

II LEGAL BASIS AND AUTHORISATION

- (i) The 1948 Genocide Convention empowers any signatory state to "call upon the competent organs of the United Nations to take such actions under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide." Given the failure of the international community to develop any other effective enforcement mechanisms, this provision may serve as the basis for creating a UN Constabulary as proposed here.
- (ii) This force could be established under the UN Charter by either the Security Council (under Articles 47 or 27) or the General Assembly (under Articles 10 or 22). Its legitimacy would be enhanced if it was brought into being by a General Assembly resolution adopted by a substantial majority of member states and by a subsequent Security Council resolution which in effect ratified the G.A.'s proposal. Done in this fashion, the establishment of the force would not require a new treaty.
- (iii) Another possible authorization platform would be the establishment of international law concerning humanitarian intervention in instances of grave and egregious deprivations of human rights, particularly where there is reasonable evidence of intent to commit genocide. This would have the advantage of following procedures established in customary international law for humanitarian intervention and would not need to be legitimated by a new treaty.
- (iv) The constabulary would follow agreed upon rules of humanitarian intervention, so long as the intervening is carried out by a U.N. force, and so long as that force has built-in safeguards to prevent big powers from using it as an instrument of their own policies, whatever the authorizing agency.
- (v) The UN constabulary would be complementary to U.N. practice in peacekeeping, peace making and peace enforcement but would in no way be a substitute for it. Chapter 7 of the U.N. charter would still allow the Security Council to require member states to take coercive measures against any threat to or breach of international peace. The Security Council could also continue to ask member states to volunteer their national forces for U.N. measures.