UN Peace Operations Between Independence and Accountability

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I. Introduction

Mr. Manderlier, a Belgian national, owned some property in Katanga, Congo. On January 29, 1962, his property was ransacked and burned by Ethiopian troops belonging to the United Nations peacekeeping operation (Opération des Nations Unies au Congo, hereinafter ONUC). Mr. Manderlier claimed compensation from the United Nations for the damage caused by the ONUC troops. His claim, as well as the claims of others, were supported by the Belgian government. The UN and the Belgian government subsequently concluded an agreement. Following the terms of this agreement, the UN paid a lump sum to be distributed by the Belgian government. Because he was not satisfied with his share of the lump sum, Mr. Manderlier initiated legal proceedings before a Belgian civil court against the UN and Belgium. His claims were rejected, both by the court of first instance and on appeal.1 Concerning his claim against the UN, the courts

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held that the organization was immune from jurisdiction. On this point, the court of appeals concluded:

It should certainly be stated that in the present state of international institutions there is no jurisdiction before which the appellant can bring his dispute with the UN. Whilst this state of affairs may be deplored and does not appear to be conform the principles proclaimed in the Universal Declaration of Human Rights, it has to be recognized that the judge at first instance was right to declare the action against the UN inadmissible.²

Almost 40 years have gone by since this judgment was passed. This contribution examines whether the situation in which Manderlier found himself in the 1960s still exists today. Do individuals who have suffered injury or damage at the hands of a UN peace operation still lack an effective remedy, or is the situation different today? The answer to this question matters. In August 2007, all UN peace operations combined counted more than 100,000 deployed personnel.³ In 1966, the year the court of first instance adjudicated Manderlier’s claim, the UN deployed less than 10,000 uniformed personnel.⁴ Today’s peace operation personnel interact much more frequently with the local population of the host state than in 1966. This is a result of the manifold functions contemporary peace operations carry out, such as election monitoring, demining, security sector reform, disarmament and resettlement of refugees. This contrasts sharply with early UN peace operations, whose main function was to act as a buffer force between the different parties to a conflict. The increased interaction with the local population means increased chances that individuals in the host state will suffer damage or injury from the operation’s conduct. For such individuals, it is important that they have an opportunity to obtain redress.

For the purpose of examining whether individuals do have the possibility of redress, this contribution first discusses the basic principles underlying the responsibility of the UN. It then describes the claims settlement system that has been developed by the UN for its peace operations. This is followed

²) *Id.* at 143.