CHAPTER VII

CONCLUSIONS AND SUGGESTIONS

In respect of the major issues mentioned in the beginning of the present study, the following findings may be made:

First, the present study of historical background, meaning, definitions, essentials and provisions of the Charter of the United Nations relating to the collective security system make it clear that the Charter incorporates the concept of collective security neither in express terms nor in its original version and the fullest sense. Universalism coordinated by regionalism is the structural framework of this concept under the Charter. Even this framework is not intact in practice and has been modified and strengthened by a new strategy building towards collective security through innovative measures, including departures from certain traditional belief.

Second, the Charter envisages a system of collective security with many shortcomings. The available system is limited in its scope and functions by the problem of crisis determination under Article 39, as well as the problems relating to decision-making, funding, non-availability of armed forces and, significantly, the framework beyond the collective security system of the United Nations.

Third, the term "non-state entities" means all those entities which are not a State but actors in the international arena and recognized under international law. It has been used in two senses – broad and narrow. In
broad sense, it includes non-sovereign States and individuals. But in narrow sense, it does not include both the things.

*Fourth*, an analysis of the meaning of international legal personality and the personality of individuals, application of the test propounded in the *Reparation Case* to individuals which are the ultimate units of every NSE, examination of the role of NSEs in the international sphere, the Preamble to the UN Charter, recently concluded European Convention on the Recognition of the Legal Personality of International Non-Governmental Organizations (INGOs) favour the view that NSEs have international legal personality in restricted sense.

*Fifth*, after obtaining a proper understanding of the meaning, typology and legal personality of NSEs, the concept of collective security as incorporated in the Charter and the new trends towards the collective security system, it can be said that NSEs are competent to play roles in the collective security system of the United Nations.

*Sixth*, an analysis of the different roles of peaceful and coercive nature played by NSEs in the collective security system of the United Nations reveals that NSEs can play and have played a variety of roles ranging from traditional collective security to innovative measures of preventive diplomacy, peace making, peace-keeping and their new departures, including post-conflict peace-building, from military, legal and political activities to social, humanitarian, cultural, economic, moral, psychological, emotional, environmental and pollution-related activities.
Seventh, to sum up the conclusion, it may be said that in the collective security system of the United Nations, the first priority must be given to the Member States of the organization. Despite all the pressures affecting State sovereignty, the concept of sovereignty remains essential for rendering unequal power equal and for making international organization possible. States remain the most important actors of all, and will continue to be the fundamental building blocks of the international system. Yet today only a small portion of States plays their full role on the world stage. Some States, small in size or population, exercise influence far beyond their objective attributes of power. Other States possessing vast power refrain from international involvement commensurate with their strength. Of course, domestic political and constitutional constraints are involved.

The United Nations is fundamentally and from its inception an organization of sovereign States. Yet it also has from its inception offered its Member States an indispensable mechanism for cooperation with actors, both governmental and non-governmental, functioning outside the United Nations. The creation in 1945 of an international intergovernmental organization with provisions for cooperating not only with other such organizations – such as the specialized agencies formally brought into the United Nations system under the aegis of Article 57 of the Charter – but also with regional and non-governmental organizations, was a major achievement; specifically, Chapter VIII of the Charter is devoted entirely to United Nations cooperation with regional organizations and arrangements.
in the maintenance of international peace and security. Article 71 of the Charter empowers the Economic and Social Council to make arrangements for constitution with non-governmental organizations active in its area of competence.

Within these provisions and general framework of the Charter, the United Nations has made great strides in expanding dialogue and practical cooperation with the new actors as their influence on and importance to world affairs has grown. Nonetheless, the discussions on United Nations reforms have not dealt adequately with the issue of their integration. It is crucial that in the future they do.

_Eighth_, from the above enquiries into the role of NSEs in the collective security system of the United Nations and conclusions drawn, Boutros-Ghali’s observations appear to be correct particularly for the United Nations collective security:

Just as it is vital that each of the organs of the United Nations employ its capabilities in the balanced and harmonious fashion envisioned in the Charter, peace in the largest sense cannot be accomplished by the United Nations System or by Governments alone. Non-governmental organizations, academic institutions, parliamentarians, business and professional communities, the media and the public at large must all be involved.

_Ninth_, towards this end suggestions may be made to address the more effective role and proper integration of different NSEs in the collective security system of the United Nations. Following suggestions, of both general and specific nature can be made to strengthen the collective security system of the United Nations by providing effective and proper role to NSEs in such system and by appreciating the emerging trends in approaching the system:
SUGGESTIONS OF GENERAL NATURE

First, the UN collective security system should include not only military, legal and political activities, but also other activities such as mentioned above in the conclusion of the present study. It should approach towards the better protection of the human rights, including the rights of minorities, universal and equal security among States, arms control and disarmament. It should strengthen subordination and coordination of regionalism with universalism. It should help in formalizing innovative measures and the legal personality of NSEs through legal instruments. All these steps will help remove some of the major shortcomings of the collective security system. Given the growing importance of NSEs in general and NGOs in particular, the position of NSEs must be well defined in the system on the basis of some suitable criteria. There must be a provision to grant membership of the Security Council to NSEs like UNHCR who are playing much more important role in the collective security system than some member States of the Council.

Second, suitability of role should be the criteria for assigning a particular role to a particular kind of NSE which is most suitable to perform the role.

Third, there should be an individual agenda for international peace and security for each NSE whose role is important determinant in the collective security. In 1992 the United Nations framed An Agenda for Peace for itself on the same pattern, other important collective security-related NSEs should also frame their agendas. There must be a comprehensive
agenda for international peace and security providing particularly for
subordination/coordination among NSEs in respect of the collective
security. To this end, the United Nations, being an international body of
universal character and having already knowledge to frame such a type of
agenda, can make better efforts.

*Fourth*, hope for a centralized type of armed forces as envisaged
under Chapter VII of the UN Charter is worthless because the reality
behind collective securities tells that it is the result of the search for an
alternative of the balance of power system after its failure to establish a
stable world order and the failure to approach a world government. Hence,
the system of collective security is somewhere between the system of
dividing the power to balance the international community and the system
of centralizing the power to govern the international community. Therefore,
power situation in the UN system of the collective security must be
decentralized and should be based on an agency which may, if suitable, be
NSE and also on a condition that the agency shall take all necessary
measures to eradicate the dangers of international peace and security. This
is also necessary because the Uniting for Peace Resolution could not
provide major enforcement action due to the disagreement of major powers
by veto in the Security Council and necessity of the two thirds of majority in
the General Assembly which is tough to obtain in the situation of a
disagreement among major powers.
Fifth, there must be effective provisions for eradicating the dangers confronted by actors of the collective security at the time of performing their roles.

Sixth, it is also necessary to strengthen international legal framework with effective role to the ICJ. Different regional tribunals must be provided to work under a single network of the ICJ.

Seventh, all the relevant institutions must also be strengthened to work properly under the United Nations auspices of the collective security.

Eighth, deeper integration of NSEs can be taken by the United Nations Secretariat, by Member States, either individually or through intergovernmental machinery of the United Nations, by the actor or entity in question or, most often, by some combination of the aforementioned, acting jointly.

SUGGESTIONS OF SPECIFIC NATURE

Instruments Related

First, preventive diplomacy and peacemaking

Experience has shown that the greatest obstacle to success in these endeavours is not, as is widely supposed lack of information, analytical capacity or ideas for United Nations initiatives. Success is often blocked at the outset by the reluctance of one or other of the parties to accept United Nations help. This is as true of inter-State conflicts as it is of internals ones, even though United Nations action on the former is fully within the Charter, whereas in the latter case it must be reconciled with Article 2, paragraph 7.
Collectively Member States encourage the Secretary-General to play an active role in this field; individually they are often reluctant that he should do so when they are party to the conflict. It is difficult to know how to overcome this reluctance. Clearly the United Nations cannot impose its preventive and peacemaking services on Member States who do not want them. Legally and politically their request for, or at least acquiescence in, United Nations action is a *sine qua non*. The solution can only be long term. It may lie in creating a climate of opinion, or ethos, within the international community in which the norm would be for Member States to accept an offer of United Nations good offices.

There are also two practical problems that have emerged in this field. Given Member States frequently expressed support for preventive diplomacy and peacemaking. This opportunity should be taken to recommend that early action be taken to resolve them. The first is the difficulty of finding senior persons who have the diplomatic skills and who are willing to serve for a while as special representative or special envoy of the Secretary-General. As a result of the streamlining of the senior levels of the Secretariat, the extra capacity that was there in earlier years no longer exists. The second problem relates to the establishment and financing of small field missions for preventive diplomacy and peacemaking. Accepted and well-tried procedures exist for such action in the case of peac-keeping operations. The same is required in the preventive and peacemaking field. Although special envoys can achieve much on a visiting basis, their capacity is greatly enhanced if continuity can be assured by the presence
on the ground of a small support mission on a full-time basis. There is no clear view amongst Member States about whether legislative authority for such matters rests with the Security Council or the General Assembly, nor are existing budgetary procedures well-g geared to meet this need.

Two solutions are possible. The first is to include in the regular budget of the United Nations a contingency provision for such activities. The second would be to enlarge the existing provision for unforeseen and extraordinary activities and to make it available for all preventive and peacemaking activities, not just those related to international peace and security strictly defined.

Second, peace-keeping

In reality, nothing is more dangerous for a peace-keeping operation than to ask it to use force when its existing composition, armament, logistic support and deployment deny it the capacity to do so. The logic of peace-keeping flows from political and military premises that are quite distinct from those of enforcement; and the dynamics of the latter are incompatible with the political process that peace-keeping is intended to facilitate. To blur the distinction between the two can undermine the viability of the peace-keeping operation and endanger its personnel.

International problems cannot be solved quickly or within a limited time. Conflicts the United Nations is asked to resolve usually have deep roots and have defied the peacemaking efforts of others. Their resolution requires patient diplomacy and the establishment of a political process that permits, over a period of time, the building of confidence and negotiated
solutions to long-standing differences. Such processes often encounter frustrations and set-backs and almost invariably take longer than hoped. It is necessary to resist the temptation to use military power to speed them up. Peace-keeping and the use of force (other than in self-defence) should be seen as alternative techniques and not as adjacent points on a continuum, permitting easy transition from one to the other.

In peace-keeping, a number of practical difficulties have arisen in recent years, especially relating to command and control, to the availability of troops and equipment and to the information capacity of peace-keeping operations. As regards command and control, it is useful to distinguish three levels of authority:

First, overall political direction, which belong to the Security Council;

Secondly, executive direction and command, for which the Secretary-General is responsible;

Thirdly, command in the field, which is entrusted by the Secretary-General to the chief of mission (special representative or force commander/chief military observer).

The distinctions between these levels must be kept constantly in mind in order to avoid any confusion of functions and responsibilities. It is as inappropriate for a chief of mission to take upon himself the formulation of his/her mission’s overall political objectives as it is for the Security Council or the Secretary-General in New York to decide on matters that require a detailed understanding of operational conditions in the field.
There has been an increasing tendency in recent years for the Security Council to micro-manage peace-keeping operations. Given the importance of the issues at stake and the volume of resources provided for peace-keeping operations, it is right and proper that the Council should wish to be closely consulted and informed. Procedures for ensuring this have been greatly improved. To assist the Security Council in being informed about the latest developments, one of the special advisers of the Secretary-General should be appointed as his personal representative to the Council. As regards information, however, it has to be recognized that, in the inevitable fog and confusion of the near-war conditions in which peace-keepers often find themselves, as for example in Angola, Somalia, Cambodia and the former Yugoslavia, the time is required to verify the accuracy of initial reports. Understandably, chiefs of mission have to be more restrained than the media in broadcasting facts that have not been fully substantiated.

Troop-contributing Governments, who are responsible to their Parliaments and electorates for the safety of their troops, are also understandably anxious to be kept fully informed, especially when the operation concerned is in difficulty. For it, endeavours should be made to meet their concerns by providing them with the regular briefings and by engaging them in a dialogue about the conduct of the operation in question. Members of the Security Council have been included in such meetings and the Council has recently decided to formalize them.
Another important principle is the unity of command. The experience in Somalia has underlined again the necessity for a peace-keeping operation to function as an integrated whole. That necessity is all the more imperative when the mission is operating in dangerous conditions. There must be no opening for the parties to undermine its cohesion by singling out some contingents for favourable and others for unfavourable treatment. Nor must there be any attempt by troop-contributing Governments to provide guidance, let alone give orders, to their contingents on operational matters. To do so creates division within the force, adds to the difficulties already inherent in a multinational operation and increases the risk of casualties. It can also create the impression amongst the parties that the operation is serving the policy objectives of the contributing Governments rather than the collective will of the United Nations as formulated by the Security Council. Such impressions inevitably undermine an operation's legitimacy and effectiveness.

That said, commanders in the field are, as a matter of course, instructed to consult the commanders of national contingents and make sure that they understand the Security Council's overall approach, as well as the role assigned to their contingents. However, such consultations cannot be allowed to develop into negotiations between the commander in the field and the troop-contributing Governments, whose negotiating partner must always be the Secretariat at UN Headquarters in New York.

As regards the availability of troops and equipments, problems have become steadily more serious. Availability has palpably declined as
measured against the Organization's requirements. A considerable effort has been made to expand and refine standby arrangements, but these provide no guarantee that troops will be provided for a specific operation. For example, when in May 1994 the Security Council decided to expand the United Nations Assistance Mission for Rwanda (UNAMIR), not one of the 19 Governments that at that time had undertaken to have troops on standby agreed to contribute.

In these circumstances, the former UN Secretary-General, Boutros-Ghali had come to the conclusion that the United Nations does need to give serious thought to the idea of a rapid reaction force. Such a force would be the Security Council's strategic reserve for deployment when there was an emergency need for peace-keeping troops. It might comprise battalion-sized units from a number of countries. These units would be trained to the same standards, use the same operating procedures, be equipped with integrated communications equipment and take part in joint exercises but maintained at a high state of readiness. The value of this arrangement would of course depend on how far the Security Council could be sure that the force would actually be available in an emergency. This will be a complicated and expensive arrangement, but the former Secretary-General believed that the time had come to undertake it.

Equipment and adequate training is another area of growing concern. The principle is that contributing Governments are to ensure that their troops arrive with all the equipments needed to be fully operational. Increasingly, however, Member States offer troops without the necessary
equipment and training. In the absence of alternatives, the United Nations, under pressure, has to procure equipment on the market or through voluntary contributions from other Member States. Further time is required for the troops concerned to learn to operate the equipment, which they are often encountering for the first time. A number of measures can be envisaged to address this problem, for example, the establishment by the United Nations of a reserve stock of standard peace-keeping equipment, as has been frequently proposed, and partnerships between Governments that need equipment and those ready to provide it.

An additional lesson from recent experience is that peace-keeping operations, especially those operating in difficult circumstances, need an effective information capacity. This is to enable them to explain their mandate to the population and, by providing a credible and impartial source of information, to counter misinformation disseminated about them, even by the parties themselves. Radio is the most effective medium for this purpose. In all operations where an information capacity, including radio, has been provided, even if late in the day, it has been recognized to have made an invaluable contribution to the operation's success. The former Secretary-General instructed that in the planning of future operations the possible need for an information capacity should be examined at an early stage and the necessary resources included in the proposed budget.

Third, post-conflict peace-building

The implementation of post-conflict peace-building can, however, be complicated. It requires integrated action and delicate dealings between the
United Nations and the parties to the conflict in respect of which peace-building activities are to be undertaken.

Two kinds of situation deserve examination. The first is when a comprehensive settlement has been negotiated, with long-term political, economic and social provisions to address the root causes of the conflict, and verification of its implementation is entrusted to a multifunctional peace-keeping operation. The second is when peace-building, whether preventive or post-conflict, is undertaken in relation to a potential or post-conflict without any peace-keeping operation being deployed. In both situations, the essential goal is the creation of structures for the institutionalization of peace.

The first situation is easier to manage. The United Nations already has an entrée. The parties have accepted its peacemaking and peace-keeping role. The peace-keeping operation will already be mandated to launch various peace-building activities, especially the all-important reintegration of former combatants into productive civilian activities.

Even so, political elements who dislike the peace agreement concluded by their Government (and the United Nations verification provided for therein) may resent the United Nations presence and be waiting impatiently for it to leave. Their concern may find an echo among Member States who fear that the United Nations is in danger of slipping into a role prejudicial to the sovereignty of the country in question and among others who may be uneasy about the resource-implications of a long-term peace-building commitment.
The timing and modalities of the departure of the peace-keeping operation and the transfer of its peace-building functions to others must therefore be carefully managed in the fullest possible consultation with the Government concerned. The latter's wishes must be paramount; but the United Nations, having invested much effort in helping to end the conflict, can legitimately express views and offer advice about actions the Government could take to reduce the danger of losing what has been achieved. The timing and modalities also need to take into account any residual verification for which the United Nations remains responsible.

Most of the activities that together constitute peace-building fall within the mandates of the various programmes, funds, offices and agencies of the United Nations system with responsibilities in the economic, social, humanitarian and human rights fields. In a country ruined by war, resumption of such activities may initially have to be entrusted to, or at least coordinated by, a multifunctional peace-keeping operation, including NGOs, but as that operations succeeds in restoring normal conditions, the programmes, funds, offices and agencies can reestablish themselves and gradually take over responsibility from the peace-keepers, with the resident coordinator in due course assuming the coordination functions temporarily entrusted to the special representative of the Secretary-General, who should also included NGOs.

It may also be necessary in such cases to arrange the transfer of decision-making responsibility from the Security Council, which will have authorized the mandate and deployment of the peace-keeping operation, to
the General Assembly or other intergovernmental bodies with responsibility for the civilian peace-building activities that will continue. The timing of this transfer will be of special interest to certain member States because of its financial implications. Each case has to be decided on its merits, the guiding principle being that institutional or budgetary considerations should not be allowed to imperil the continuity of the United Nations efforts in the field.

The more difficult situation is when post-conflict (or preventive) peace-building activities are seen to be necessary in a country where the United Nations does not already have a peacemaking or peace-keeping mandate. Who then will identify the need for such measures and propose them to the Government? If the measures are exclusively in the economic, social and humanitarian fields, they are likely to fall within the purview of the resident coordinator. He or she could recommend them to the Government. Even if the resident coordinator has the capacity to monitor and analyze all the indicators of an impending political and security crisis, which is rarely the case, can he or she act without inviting the change of exceeding his or her mandate by assuming political functions, especially if the proposed measures relate to areas such as security, the police or human rights?

In those circumstances, the early-warning responsibility has to lie with United Nations headquarters, using all the information available to it, including reports of the United Nations Development Programme (UNDP) resident coordinator and other United Nations personnel in the country.
concerned. When analysis of that information gives warning of impending crisis, the Secretary-General, acting on the basis of his general mandate for preventive diplomacy, peacemaking and peace building, can take the initiative of sending a mission, with the Government's agreement, to discuss with it measures it could usefully take.

_Fourth, disarmament_

Ways have to be found for reconciling transfer of technology with measures necessary to prevent its misuse for military purposes. Progress since 1992 in the area of weapons of mass destruction and major weapons systems must be followed by parallel progress in conventional arms, particularly with respect to light weapons. It will take a long time to find effective solutions. But, search should begin now.

_Fifth, sanctions_

The former UN Secretary-General, Boutros-Ghali, has suggested the establishment of a mechanism to carry out the following five functions to address the major problems attached with the instrument of sanctions:

First, to assess, at the request of the Security Council, and before sanctions are imposed, their potential impact on the target country and on third countries;

Second, to monitor application of the sanctions;

Third, to measure their effects in order to enable the Security Council to fine-tune them with a view to maximizing their political impact and minimizing collateral damage;
Fourth, to ensure the delivery of humanitarian assistance to vulnerable groups;

Fifth, to explore ways to assisting member States that are suffering collateral damage and to evaluate claims submitted by such States under Article 50.

Since the purpose of this mechanism would be to assist the Security Council, it would have to be located in the United Nations Secretariat. However, it should be empowered to utilize the expertise available throughout the United Nations system, in particular that of the Bretton Woods institutions.

**Actors Related**

*First, regional organizations*

Consideration should be given to holding regular meetings at United Nations headquarters every year or every two years between the Secretariat and regional organizations cooperating with the United Nations in peace and security.

Regionalism should be strengthened internationally through United Nations-sponsored agreements on horizontal, inter-regional connections in all areas of endeavors in this connection.

*Second, non-governmental organizations*

Non-governmental organizations and other representative of civil society (including those addressed specifically below) should be invited to participate in Member State delegations on a regular basis. The Open-ended High-Level Working Group on the Strengthening of the United
Nations System has suggested that consideration be given to the establishment of a "Civil society forum". In addition, the conference of Non-governmental Organizations in Consultative Status with the Economic and Social Council should be empowered to make more precise and operational recommendations for the consideration of the Council and to help ensure that the non-governmental organizations in such status are representative and of recognized utility.

Each of the actors discussed below is already represented in some way through non-governmental organizations in consultative status with the Economic and Social Council. Therefore, participation via the Economic and Social council should be deeper on all fronts if these actors obtain some formalized or semi-formalized connection with the Council.

Third, parliamentarians

Closer involvement of parliamentarians in United Nations efforts should be encouraged and facilitated. A continuing committee or commission of the United Nations within their national parliaments should be established. The International Parliamentary Union should be convened every three years at a United Nations location in order to foster international dialogue and debate on the United Nations and peace and security related issues before the Organization.

Fourth, local authorities

Consideration should be given to instructing United Nations resident coordinators to maintain regular dialogue with local authorities, making the
interaction an integral part of the work, at the country level, on operational activities for peace and security.

The possibility of establishing a joint committee of concerned Secretariat entities and apex organizations of local authorities should be examined. Such a committee would serve to raise awareness and promote exchange of experiences among local authorities and could be established along the lines of the Committee for Promotion and Advancement of Cooperatives, which brings together the United Nations Secretariat, United Nations agencies and international non-governmental organizations to promote and coordinate assistance to cooperatives and is financed by contributions from its members. Consideration should also be given to formalizing more involvement of local authorities through the establishment of a commission and its subsidiary body on the issue of collective security, which would contribute to the work of other relevant United Nations bodies.

Fifth, academia

To enable the widest range of the world's peoples to benefit from advances in thought and research, and to give greater recognition to the views and needs of academic institutions and enterprises, consideration should be given to expanding informal consultations with academia across the United Nations system in order to facilitate the contribution of individual scholars, scientists and research institutions to United Nations projects and problem solving. Integrating the programme of work of the United Nations University with the overall work of the United Nations system would be an important contribution towards that end, as would be the inclusion by the
periodic conferences of academic disciplines of panels or programmes involving United Nations practitioners. The United Nations University and its subsidiary institutions should be strengthened to forge stronger links between academics and research institutions in the North and the South with a view to fostering global networks where this might not otherwise be easily accomplished. Member States should consider offering a United Nations centre as the venue for academic gatherings to discuss the problems and prospects of research universities and institutions related to the work of that centre. These could serve both substantive scholarship and the capacity of academia to play a more direct role in world affairs.

Sixth, business and industry

To further the widest possible mutually beneficial involvement of business and industry in the work of the United Nations, consideration should be given to establishing both a roster of United Nations technical and managerial personnel for temporary assignment to business and industry and a roster of business and industry executives and technical personnel for United Nations technical assistance activities. The effort to build the latter roster could be made in conjunction with an initiative to expand the United Nations Volunteers programme to encourage business and industry executives to engage in United Nations work and, inter alia, to join in early-stage planning for post-conflict peace-building, with the aim of encouraging foreign investment to facilitate recovery and reconstruction. The expansion of the tripartite representational structure of the International Labour Organization to other parts of the United Nations system should be
explored. Also to be considered is the expansion of United Nations efforts
to achieve agreement on key issues required for a favourable environment
for business, such as uniform commercial codes and intellectual property
and accounting standards, and to deal with transnational problems of
peace and security.

Seventh, media

Among steps to be considered could be: endeavours by the United
Nations to offer greater transparency and access to the world media,
strengthening the information capacity of United Nations operations to help
focus media interest and attention on international problems at risk of
international neglect, and consideration by the General Assembly's
Committee on Information of the establishment of a forum where members
of the media, if they choose, and without compromising their
independence, could report to the international community on the state of
the media.

To sum up, it may be said that *An Agenda for Peace* in 1992, *Report
on the Work of the Organization* in 1993, *An Agenda for Development* in
1994, *Supplement to An Agenda for Peace* in 1995, and *An Agenda for
Democratization* in 1996 are positive steps in the direction of above
suggestions. But these efforts are not sufficient and more have to be
pursued in accordance with the above-mentioned suggestions.