

Chapter 7

Use of force and force protection

7.1 The rules governing the conduct of a peacekeeping operation are another major consideration influencing the decision to participate in a mission. When and under what conditions peacekeepers can use force is of particular importance. In this chapter, the committee examines two aspects of the use of force—its legal basis and its adequacy to protect Australian peacekeepers and civilians.

Rules governing conduct of deployment

7.2 The UN Charter is primarily concerned with finding a peaceful resolution to a dispute. Even so, peacekeepers may be called on to use force not only to defend themselves but to defend the mission or civilians. Political and military leaders depend on two main instruments—the mission's mandate and the rules of engagement (ROE)—to guide their determinations on the use of force. The mandate is intended to provide a clear statement of the mission's objectives and tasks while ROE govern how these are to be put into action. ROE are concerned with the laws of armed conflict and prescribe the types of force which may be used by a deployment in different circumstances. Among other things, they define who is or is not a combatant, who can be engaged and under what circumstances. ROE may also cover matters such as the procedure for dealing with people detained by UN personnel.¹

7.3 Guidelines on the use of force may be found in the Status of Forces Agreement or Status of Mission Agreement between the UN and the state hosting the operation. More detailed guidelines for the use of force are generally contained in standing or standard operating procedures issued to the UN mission by the force commander. They define what is meant by force and the principles governing its use.²

Use of force—legal considerations

7.4 The Australian Government recognises the need to ensure that Australian peacekeepers use force in accordance with the mission's mandate, international humanitarian law and the laws of armed conflict. In conjunction with Defence and DFAT, A-G's advises the government on matters concerning the use of force, including ROE.

7.5 Lt Gen Gillespie made clear that Australia is a law-abiding nation and the ADF a law-abiding force.³ He noted the need for compatibility between international norms and Australian law, stating that the ADF operates under the Geneva

1 *Submission 13*, p. 3.

2 Trevor Findlay, *The Use of Force in UN Peace Operations*, Stockholm International Peace Research Institute, Oxford University Press, 2002, pp. 12–15.

3 *Committee Hansard*, 24 July 2007, p. 5.

Conventions which are enshrined in Australian domestic law. To ensure that ADF personnel have appropriate and necessary legal protections under Australian domestic law, he explained that the ADF have their 'own unique rules of engagement'. He stated:

...we have national rules of engagement, and those rules of engagement are measured against not only those international conventions et cetera but also the requirements of our own domestic law.⁴

7.6 In preparing ROE or any subsequent amendments, Defence consults with DFAT and A-G's. They do so to ensure that ROE accord with 'the terms of the deployment's authorisation by the receiving State, as well as with Australia's obligations under international humanitarian law'. A-G's explained:

International humanitarian law—sometimes referred to as the law of armed conflict—is the body of international law governing the conduct of hostilities, the methods and means of warfare, and rules designed to protect the victims of international and internal armed conflicts. While many peacekeeping operations may not, as a matter of law, concern armed conflicts, it is Australian policy to act consistently with international humanitarian law principles in all peacekeeping operations.⁵

7.7 Lt Gen Gillespie informed the committee that ADF members may decline to participate in a mission because the task at hand is inconsistent with the rules of engagement:

Our special forces are out there and will accept and not accept some missions based on their rules of engagement. Where the issue has become really close for us is, if you have a special forces group operating as a special forces, we can apply Australian rules really easily. It is where you have a mixed group that you have that sort of issue. It might become very difficult for me, if I was the deployed commander of a coalition force, issuing orders. I am always an Australian whether I am with the UN or not and, therefore, I am held accountable under Australian law, and if I were issuing orders that were counter to the Australian ROE but were not counter to others I would leave myself exposed. They are the sorts of things that our lawyers and the Attorney-General and people slave over.⁶

7.8 These precautions also apply to ADF members on exchange appointments. Lt Gen Gillespie explained that the ADF approves Australian participation on a case by case basis. According to Lt Gen Gillespie, the ADF generally supports exchange programs unless 'there was a major legal issue or a national concern about Australian troops participating in that sort of operation':

4 *Committee Hansard*, 24 July 2007, p. 12.

5 *Submission 13*, p. 3.

6 *Committee Hansard*, 24 July 2007, p. 12.

The reason that we approve them individually is to satisfy ourselves that their employment would meet Australian interests and expectations and to identify them individually to ensure that we meet with them eye to eye in our missions, that they have Australian protective kits and that they understand that they are obligated by their Australian sovereignty, not by the nation that they are proceeding to the war zone with. It is quite a formal process. If a unit is going, they apply through the high commission, the embassy, in the country concerned, we come back, we consider the merits of the case, we approve it and then the defence attaché in the country concerned gives them quite a formal briefing about their obligations.⁷

Committee view

7.9 The committee has no doubts that adequate consideration is given by the ADF and A-G's to ensure that before Australia commits to a peacekeeping operation, it is satisfied that Australian peacekeepers are operating under ROE that accord with international humanitarian law and Australian domestic law.

Force protection—health and safety of peacekeepers

7.10 Although ROE must be consistent with international humanitarian law and Australian domestic law, the adequacy of the rules and their appropriateness in relation to achieving the operation's objectives is another important consideration. Lt Gen Gillespie emphasised the importance of having ROE that adequately protect Australians serving in a peacekeeping mission.⁸

7.11 As observed by the Canadian Government, there is no way to undertake 'bold and difficult missions without risk, particularly to personnel'. It noted that 'Given the current security context, the difficulties faced by participants in international peace operations are daunting'.⁹ In this regard, the UN places the highest priority on the safety and security of its personnel in peacekeeping operations.¹⁰

7.12 While the UN, through the Special Committee on Peacekeeping Operations, promotes safety awareness, reviews security standards and produces guidelines such as the Medical Guidelines for Peacekeeping Operations, the responsibility for the safety and wellbeing of Australian peacekeepers resides ultimately with the Australian

7 *Committee Hansard*, 24 July 2007, p. 19.

8 *Committee Hansard*, 24 July 2007, p. 13.

9 *Submission 37*, p. 7.

10 See for example, UN General Assembly, Report of the Special Committee on Peacekeeping Operations, *Comprehensive review of the whole question of peacekeeping operations in all their aspects*, A/57/767, 28 March 2003, paragraphs 148–160, pp. 21–22.

Government.¹¹ It is the Australian Government that takes the decision to participate in a mission and has a duty of care to its peacekeepers.

7.13 In this regard, the Brahimi Report noted that the willingness of member states to contribute troops to complex operations 'implies a willingness to accept risk of casualties on behalf of the mandate'.¹² It acknowledged that the reluctance to accept this risk had risen since the complex missions of the mid-1990s where there were 252 fatalities in 1993; 168 in 1994; and 126 in 1995.¹³ Thus, although the UN places the highest priority on the safety and security of its personnel in peacekeeping operations, member states must weigh up the risks to their personnel before deciding to contribute.¹⁴

7.14 In the following section, the committee looks at the main factors that the government considers in the decision to participate with regard to force protection and the health and safety of Australian peacekeepers during deployment. They include:

- the mandates of peacekeeping operations and matching their objectives with the rules of engagement; and
- the level of force protection and its implications for the safety and health of peacekeepers.

Mandates and rules of engagement

7.15 Australians engaged in peacekeeping missions operate in environments which may be relatively benign, while others may be extremely hazardous. Indeed, peacekeepers may operate in a dangerous and volatile environment where law and order has broken down, where they may be the targets of hostile forces, subjected to ambush, intimidation, crossfire, and mine warfare.¹⁵ They may be called on to disarm warring factions or intervene to protect innocent civilians from attack. They may witness atrocities including murder, or extreme human distress such as severely maimed or emaciated people, including children. Some may suffer long-term

11 See for example, Office of Mission Support, Department of Peacekeeping Operations, *Medical Guidelines for Peacekeeping Operations, Medical Support Unit/LSD/OMS*. The Medical Support Section, in the Department of Peacekeeping Operations, *inter alia*, advises field missions on all medical operational matters, develops and documents operational medical policies, doctrines and guidelines and plans and co-ordinates medical support for new, ongoing and liquidating missions between the DPKO, the Mission headquarters and troop contributing countries, <http://www.un.org/Depts/dpko/medical/role.htm> (accessed 27 September 2007).

12 Brahimi Report, paragraph 52.

13 United Nations, fact sheet, Fatalities by Year to 31 May 2008.

14 See for example, UN General Assembly, Report of the Special Committee on Peacekeeping Operations, *Comprehensive review of the whole question of peacekeeping operations in all their aspects*, A/57/767, 28 March 2003, paragraphs 148–160, pp. 21–22.

15 See for example, *Report of the Review of Veterans' Entitlements*, commissioned by the Minister for Veterans' Affairs, conducted by the Hon John Clarke QC, Air Marshal Doug Riding and Dr David Rosalky, 2003, paragraphs 14.141 and 14.148.

psychological trauma because of their experiences.¹⁶ The situation in Rwanda, where peacekeepers were unable to intervene to prevent genocidal massacres, is an extreme example of this type of experience.

7.16 The Australian Government recognises the risks posed to the physical and mental health of Australian peacekeepers.¹⁷ For example in 2006, the then Prime Minister described the proposed mission to Timor-Leste (ISF) as dangerous. He stated, however, that 'it is always a solemn responsibility of any government to place the men and women who defend our country in danger...we must not walk away from the possibility that casualties could be suffered by the forces that will go to East Timor'.¹⁸

7.17 This statement captures the often conflicting interests that the Australian Government must balance. In this case, the national interest and the safety and welfare of Australian personnel likely to be engaged in a peacekeeping operation were key considerations in the mix of factors that the government examined before deciding to commit forces to the mission. The focus of the following section is on the consideration that the government gives to the adequacy of mandates with regard to the safety and mental wellbeing of Australian peacekeepers.

Clarity of mandates

7.18 The committee has already noted that mandates do not always provide clarity even to the extent of articulating the mission's goals. Further, that some mandates are a hybrid of chapters VI and VII which may cause some confusion about how peacekeepers are to act when it comes to the use of force. Language used in a mandate such as 'all necessary means to fulfil its mandate' does not provide precise guidance for peacekeepers on the use of force. For example, in some cases, the meaning has extended beyond protecting UN personnel, facilities, installations and equipment to including the protection of civilians and humanitarian workers 'under imminent threat of physical violence'.¹⁹

7.19 Furthermore, a recent study on UN mandates found that political leaders interpret the mandates 'as they see fit, influencing mission organization and leadership, and thus, how the legitimate use of force is understood'. It observed that the mandate interpretation is influenced by the Department of Peacekeeping Operations (DPKO) and the Secretary-General, but also:

16 *Committee Hansard*, 24 July 2007, p. 23.

17 See for example, *Committee Hansard*, 25 July 2007, p. 11; *Committee Hansard*, 20 August 2007, p. 17; and Attorney-General's Department, 'Enhancing the Safety of Australians Working for the UN', 3 January 2001.

18 Prime Minister, the Hon John Howard MP, Speech, *House Hansard*, 25 May 2006, p. 65.

19 See for example UN Security Council, Resolution 1493, S/RES/1493 (2003), 28 July 2003, paragraph 25, in relation to the UN Organisation Mission in the Democratic Republic of the Congo (MONUC).

...interpretations by the various peacekeeping contingents recruited for the operation, their commanders, and the UN Force Commander further impact their execution. Force commanders in multilateral operations also remain tied to their political leaders at home. All have understandings of what the mandate calls for and, without a single chain of command, those interpretations can tug personnel in different directions.²⁰

7.20 It concluded that a lack of common understanding of purpose and ROE of a mission is 'unfortunately, familiar territory'.²¹ Another study made a similar finding stating:

Experience from the field has shown that mission mandates are regularly interpreted in different ways at strategic, operational, and tactical levels.²²

7.21 Writing in *Australian Army Journal*, Colonel John Hutcheson similarly observed that within any coalition, the contributing forces will have different perceptions about the mission and levels of acceptable risk.²³ In this regard, Lt Gen Gillespie underlined the need for personnel to be absolutely sure of what they can and cannot do. Otherwise, he argued, without that surety 'you end up having issues; wrong decisions are made'.²⁴ A shared understanding of the use of force relies on key documents starting with the mandate and reinforced by others such as ROE.

Committee view

7.22 Clearly, UN mandates as they relate to the use of force in peacekeeping operations and the relevant ROE are extremely important for the safety and welfare of Australian peacekeepers. It follows that, before committing Australia to a peacekeeping operation, the government must satisfy itself that all instruments covering the use of force are unambiguous, clearly understood, appropriate to the mission and provide adequate protection for Australian personnel. The level of protection afforded to peacekeepers is also an important consideration.

Adequacy of mandates

7.23 The Returned and Services League of Australia (RSL) argued that the ROE for each peace enforcing or peacekeeping mission must be sufficiently robust to allow

20 Victoria Holt and Tobias Berkman, *The Impossible Mandate? Military Preparedness, the Responsibility to Protect and Modern Peace Operations*, The Henry L. Stimson Center, 2007, p. 91.

21 Victoria Holt and Tobias Berkman, *The Impossible Mandate? Military Preparedness, the Responsibility to Protect and Modern Peace Operations*, The Henry L. Stimson Center, 2007, pp. 91–92.

22 International Peace Academy, 34th IPAA Vienna Seminar on Peacemaking and Peacekeeping, *Peace Operations in Africa*, Final Report, New York, 2004, paragraph 3.1.1.

23 John Hutcheson, *Australian Army Journal*, vol. IV, no. 2, p. 98.

24 *Committee Hansard*, 24 July 2007, p. 13.

deployed Australian forces to achieve the mission's objectives. It argued that the safety of these forces should not be compromised by unrealistic ROE, and that self-defence is a right of deployed forces.²⁵

7.24 The ADF and the AFP give particular attention to the operational dimensions of a mission and the ability of their personnel to protect themselves against hostile action. Defence stated clearly that it identified the risks to personnel as a factor that it would take into consideration when examining a proposal for a peacekeeping operation.²⁶ The AFP similarly noted the importance of ensuring that a mandate and ROE provide adequate protection to peacekeepers. In an address at the Joint Services Staff College, Federal Agent Peter White explained that the AFP assesses its participation in UN missions against key principles, one of which is the level of risk to police personnel. He said:

While police have been deployed to high-risk-level missions in the past, the degree of risk for each mission is assessed to ensure that adequate protection is provided to police. This may be in the form of UN military or local police/military and extends to the provision of body armour.²⁷

7.25 Assistant Commissioner Walters maintained that whether officers are to be armed or not depends on the circumstances, stating that 'the bearing of arms on a mission will be dictated by the mission itself'. He advised the committee that not all of the AFP or police officers deployed into international missions are armed. AFP officers in Timor-Leste in 2006, however, were armed as are officers in Solomon Islands who carry weapons as part of their day-to-day functions under the authority of the *Facilitation of International Assistance Act* (FIA).²⁸

7.26 In the case of RAMSI, the then Minister for Foreign Affairs, Alexander Downer, made clear to the Solomon Islands authorities that before Australia would intervene, it wanted 'a secure mission'. He said:

The judgment of the Federal Police and the military was that we should have that type of intervention that we have had, with the appropriate ratios that we have of military support for what is, essentially, a police operation. There have been some who have said that the military footprint is too great and so on but our response to that is that the military and the police have had to make a judgment about what they think will keep the Australians,

25 *Submission 9*, p. 3.

26 *Submission 30*, paragraph 11, p. 4.

27 Australian Federal Police, Federal Agent Peter White, 'Peacekeeping commitment has long tradition', Peacekeeping Study—Joint services Course at the Joint Services Staff College, Canberra, 1998, http://www.afp.gov.au/about/publications/platypus_magazine/platypus_magazine_previous_editions/1998/september_1998/peace.html (accessed 25 September 2007).

28 *Committee Hansard*, 25 July 2007, pp. 17–18.

particularly, secure. So this has to be a secure mission, or as secure as you could ever make a mission.²⁹

7.27 Assistant Commissioner Walters noted that the AFP are mindful about the guidelines for UN missions and spoke of the opportunities to seek changes to the rules or guidelines governing a particular mission should circumstances require an adjustment. He referred to a situation in 2006 where the AFP were concerned about issues around the use of force guidelines. In this instance, the AFP went back to the UN and made some suggestions to the DPKO on how they might be modified. He said:

So if we feel that there are issues around the guidelines which might not have been foreseen at the time they were drafted, then the UN welcomes suggestions, and it is our obligation to go back to the UN to suggest that those guidelines be amended as required...We made some suggestions to the UN around that. So, whilst we are not directly involved in the development of the initial guidelines, there is scope for comment.³⁰

7.28 Clearly, the primary safeguards for Australian peacekeepers are the very mandate and ROE under which they serve. The government can decline to contribute to a peacekeeping operation on safety or security grounds or seek changes to the mandate that would satisfy its concerns.

Committee view

7.29 Evidence indicates that the ADF and the AFP place the welfare of their personnel at the forefront of their consideration of a proposed peacekeeping operation, which is reflected in advice to government. Even so, a number of witnesses raised the matter of the adequacy of force protection for Australian forces. The following section looks at these concerns.

Adequacy of force protection

7.30 Although the government takes account of the need to have adequate force protection when it is considering a proposed peacekeeping initiative, the committee received evidence indicating that there have been a number of missions where force protection proved inadequate for the peacekeepers. In general terms, the Australian Peacekeeper and Peacemaker Veterans' Association (APPVA) suggested that force protection had been inadequate in past peacekeeping operations placing ADF members at 'great risk'. According to the APPVA, the low numbers of Australian deaths on peacekeeping operations was 'a result of quick thinking, being well trained and general good luck'.³¹ It noted that specialist troops, while capable of self-

29 Minister for Foreign Affairs, the Hon Alexander Downer MP, *House Hansard*, 12 August 2003, pp. 18208–9.

30 *Committee Hansard*, 25 July 2007, p. 32.

31 *Submission 16*, p. 8.

protection, need to have a protection party when conducting their roles and mission tasks.³²

Physical safety

7.31 A few witnesses cited the Australian Training Support Team East Timor (ATST-EM) as an example of the failure to appreciate the need for stronger force protection. ATST-EM was deployed to East Timor during 1999–2003. Its primary mission was to establish the East Timor Defence Force (ETDF)—otherwise known as Falintil—to train and develop them to be a conventional army.³³ Although service in East Timor was classified as warlike from October 1999 to August 2003 and then downgraded, ATST-EM was classified as non-warlike service.³⁴

7.32 Two submitters, both ADF members attached to ATST-EM, suggested that they had inadequate force protection. The author of Submission 7 stated that ATST-EM personnel received ADF pre-deployment training in Darwin. He noted, however, that:

There was a total lack of situational awareness of what was required of the ADF ATST EM members operating in a high risk environment under warlike conditions. Force preparation personnel in Darwin were unaware of ATST EM members' role and mission in EM and were therefore unable to prepare them properly, particularly with regards to operating in a high risk threat environment unarmed.³⁵

7.33 Captain Wayne McInnes, also a member of ATST-EM, stated that they were sent off to force preparation in Darwin. They were given exactly the same force preparation as every other soldier who was going in to East Timor armed and in warlike conditions into the Australian Battalion 6RAR Group (AUSBAT) or the Australian National Command Element. He informed the committee, however, that when members of his team arrived in country, they were told they were:

...not going to operate under those conditions but instead were to be unarmed because they were part of the defence cooperation project and that their job was a peacetime role in an operational environment—a total contradiction in terms.³⁶

32 *Submission 16*, paragraph 8.6.

33 *Submission 7*, p. 1

34 *Committee Hansard*, 21 August 2007, p. 48.

35 *Submission 7*, p. 1. He stated further: ATST EM members on arrival in EM were positioned as advisors/trainers to the ETDF, in this capacity there were times when they were exposed to acts of violence or aggression by rival ETDF members. Having to physically separate and placate rival ETDF members who were armed, during training who threatened other ETDF soldiers with stabbing or shooting, threats from ETDF soldiers to members of the Civil Police and to members of the ATST EM. *Submission 7*, pp. 1–2.

36 *Committee Hansard*, 21 August 2007, p. 55.

7.34 According to Captain McInnes, when they deployed, they had no force protection despite the orders he received stating that they were to have such protection.³⁷ He explained:

ATSTEM personnel operated in Dili, Metinaro and Los Palos and did so under high risk situations. Especially 1 BAD operating in total isolation at Los Palos, unarmed, without force protection or close support under War Like Conditions imposed by the UN.³⁸

7.35 He argued that the inadequacy of the force protection placed members of his team in a vulnerable situation where they were 'deployed armed only with pick handles, inadequate radio communications and without an interpreter'. In his opinion, there were numerous incidents where their 'personal security was placed at extremely high risk'.³⁹ Submission 7 also noted that ATST-EM personnel were unarmed and placed at great risk at a time when all other members deployed with the UN were armed at all times. He described some of the incidents they confronted which included being physically threatened by truck loads of disaffected dissidents attempting to incite a riot or civil uprising. He also wrote:

...members were required to drive between Metinaro and Los Palos for a number of reasons, a distance of some 200kms taking five hours, unarmed and in a hostile environment with no escort or protection save their own initiative and ability...⁴⁰

7.36 In response to this evidence, Defence noted that the team was separate from UN peacekeeping forces. It explained that ATST-EM was deployed under the auspices of the bilateral Defence Cooperation Program (DCP) to conduct training that supported the development of the ETDF.⁴¹ It indicated that generally personnel with the DCP are posted unarmed to countries they assist:

The activities of the training support team were deliberately and intentionally developed to be of a peacetime nature. The members deployed as part of the team were in a training role and part of the DCP and not involved in peacekeeping activities or combatant roles or otherwise assigned to the UN Peacekeeping Force.⁴²

7.37 Defence stated further:

It was considered at the time and prior to their deployment that members of the training support team would not be required to use force to achieve their training objectives and that casualties were unlikely. They were not armed

37 *Committee Hansard*, 21 August 2007, p. 54.

38 *Submission 5*, p. 3.

39 *Submission 5*, p. 2.

40 *Submission 7*, p. 2.

41 Department of Defence, answer to written question on notice W8, 24 July 2007.

42 Department of Defence, answer to written question on notice W9, 24 July 2007.

and their protection was provided by international peacekeepers from other nations. The nature of their service was therefore considered, at the time, to be similar to normal peacetime duty in Australia.⁴³

7.38 It should be noted, however, that following a recent review of the circumstances of ATST-EM deployment, the Chief of Defence Force recommended that ADF members in ATST-EM be retrospectively included in the forces that were on 'warlike' and later 'non-warlike' service.⁴⁴ Their service has now been reclassified.⁴⁵

Committee view

7.39 The committee believes that the experiences of this small contingent provide the ADF and other agencies with lessons that should be learnt about force protection. If not already, ATST-EM should be a case study for all agencies who participate in peacekeeping operations to remind them that no matter how small a contingent, Australian peacekeepers must have an adequate level of force protection.

Recommendation 4

7.40 In light of the concerns raised about the conditions under which some members of ATST-EM were deployed, the committee recommends that the ADF conduct a review of this deployment to identify any shortcomings and ensure that lessons from ATST-EM's experiences inform the deployment of similar small contingents. This case study would, for example, examine matters such as their preparation to serve as unarmed peacekeepers, the chain of command arrangements and the provision of health services.

Mental health

7.41 The need for adequate force protection is important not only for the physical protection of Australian peacekeepers but also to ensure that they are not placed in situations that unnecessarily jeopardise their mental health. APPVA referred to peacekeeping operations in Rwanda, Somalia and Cambodia where, according to the Association, the inability of ADF members to intervene to prevent civilian deaths or injuries had a devastating effect on them. For some it is 'still living memory today, with large reported cases of mental illness, in particular Post Traumatic Stress Disorder (PTSD)'.⁴⁶ Mr Paul Copeland, APPVA, noted:

UN service can be frustrating for soldiers on the ground, airmen and airwomen, and sailors. The experience has been that the lack of ability to intervene in various instances—and we are not only talking about Rwanda;

43 Department of Defence, answer to written question on notice W15, 24 July 2007.

44 Department of Defence, answer to written question on notice W15, 24 July 2007.

45 Budget Paper No. 2, 2008–2009, Part 2, Expense Measures.

46 The Second United Nations Mission in Rwanda (UNAMIR II); The United Nations Transitional Authority in Cambodia (UNTAC). *Submission 16*, paragraphs 3.5 and 3.6.

we are also talking about the many operations that we have served on for many years...it is a very difficult situation to work in—to be under the UN mandate for that particular operation and to perform the tasks that are given to Australian troops, for example, and to remain neutral and not intervene. It is a very difficult task indeed. The restraint of Australian troops has been tested to the absolute maximum, and that is why we have a number of people who are severely mentally ill.⁴⁷

7.42 Professor Timothy McCormack, Director of the Asia Pacific Centre for Military Law, University of Melbourne, also referred to the situation in Rwanda—the Kibuye massacre—where a group of ADF medics, lightly armed and outnumbered by Rwandan military forces, were powerless to stop the killing and maiming of civilians. He informed the committee that they 'still talk about the trauma they have to live with of knowing that they were unable to do anything'.⁴⁸

7.43 To prevent a recurrence of these types of situations, Rear Admiral (Retired) Kenneth Doolan stressed the importance of the rules of engagement which in his view 'must be sufficiently robust, and the commanders on the ground, in the air and at sea...must understand and be comfortable with those rules of engagement'. He noted:

You cannot foresee every conceivable circumstance, but the worst thing that can happen to a commander on the ground is to have weak rules of engagement which hamstringing him or her in circumstances such as that [the former Yugoslavia].⁴⁹

7.44 In this regard, the APPVA recommended that:

...negotiation by Australia prior to the insertion of a PKF, Monitors, Liaison Officers or Observers needs to have robust protective measures dependent upon the operational mandate. These measures are not only for self-protection, but also for the protection of innocent civilians.⁵⁰

7.45 Later in the report, the committee considers the post-deployment management of Australian peacekeepers who have been harmed as a result of serving in a peacekeeping operation. For the time being, the committee is concerned with minimising the risk of harm to Australian peacekeepers by ensuring that the mandate provides appropriate force protection. In this regard, the committee believes that the Australian Government must satisfy itself before committing to an operation that there are no deficiencies in the mandate and the accompanying ROE or Status of Forces Agreement that would expose Australian peacekeepers to situations such as happened in Rwanda.

47 *Committee Hansard*, 21 August 2007, p. 42.

48 *Committee Hansard*, 21 August 2007, p. 69. Also see, John Connor, 'Bravery under Fire', *Wartime*, Australian War Memorial, 2007, vol 39, pp. 37–39.

49 *Committee Hansard*, 5 September 2007, p. 5.

50 *Submission 16*, paragraph 9.1.

Conclusion

7.46 The committee has drawn attention to the range of people and agencies involved in interpreting the mandate and ROE of a peacekeeping operation which can lead to inconsistency or confusion regarding the use of force in the field. Poorly worded mandates magnify the potential for differences in interpretation of the use of force.

Recommendation 5

7.47 The committee recommends that, before deploying Australian personnel to a peacekeeping operation, the Australian Government ensure that all instruments covering the use of force are unambiguous, clearly understood, appropriate to the mission and provide adequate protection.

7.48 The committee also notes that mandates that do not provide adequate force protection may jeopardise the health and wellbeing of peacekeepers. The committee recognises that Australian peacekeepers must have clear rules of engagement that 'match the needs on the ground', to avoid situations where they lack the capacity or the authority to perform tasks such as protect civilians.⁵¹

Recommendation 6

7.49 The committee recommends that all government agencies advising the Australian Government on Australia's participation in a proposed peacekeeping operation address clearly the adequacy of force protection provided in the mandate and accompanying ROE. This consideration is not only from the perspective of the physical safety of Australian personnel but also their mental wellbeing. Ultimately, the government must be satisfied that the mandate matches the needs on the ground.

51 See for example, United Nations Association in Canada, *Peacekeeping to Peacebuilding: Lessons from the Past Building for the Future*, Report on the UN–Canada 50th Anniversary of UN peacekeeping International Panel Series, 2006–2007, March 2007, p. 156.