The Rule of Law on Peace Operations:  
A Cornerstone of Effective Peace Operations

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1. Introduction

The rule of law is a cornerstone of effective peace operations. It is often the primary issue facing the operation and is essential in assisting the promotion of peace, security, political, economic, social and cultural development. The failure to apply and adhere to the rule of law during a conflict is likely to have led to individuals taking the law into their own hands, the economy being left almost solely in the control of criminals and disarmament, and the demobilisation and reintegration of warring factions and criminals remaining a distant dream. Security reform, justice and the development of civil society in such circumstances remains elusive and lasting peace becomes difficult to attain.

The rule of law in the context of peace operations incorporates international and municipal legal obligations and standards applicable to all the parties involved in the peace process. As a principle it includes the application of The Charter of the United Nations, international humanitarian law, human rights law, military law, criminal law and procedure, civil law and procedure, and constitutional law. It also incorporates principles that govern civil and criminal accountability for the actions

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of peacekeepers\textsuperscript{1} and allows for follow-up mechanisms to ensure that complaints made against peacekeepers are investigated, and where necessary, appropriate enforcement action is taken. The rule of law includes standards by which national institutions of the host country may be held accountable for their failure to comply with universal legal principles and rules. The rule of law is also the framework which governs the relationship between intervening forces and the local community; and the basis on which the local population may be held accountable for their actions prior to, and following, the intervention.

The challenges facing the application and adherence to the rule of law on peace operations include: developing processes to ensure that mandates given to peacekeeping forces are not \textit{ultra vires}; identifying rules of law that are universal and must be followed regardless of the conflict or the culture in which the conflict is occurring, developing a code of conduct with clear and substantive obligations for peacekeepers; identifying rule of law training needs of peacekeepers; and developing mechanisms that enhance the accountability of peacekeepers.

Currently there are a number of international and non-governmental organisations that are examining how to more effectively incorporate the rule of law in the planning and conduct of peace operations. The work of the UN Task Force for the Development of Comprehensive Rule of Law Strategies is worth singling out because of its direct relationship to peace operations and because it recently released a report to UN Member States on the rule of law strategies for peace operations. The "Rule of Law on Peace Operations" conference held by the Asia Pacific Centre for Military Law (APCML)\textsuperscript{2} at the University of Melbourne Law School between 11-13 November 2002,\textsuperscript{3} adds to the work of others by taking a multidisciplinary approach to examining how the planning and conduct of peace operations may be further enhanced through the application and adherence to the rule of law. This conference was the tenth in a series of Challenges Project conferences that have been held around the world since 1997.

The aim of this article is to briefly examine some key recommendations arising from the conference. This will be achieved by outlining the purpose of the conference, the key topics discussed during the conference and key recommendations made during the syndicate discussions. The article will also briefly state the framework and methodology of the Challenges Project.

\textsuperscript{1} The term "peacekeepers" is used here to describe all international participants engaged in the planning and management of a peace operation.

\textsuperscript{2} The APCML is a collaborative initiative of the Australian Defence Force's Defence Legal Service and the Melbourne University Law School. For more information about the Centre see www.apcml.org.

\textsuperscript{3} The conference was sponsored by the Department of Defence, Australia; the University of Melbourne; Australian Agency for International Development (AusAID); and Kluwer Law International.