Book Review


In May 2003, in a remote location called Mongbwalu in the violent district of Ituri, two military observers of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) were brutally tortured and murdered. Some days prior to their assassination, the military observers sent desperate radio messages to MONUC calling for their immediate evacuation. The event is recapitulated in Le Prix de la Paix, a Canadian documentary on MONUC, to illustrate the deteriorating security situation in eastern Democratic Republic of the Congo (DRC) in mid-2003 which eventually led the Security Council to authorize a reinforced and robust military deployment in the region.

It is with the tragic fate of the two MONUC military observers in mind that I commence reading Ola Engdahl’s book Protection of Personnel in Peace Operations: The Role of the ‘Safety Convention’ Against the Background of General International Law. I am early on reminded that answers as to the practical enforcement of peacekeepers’ safety will not be provided in this comprehensive work. It is, rather, an excellent account of the legal protection afforded to such personnel. In particular, it seeks to “systematise the protection of personnel in peace operations under international law and to identify strengths and weaknesses of the present system as well as some trends and development in this area of law”. Engdahl succeeds in this endeavour by describing, in a well-written and systematic fashion, the development of conventional and customary law providing protection for this increasingly vulnerable subject of international law. This development originates from the early treatment of aliens and diplomatic protection and culminates in the adoption of the 1994 Convention on the Safety of United Nations and Associated Personnel (hereinafter the ‘Safety Convention’). A detailed analysis of the Convention and its

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2) See p. 2.
travaux thus constitutes the core of the book. At the core of the Convention, in turn, Engdahl stresses, is the codification of an *aut dedere aut judicare* regime with respect to perpetrators committing attacks against UN and associated personnel.4 The establishment of an “interstate obligation of penal co-operation” aiming at combating impunity is not only “the main purpose of the Convention”, Engdahl writes, but also its most significant contribution to existing legal protection provided by international human rights and humanitarian law.5

In this respect, *Protection of Personnel in Peace Operations* can be read as a chronological exposé, with peace operations as the *ratione materiae*, of the criminalization of international law. Engdahl paraphrases Bassiouni to illustrate the complementarity of the Safety Convention to the human rights regime with respect to the legal protection of UN and associated personnel: “It can be said that where human rights law is the shield, international criminal law is the sword”.6 Interpreted in this light, the clarity and comprehensiveness with which Engdahl describes this mutually reinforcing relationship of different legal frameworks makes his book an illuminating read both for the legal scholar with a general interest in the development of international law and for those specializing in the study and practice of peace operations. The intersection is particularly interesting when applied to illustrate current practice of peace operations. An example thereof is the fact that all personnel, including the military, of certain European Union (EU)-led missions are afforded diplomatic privileges and immunities as opposed to “functional immunity” granted those deployed in UN-led peace operations.7 Engdahl is correct in suggesting that “[this] mix of functions could lead to the erosion of fundamental and well-established norms protecting personnel on international assignments”.8 The sensitivity of immunity and its intricate relationship to protection is captured in the fact that Article 8 of the Safety Convention (on the duty to release or return UN and associated personnel captured or detained) came to dominate negotiations leading to its Optional Protocol so as to ensure that Article 8 was *not* interpreted as granting protected personnel immunity from local jurisdiction.9

5) See p. 321.
6) See p. 316.
9) Indeed, Article 3 of the Optional Protocol reads: "The duty of a State Party to this Protocol with respect to the application of article 8 of the Convention to the United Nations operations defined in article II of this Protocol shall be without prejudice to its right to take action in the exercise of its national jurisdiction over any United Nations or associated personnel who violates the laws and regulations of that State, provided that such action in not in violation of any other international law obligation of the State Party."