value to efforts of the UN in maintaining world peace and security.

The United Nations has expressed a deep appreciation for Nepal's substantial contributions to UN peacekeeping operations. In 2008, marking the 50th anniversary of Nepal's involvement in providing peacekeepers, the UN Secretary-General at the time, Ban Ki-moon, conveyed a message of gratitude to Nepal for its dedicated participation (Sotomayor, 2013, p.292). However, Pande (2072) writes that despite Nepal's substantial contribution to UN peacekeeping, Nepal did not secure significant commanding positions to lead peacekeeping operations.

Conclusion and Recommendation

The legal framework underpinning peacekeeping operations comprises key provisions found in the UN Charter, human rights laws, humanitarian laws, and the mandate of the Security Council. These legal elements constitute general international laws that are indivisible, universal, and non-discriminatory, thereby aligning with the assumption of the natural school of jurisprudence. Notably, the ideals of peace embodied in Buddha's teachings find resonance within the United Nations' overarching mission. Peacekeeping operations serve as the instrumental means through which the UN seeks to realize this global aspiration of peace.

Nepal stands out as a prominent contributor to international peacekeeping missions, having made significant sacrifices with 76 peacekeepers who have lost their lives in the noble pursuit of world peace. This article delves into the normative motivations driving Nepal's active participation in peacekeeping operations. Leveraging its identity as the birthplace of Buddha, Nepal strives to enhance its international reputation as a peace-loving nation.

As of the time of writing, Nepal ranks as the largest troop contributor to peacekeeping missions. Opportunities still abound for Nepal to expand its troop contributions through skillful negotiations with the UN. Such efforts become all the more justifiable when peacekeepers from the land of Buddha become beacons of peace across the globe. Effective negotiations also play a pivotal role in securing policy-level and command positions, allowing Nepal to make substantive contributions. In order to secure a policy-level position, merely asking as a formality would not bear fruit. Nepal needs to concentrate on understanding the processes, strategies, tactics, and negotiation environment at higher levels, with a special emphasis on initiatives tailored for the prime minister or ministerial levels. By engaging at the policy level, Nepal can bring its unique oriental knowledge, especially the peace philosophy of Buddha and the concept of *Vasudhaiva Kutumbakam*, to the forefront in refining the legal norms underpinning peacekeeping operations.

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