TAKING SIDES

Impartiality, Norm Contestation and the Politics of UN Peacekeeping

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Abstract

Impartiality has long been a core norm of United Nations peacekeeping. However, since 2000 the dominant conception of impartiality has changed, leading to more coercive forms of peacekeeping. Claims to impartial authority are no longer based exclusively on terms to which all parties consent. Instead, they are premised on a more ambitious and expansive set of norms related to human rights, around which consensus is presumed but not always affirmed.

This dissertation critically examines the change in both the conception and practice of impartiality, which, it argues, is an integral part of the emergence of a more assertive liberal internationalism. In doing so, it challenges dominant constructivist approaches within IR that conceive of norms as linear and static. It advances a framework for a multi-level analysis of impartiality as a "composite" and "contested" norm. Through this framework it elucidates the macro-level politics surrounding the norm's institutionalisation at the UN, as well as the micro-level politics surrounding its implementation in the specific case of the UN mission in Congo (MONUC).

The analysis of the processes of both institutionalisation and implementation reveals an absence of consensus over the norm itself, and over the purposes of and actions involved in contemporary peacekeeping. This contestation, together with varying expectations and incentives created by the norm amongst local actors, frequently results in unintended consequences, which are contrary to the norm's original intent. And yet, despite these consequences, the very nature of assertive impartiality makes it difficult for those who claim such authority to change course.

Given that the legitimacy of peacekeeping derives both from whether it is seen to reflect and promote shared values, as from the degree to which it is actually effective, this difficulty raises troubling questions for peacekeeping itself and for the UN, the institution to which it has become so symbolically linked. This dissertation argues that, ultimately, the UN's role may be to reflect, rather than to resolve, the differences of normative interpretation among its member states. It concludes that a more practical and prudent conception of impartiality – one which recognises that impartiality is necessarily and inextricably political – will be necessary if scholars and practitioners alike are to navigate the normative tensions inherent to a more assertive liberal international order.

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– PART II –

Acronyms

ADF–NALU	Allied Democratic Forces–National Army for the Liberation of Uganda
AFDL	*Alliance de Forces Démocratiques pour la Liberation du Congo*
AG	Armed Group
ALiR	*Alliance pour la Libération du Rwanda*
AMIS	African Union Mission in Sudan
APCLS	*Alliance des Patriotes pour un Congo Libre et Souverain*
AU	African Union
BDK	*Bundu Dia Kongo*
CASO	Cordon and Search Operation
CIAT	*Comité International d'Accompagnement de la Transition*
CLI	Community Liaison Interpreter
CNDP	*Congrès National pour la Défense du Peuple*
COB	Company Operating Base
CONOPS	Concept of Operations
DDR	Disarmament, Demobilisation, and Reintegration
DDRRR	Disarmament, Demobilisation, Repatriation, Resettlement, and Reintegration
DFS	Department of Field Support, United Nations
DPA	Department of Political Affairs, United Nations
DPKO	Department of Peacekeeping Operations, United Nations
DRC	Democratic Republic of the Congo
DSRSG	Deputy Special Representative of the Secretary-General, United Nations
DSRSG/RC/HC	Deputy Special Representative of the Secretary-General/ Resident Coordinator/Humanitarian Coordinator, United Nations
EC	European Community
EDHQ	Eastern Division Headquarters, United Nations
EUFOR	European Union Force
FAG	Foreign Armed Group
FAPC	*Forces Armées du Peuple Congolais*
FAR	*Forces Armées Rwandaises*
FARDC	*Forces Armées de la République Démocratique du Congo*
FDLR	*Forces Démocratiques de Libération du Rwanda*
HQ	Headquarters
ICC	International Criminal Court
ICGLR	International Conference on the Great Lakes Region
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice

ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDP	Internally Displaced Person
IEMF	Interim Emergency Multinational Force
IHL	International Humanitarian Law
IMF	International Monetary Fund
IPI	International Peace Institute
IR	International Relations
ISAF	International Security Assistance Force
ISSSS	International Security and Stabilisation Support Strategy, United Nations
JMAC	Joint Mission Analysis Centre
JMC	Joint Military Commission
JOC	Joint Operations Centre
JPT	Joint Protection Team
LRA	Lord's Resistance Army
MINURCAT	*Mission des Nations Unies en République centrafricaine et au Tchad*
M23	*Mouvement du 23-Mars*
MINUSTAH	*Mission des Nations Unies pour la stabilisation en Haïti*
MLC	*Mouvement pour la Libération du Congo*
MONUC	*Mission des Nations Unies en République Démocratique du Congo*
MONUSCO	*Mission des Nations Unies pour la Stabilisation en République Démocratiqu du Congo*
MOU	Memorandum of Understanding
NAM	Non-aligned Movement
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
OAU	Organization of African Unity
OCHA	Office for the Coordination of Humanitarian Affairs, United Nations
OHCHR	Office of the High Commissioner for Human Rights, United Nations
OLA	Office of Legal Affairs, United Nations
ONUB	*Opération des Nations Unies au Burundi*
ONUC	*Opération des Nations Unies au Congo*
ONUCI	*Opération des Nations Unies en Côte d'Ivoire*
PARECO	*Patriotes Résistants Congolais*
PCC	Police-Contributing Country
POC	Protection of Civilians
RBA	Rights-based Approach
RCD	*Rassemblement Congolais pour la Démocratie*

RCD-G	*Rassemblement Congolais pour la Démocratie-Goma*
RDF	Rwandan Defence Forces
ROE	Rules of Engagement
RPA	Rwandan Patriotic Army
RPF	Rwandan Patriotic Front
RtoP	Responsibility to Protect
RUF	Revolutionary United Front
SADC	Southern African Development Community
SEA	Sexual Exploitation and Abuse
SNA	Somali National Alliance
SOFA	Status of Forces Agreement
SRSG	Special Representative of the Secretary-General
SSR	Security Sector Reform
STAREC	*Programme de Stabilisation et de Reconstruction des Zones Sortant des Conflits Armés*
TCC	Troop-Contributing Country
TG	Transitional Government
UN	United Nations
UNAMID	African Union/United Nations Hybrid Operation in Darfur
UNAMIR	United Nations Assistance Mission For Rwanda
UNAMIS	United Nations Advance Mission to Sudan
UNAMSIL	United Nations Mission in Sierra Leone
UNDOF	United Nations Disengagement Observer Force
UNDP	United Nations Development Programme
UNDSS	United Nations Department of Safety and Security
UNEF	United Nations Emergency Force
UNFICYP	United Nations Peacekeeping Force in Cyprus
UNHCR	Office of the United Nations High Commissioner for Refugees
UNIFIL	United Nations Interim Force in Lebanon
UNIPOM	United Nations India Pakistan Observation Mission
UNMIK	United Nations Interim Administration Mission in Kosovo
UNMIS	United Nations Mission in Sudan
UNMISS	United Nations Mission in South Sudan
UNOSOM	United Nations Operation in Somalia
UNPROFOR	United Nations Protection Force
UNSC	United Nations Security Council
UNSSS	United Nations Security and Stabilisation Support Strategy
UNTAET	United Nations Transitional Administration in East Timor
UPDF	Uganda People's Defence Forces

Figure 1. Map of the Democratic Republic of Congo.
Source: United Nations, rev. July 2007.

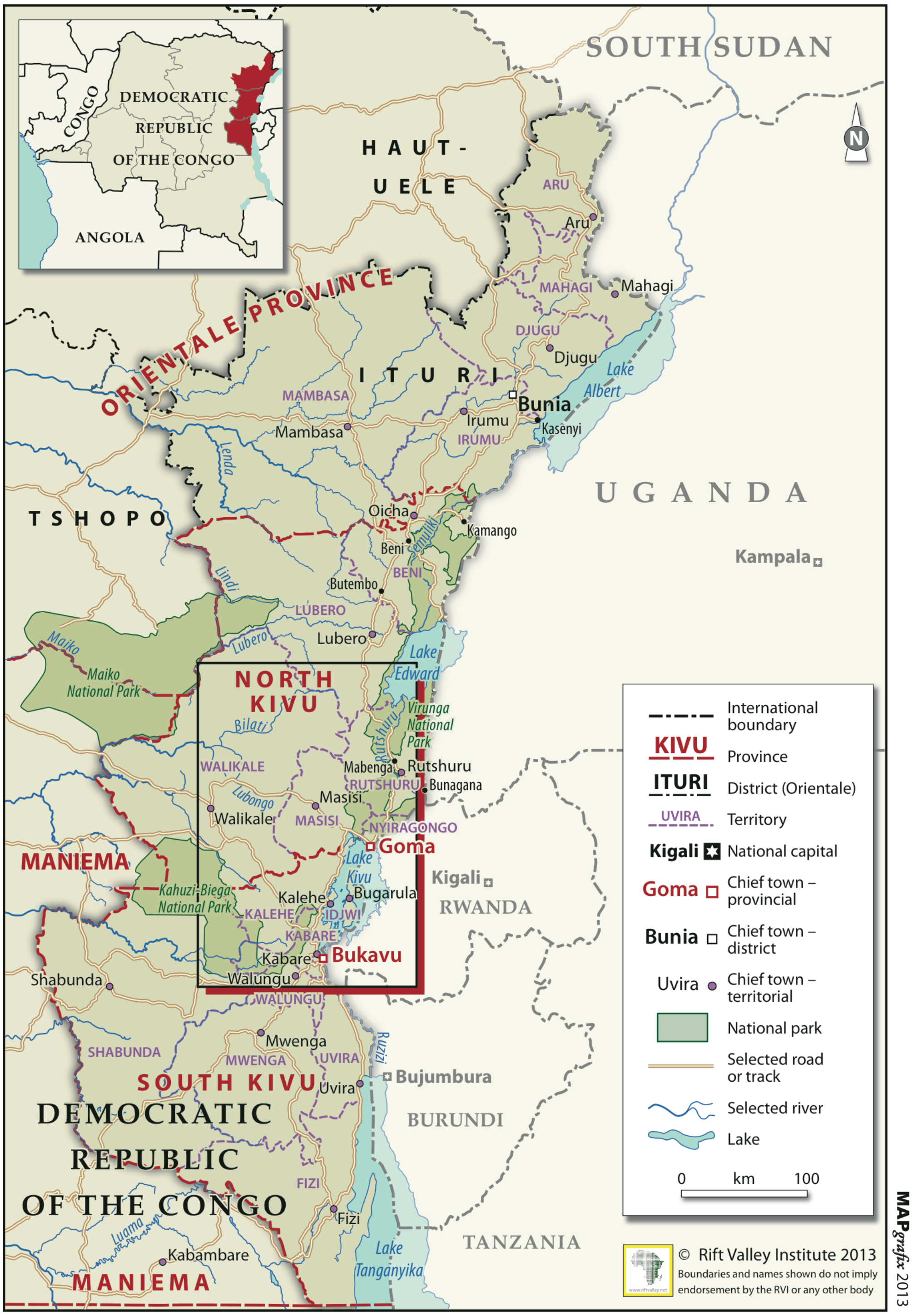

Figure 2: Map of North Kivu Province (Democratic Republic of the Congo)
Source: Rift Valley Institute 2013

It is precisely because the content of impartiality is not objectively definable except in terms of its outer perimeter–what it is not–and is always tempered by the subjectivity of the perceiving human intellect, that its yoke is so eminently wearable and its achievement, always relative to its failure, affords civilization so grandiose a challenge, so ennobling a quest.

- Thomas Franck. *The Structure of Impartiality,* 1968: 331.

1. Introduction

On 1 March 2005, the United Nations Mission in the Democratic Republic of the Congo (MONUC) launched *Operation Djugu III* in Loga, a small village in the north-eastern Province Orientale.[1] At 08:00, commanders deployed 12 armoured personnel carriers. Ground forces cordoned off the area and a request for air support was made. At 11:00, the target was located and engaged. Mi-25 attack helicopters swooped in, firing 16 rockets in 8 passes. The militia camp was successfully 'neutralised' and UN troops were withdrawn from the area by 16:00. An estimated 60 rebels were killed. 'It may look like war but it's peacekeeping' explained Lieutenant-General Babacar Gaye, the Force Commander of MONUC. 'We are impartial'.[2]

MONUC's robust operation in Loga was no aberration.[3] Long gone are the days when lightly armed peacekeepers in blue berets observed frontiers and monitored troop movements *between* states. Today's blue helmets are regularly deployed *within* states, in places where peace is a mirage and where acts of violence occur between multiple and shifting factions. Since the new millennium, peacekeepers have executed targeted offensives against the Revolutionary United Front in Sierra Leone; cleared out gang strongholds in Haiti's Cité Soleil; and launched military strikes against bases belonging to Laurent Gbagbo, the former President of the Ivory Coast.[4]

Even in this clearly more aggressive context, United Nations (UN) officials such as Lt.-Gen Gaye have continued to affirm the vital importance of impartiality–a norm traditionally regarded as the 'oxygen'[5] and 'lifeblood'[6] of peacekeeping–while stating that it no longer means what it once did. Academics and practitioners alike have differentiated the old from the new, characterising the new impartiality as 'unrestrained impartiality,[7] 'blind impartiality',[8] even 'imperial impartiality'[9]–adjectives which imply that peacekeepers are, or should be, "robust" in carrying out their increasingly lofty and ambitious mandates. Concomitantly, contemporary UN forces are regularly authorised under Chapter VII of the UN Charter; they

[1] United Nations. MONUC, "OP DJUGU – III", Eastern Command, powerpoint presentation, March 2005 (internal).
[2] Interview with Lt-General Babacar Gaye, Military Advisor to the UN Secretary-General; former Force Commander, MONUC/MONUSCO, New York, October 2011. Gaye was referring to remarks he made at the time of the operation and which were quoted in Marc Lacey. "U.N. Forces Using Tougher Tactics to Secure Peace", *The New York Times*, 23 May 2005.
[3] As Chapter five details, *Operation Djugu III* was one of several hundred such operations conducted in the Congo between 2004 and 2006.
[4] James Sloan. *The Militarisation of Peacekeeping in the 21st Century*. Portland: Hart, 2011.
[5] Shashi Tharoor. "Should UN Peacekeeping Go 'Back to the Basics?" *Survival* 37(4) (Winter 1995-6): 58.
[6] Alan James. "The United Nations, Peace-keeping, and Nonalignment." In *The Non-aligned and the United Nations*, edited by M.S. Rajan, V.S. Mani and C.S.R. Murthy. New York: Oceana, 1987: 11.
[7] Interview with Louise Fréchette, former Deputy Secretary-General of the UN, Ottawa, March 2011.
[8] Donald Daniel and Brad Hayes. *Coercive Inducement and the Containment of International Crisis*. Washington: USIP Press, 1999: 61; Dominik Donald. "Neutral is not Impartial: the Confusing Legacy of Traditional Peace Operations." *Armed Forces and Society* 29(3) (2003): 431; Paul Diehl. *International Peacekeeping*. Baltimore: Johns Hopkins University Press, 1993: 8-9.
[9] Richard Betts. "The Delusion of Impartial Intervention." *Foreign Affairs* 73(20) (1994): 28.

are endowed with a responsibility to penalise infractions committed by "spoilers" of the peace, and to protect civilians from peril. Anything less amounts to what the *Report of the Panel on United Nations Peace Operations* condemned as 'complicity with evil'.[10] Peacekeepers are now expected to search for, and then side with, the victims.

1.1. Impartial Peacekeeping and Assertive Liberal Internationalism

This dissertation critically examines impartiality as a norm of UN peacekeeping. I argue that the change in conception and practice of impartiality, manifest in discourse and institutionalised in doctrine, is significant. It signifies a radical transformation in the very nature and substance of peacekeeping, as impartiality refers not only to the position of peacekeepers as an unbiased and informed third party but also to the values and norms the UN seeks to project. More fundamentally, I argue that this change represents an evolution in how the authority of peacekeepers is constituted, justified and practiced. The judgments which contemporary peacekeepers *claim* as impartial are no longer based exclusively on terms to which all parties consent. Rather, they are premised on a more ambitious and expansive set of human rights-related norms, around which consensus is presumed but not always secured. Whilst traditional peacekeeping mandates treated parties with moral equivalence and eschewed notions of blame and punishment, instigators of violence are often now seen as criminals–their crime a form of moral collapse to be judged and righted by peacekeepers, rather than as a symptom of a political conflict to be mediated.

Moreover, this change is not limited to peacekeeping. It is an integral part of the turn towards a more assertive liberal internationalism, practiced by certain international institutions and actors. The realisation, promotion and protection of human rights is at the core of this broader shift and has translated into forms of international engagement that are less consensual and more compulsory and coercive, justified by upholding human rights.[11] Here, too, claims to impartial authority figure prominently, but have taken on new meaning. For example, through the principle of universal jurisdiction, the International Criminal Court (ICC) is unprecedented in its claim to 'impartially' investigate and try alleged perpetrators of international crimes independently of whether their states have given consent to the organisation by ratifying the Rome Statute.[12] Similarly, many humanitarian actors no longer

[10] United Nations. A/55/305-S (2000). *Report of the Panel on United Nations Peace Operations* (Henceforth, '*Brahimi Report*').
[11] Ruti Teitel. *Humanity's Law*. Oxford: Oxford University Press, 2011; Thomas Weiss. *Humanitarian Intervention*. Cambridge: Polity Press, 2012. Chapter Three discusses peacekeeping's relationship to assertive liberal internationalism at greater length.
[12] The Court may, for instance, prosecute nationals of states not party to the Statute if they have committed international crimes on the territory or against nationals of states party to the Statute. In addition, the Security Council may, acting under Chapter VII, refer a situation in which crimes appear to have been committed to the ICC prosecutor. According to the Statute, the conduct of all proceedings must be impartial, and agents of the Court, including judges and the prosecutor, must

provide emergency assistance to individuals impartially, which is to say based exclusively on need.[13] Decisions about who should receive humanitarian aid and when, are now often influenced by whether they help or hinder the realisation of rights. Whilst claiming to be impartial, humanitarian actors frequently speak out against human-rights abuses, and actively seek to reform political and social structures that impinge on human rights.

The legitimacy of this more assertive liberal internationalism, and associated claims by peacekeepers, judges and aid workers that their more coercive and intrusive actions *are* impartial, rests largely on what is extolled as a newfound unity of purpose. This unity of purpose is understood as the culmination of the internationalisation of human rights over several decades, and the supposed disassociation of rights from a particular political or partial agenda.[14] Contestation, from this perspective, would appear to be a thing of the past.

Whilst I am interested in this broader shift towards assertive liberalism, this dissertation examines it only in the context of peacekeeping. This is important because, despite the significance of this change and the long lineage of impartiality in UN peacekeeping, the norm has been the subject of surprisingly little sustained scholarly analysis. Whereas consent of the host state and the non-use of force–the two other norms traditionally associated with peacekeeping–have been the focus of several comprehensive academic studies,[15] impartiality has received little more than passing references to its vital importance[16] and its application in specific historical cases.[17] Given that the dominant meaning of the norm has changed, this omission is a glaring oversight; not least because of its implications *for* consent and uses of force by peacekeepers.

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take a solemn oath to exercise their duties impartially. See Articles 17, 20, 36, 41, 42, 45, 64, 67 and 68 of the Rome Statute of the International Criminal Court, 1998. http://untreaty.un.org/cod/icc/statute/99_corr/cstatute.htm.

[13] See Joanna Macrae, (ed.). *The New Humanitarianism: A Review of trends in Global Humanitarian Action.* London: Overseas Development Institute, 2000; Michael Barnett and Thomas Weiss, (eds.). *Humanitarianism in Question: Politics, Power, Ethics.* Ithaca: Cornell University Press, 2008.

[14] Teitel describes this as a 'new law of humanity', which spans the laws of war, international human rights, and international criminal justice.

[15] On the use of force see Trevor Findlay. *Use of Force in UN Peace Operations.* Oxford: Oxford University Press, 2002; Michael Pugh, (ed.). *UN, Peace and Force.* London: Frank Cass, 1997; Niels Blokker and Nico Schrijver, (eds.). *The Security Council and the Use of Force: Theory and Reality–A Need for Change?* Leiden: Martinus Nijhoff, 2005; Christine Gray. *International Law and the Use of Force.* (3rd edition). Oxford: Oxford University Press, 2008; Andrew Hurrell. "Legitimacy and the Use of Force: Can the Circle be Squared." *Review of International Studies* 31(1) (2005): 15-32. On consent see Neil Fenton. *Understanding the UN Security Council: Coercion or Consent?* London: Ashgate, 2004; Ian Johnstone. "Managing Consent in Contemporary Peacekeeping Operations." *International Peacekeeping* 18(2) (2011): 168-182.

[16] Numerous practitioners and scholars have stressed the importance of peacekeeping impartiality. E.g., Alan James. *Peacekeeping in International Politics.* London: Macmillan, 1990: 3, 106; A. Featherston. *Towards a Theory of United Nations Peacekeeping.* New York: St. Martin's Press, 1995; Oliver Rambotham and Tom Woodhouse, (eds.). *Humanitarian Intervention in Contemporary Conflict: A Reconceptualization.* Cambridge: Blackwells, 1996: 125; Mats Berdal. *Whither UN Peacekeeping?* London: Brassey, 1993: 3; Virginia Fortna. *Does Peacekeeping Work? Shaping Belligerents' Choices after Civil War.* Princeton: Princeton University Press, 2008; Adekeye Adebajo, *UN Peacekeeping in Africa: From the Suez Crisis to the Sudan Conflicts.* Boulder: Lynne Rienner, 2011: 9. As I discuss below, the few exceptions (notably Donald 2002, Yamashita 2008 and Levine 2011) consist of shorter articles; they provide little clarity over impartiality and do not address the underlying political issues.

[17] Anne Hughes. "Impartiality and the UN Observation Group in Lebanon, 1958." *International Peacekeeping* 9(4) (2004): 1-20; David Gibbs. "The United Nations, International Peacekeeping and the Questions of 'Impartiality': Revisiting the Congo Operation of 1960." *The Journal of Modern African Studies* 38(3) (2000): 359-382; David Roberts. "More honoured in the breech: consent and impartiality in the Cambodian peacekeeping operation." *International Peacekeeping* 4(1) (1997): 1-25.

Indeed, in an apparent "taking sides" itself, scholars of peacekeeping have done more actively to advocate for the change and applaud its institutionalisation than they have to consider the potential implications of the more assertive conception of impartiality or the ways in which it may be contested.[18] In their reflections on the peacekeeping failures of the 1990s, many academics excoriated the UN and its 'institutional ideology of impartiality' as entirely inappropriate for the post-Cold War operational environment of catastrophic mass violence.[19] They contended that 'impartiality had to be reconceived', called for clarification in both the conceptual and operational domains, and advanced their own interpretations of the norm, as described above.[20] Others imposed a distinction where none had previously existed; they redefined Cold War peacekeeping, *ex post facto*, as 'neutral' to denote its passive character whereas it was hoped that post-Cold War activity would, in a more dynamic sense, be 'impartial'.[21]

Of the several reformulations put forward, Mary Kaldor's has arguably been the most theoretically developed and, as I describe in Chapter Three, most similar to the conception of impartiality that has been institutionalised at the UN since the late 1990s.[22] In her seminal book, *New and Old Wars,* Kaldor pioneered a cosmopolitan approach to peacekeeping.[23] A reconceptualisation of impartiality was at the core of Kaldor's vision of 'cosmopolitan law

[18] Collaboration between scholars of peacekeeping and practitioners is common; leading some to inveigh that the field suffers from a 'cult of policy-relevance' and an unreflective commitment to the ideological underpinnings of peacekeeping. Roland Paris. "Broadening the Study of Peace Operations." *International Studies Review* 2(3) (2000): 44.

[19] Michael Barnett and Martha Finnemore. *Rules for the World: International Organizations in Global Politics*. Ithaca: Cornell University Press, 2004: 124.

[20] Betts, for example, urged that the 'gentle, restrained impartiality' of the Cold War period be abandoned in favour of an 'active harsh impartiality that overpowers both sides: an imperial impartiality' (1994: 28). For Daniel, traditional 'symbiotic impartiality' (avoidance of prejudicing the interests of the parties) had given way to a 'blind' impartiality (unprejudiced execution of the mandate) necessary in coercive inducement (1999: 61). Similarly, in the context of what he observed as the 'changing meaning of impartiality', Adam Roberts asserted that peacekeepers were not to be impartial 'between the parties to a conflict' but rather impartial 'in carrying out UN Security Council decisions'. He argued that this meant that in some cases the UN should be 'tougher with one party than another'. Adam Roberts. "The Crisis in UN Peacekeeping." *Survival* 36(3) (1994): 115. See also Jarat Chopra *et al.*, who note 'the notion of impartiality…. no longer pertain[s] to the parties, whose lack of clear consent would frustrate an operation thus reliant, but as a reference to the integrity with which a mandate would be implemented'. Jarat Chopra, Age Eknes and Toralu Nordbu. "Fighting for Hope in Somalia." *Peacekeeping and Multinational Operations 6 Oslo: Norwegian Institute for International Affairs*, 1995: 16.

[21] For example, Dominick Donald defines impartiality according to the Oxford English Dictionary and then traces the concept back to the origins of peacekeeping, using this definition as a benchmark to which understandings either conformed or were rejected. He reclassifies Cold War activity as 'neutral' in order to denote its more passive character (2003). See also Nicholas Tsagourias. "Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension." *Journal of Conflict and Security Law*, 11(3) (2006): 465–82. As I discuss further in Chapter Two, this imposed distinction is problematic in two respects. First, it fails to account for the conceptual differences that exist between the two norms. Second, it obfuscates the language people *actually* used. Indeed, impartiality has been such a staple of institutional practice that scholars have argued that there is strong evidence that the norm has formal standing in international law stemming from both custom and the instruments necessary to create specific missions. See Shyla Vohra. "Impartiality in United Nations Peace-Keeping." *Leiden Journal of International Law* 9(1) (1996): 63–85.

[22] Kaldor's variant of cosmopolitanism, premised on a commitment to moral individualism, has resonated greatly with liberal internationalists. In addition to being reflected in the *Brahimi Report*, many of the ideas put forth in *New and Old Wars* were brought to fruition in the *European Doctrine for Human Security*–the result of a study group on European defence capabilities which Kaldor was asked to spearhead. Mary Kaldor. *New and Old Wars: Organized Violence in a Global Era* (Second edition). Cambridge: Polity Press, 2006; Mary Kaldor. "A Cosmopolitan Response to New Wars." *Peace Review* 8(4) (1996): 505-514.

[23] Tom Woodhouse and Oliver Ramsbotham. "Cosmopolitan Peacekeeping and the Globalization of Security." *International Peacekeeping* 12(2) (2005): 139-156; James Pattison. "Humanitarian Intervention and a Cosmopolitan UN Force." *Journal of International Political Theory* 4(1) (2008): 126-145.

enforcement' in which forces would uphold 'the rules' and ensure compliance with 'international humanitarian and human rights law'.[24] Enforcement of 'the rules' and 'the law' was legitimate insofar as they reflected 'universal principles' and a common 'commitment to human values'. 'The point', Kaldor underscored, was for peacekeepers 'to retain impartiality from the point of view of the victims.'[25]

In contrast to Kaldor's enterprise of adopting a cosmopolitan ethic to transform peacekeeping, other scholars attempted to rationalise the form and content of existing peace operations at the end of the 1990s. Drawing on notions of 'international society' and 'global culture', this line of argument maintains that more coercive practices of peacekeeping are legitimate because they reflect liberal norms that have become ascendant.[26] While these scholars do not directly engage with the question of peacekeeping impartiality, the liberal norms that, they assert, prevail, constitute what Kaldor describes as 'the rules' or 'the law'.

For example, in *The Purpose of Intervention,* Martha Finnemore argues that peacekeeping missions and other forms of intervention are premised on a 'reigning capitalist liberal-democratic consensus' in which the use of force for humanitarian purposes has become accepted globally.[27] According to Finnemore, peace operations may, at times, have been censured for being ineffective, but their 'legitimacy', she maintains, 'has received little or no criticism'.[28] More recently, scholars such as Jon Lie and Benjamin Carvalho have welcomed what they describe as the 'shared culture of protection' while seeking to improve existing practices, in part by streamlining activities and approaches amongst peacekeepers and other international actors engaged in conflict contexts.[29] Similarly, in a background paper aimed at strengthening contemporary peace operations, William Durch and Alison Giffen assert that 'the question, in short, is no longer whether to protect but how'.[30]

The inherent commitment of these scholars to the normative and ideological underpinnings of contemporary peacekeeping has been exposed and condemned by those critical scholars

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[24] Kaldor 2006: 128.
[25] Ibid: 212.
[26] Paris 2003; Martha Finnemore. "Norms, Culture and World Politics: Insights from Sociology's Institutionalism." *International Organization* 50(2) (Spring 1996): 325-347; Martha Finnemore. *The Purpose of Intervention: Changing Beliefs about the Use of Force.* Ithaca and London: Cornell University Press, 2003; Nicholas Wheeler. *Saving Strangers: Humanitarian Intervention in International Society.* Oxford: Oxford University Press, 2002.
[27] Finnemore 2003: 129.
[28] Finnemore 2003: 78. See also Paris 2003: 446. Paris heralds the 'remarkable consensus' over 'liberal democratic models of governance' that developed in the 1990s.
[29] Jon Lie and Benjamin Carvalho. "A Culture of Protection? Perceptions of the Protection of Civilians from Sudan." *Norwegian Institute of International Affairs* (2008): 15; Jon Lie, Harald Sande, and Benjamin de Carvalho. "Between culture and concept: The protection of civilians in Sudan (UNMIS)." *Journal of International Peacekeeping* 14(1)(2010): 60-85.
[30] William Durch and Alison Giffen. "Challenges of Strengthening the Protection of Civilians in Multidimensional Peace Operations." Background paper for the 3rd International Forum, Challenges of Peace Operations, Asia Pacific Civil–Military Centre of Excellence, Queanbeyan, 2010. See also Lisa Hultman. "UN Peace Operations and Protection of Civilians Cheap Talk or Norm Implementation?" *Journal of Peace Research* 50(1) (2013): 59-73.

of peacekeeping who seek a complete rewriting of 'the rules'. Inspired by social and critical theory, scholars such as Michael Pugh, Oliver Richmond and Alex Bellamy have, in the last decade, sought to expose and condemn the liberal premises of peacekeeping and to explore the possibilities for emancipatory change.[31] Applying Cox's celebrated insight that 'theory is always *for someone* and *for some purpose'*, these scholars have forcefully argued that both the existing scholarship on and the practice of peacekeeping buttress 'the purposes of an existing order' that tries to 'transplant liberal values and institutions to the affairs of peripheral states'.[32] Or, as Michael Pugh avers, peace operations 'serve a narrow, problem solving approach, to doctor the dysfunctions of the global political economy within a framework of liberal imperialism'.[33] For these scholars, the new assertive conception of impartiality encapsulates a hegemonic and increasingly militarised liberal order, masking power and inequity in a seemingly benign language of human rights.

Whilst there might be some truth to these criticisms, they are inadequate in scope as they give only cursory consideration to the substance of contemporary peacekeeping. The 'modalities, institutions, or specific features' of contemporary peacekeeping are rarely investigated in any depth, and it is judged 'guilty' only 'by virtue of its association with unjust economic policies, an unjust world order'.[34] Consequently, because a rigorous examination of political dynamics within the UN does not figure prominently in this analysis, much of the literature suggests that the ascent of liberalism and its influence on peacekeeping has been largely uncontested or at least apathetically accepted, the product of what Pugh refers to as the 'New York orthodoxy'.[35]

Moreover, these same scholars fail to scrutinise the actual practices of contemporary peacekeeping and the effects of assertive impartiality. Perhaps it is precisely because critical scholarship evolved in *reaction to* those who sought to contribute to policy development through empirical case-study research that meaningful engagement with what actually happens on the ground is largely absent from their animadversions. Some scholars, to be sure, have conducted in-depth case-study research. Clapham and Williams have demonstrated how the involvement by international 'peacemakers' in Rwanda prior to the genocide, in the case of the former, and international financial institutions in Sierra Leone

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[31] See for example Alex Bellamy. "The 'Next Stage' in Peace Operations Theory." *International Peacekeeping*, 11(1) (2004): 17-38; Michael Pugh. "Peacekeeping and Critical Theory." *International Peacekeeping* 11(1) (2004): 39-58; Michael Pugh. "Reflections on Aggressive Peace." *International Peacekeeping* 19(4) (2012): 410-425; Oliver Richmond. "Critical Research Agendas for Peace: The Missing Link in the Study of International Relations." *Alternatives: Global, Local, Political* 32(2) (April–June 2007): 247–74; Philip Cunliffe. "Still the Spectre at the Feast: Comparisons between Peacekeeping and Imperialism in Peacekeeping Studies Today." *International Peacekeeping* 19(4) (2012): 426-442.

[32] Alex Bellamy and Paul Williams (eds.). *Peace Operations and Global Order*. Abingdon: Frank Cass, 2005: 32.

[33] Pugh 2004: 39.

[34] Philip Cunliffe. "Towards Perpetual Police? A Critical Sketch of UN Peacekeeping." Paper presented at Nuffield Postgraduate Workshop, University of Oxford, 2008: 18.

[35] Pugh 2004: 43.

and Rwanda, in the latter, not only failed to alleviate widespread human suffering, but, more damningly, were complicit in helping to create the very conditions that made such violence even possible.[36] However, though these scholars have exposed 'wider relations of interference' that prompted the eventual involvement of UN peacekeepers, they still do not focus their analysis on peacekeeping *per se*.[37] Because of this, the spectrum of theoretical writing on peacekeeping lacks, as Bellamy rightly notes, an understanding of 'how ideas shape practices and perceptions… and the effects of embedded liberalism on the states and societies that host peace operations.'[38]

This failure critically to interrogate the change in and potential contestation over the dominant understanding of impartiality from political and operational perspectives is puzzling because it flies in the face of what some of these same scholars have characterised as 'broader political-strategic issues surrounding new impartiality.'[39] These include questions concerning the 'ongoing debate about what peace operations should be for',[40] the persistence of 'different ideas' regarding the basis on which peacekeeping 'action should become possible'[41] and the lack of 'consistent consensus' that the Security Council's pursuit of peacekeeping 'is what the UN ought to be doing'.[42] Indeed, when Bellamy and Williams brazenly challenged the discipline in 2004 to 'think anew' about peace operations, they asserted that the 'first step' in such a project was to recognise that 'the purpose of [contemporary] operations is contested and far from self-evident. Consequently, these disagreements need to be aired and their implications explored more closely.'[43]

Nearly a decade later, this gap in the literature remains. Meanwhile, peacekeeping has descended into a state of renewed crisis.[44] 'The current strains' as the Department of Peacekeeping Operations laments, are 'showing in different ways: lack of consensus on the role of UN peacekeeping and on how peacekeepers should implement the tasks that they are assigned; increasing political and security challenges to missions and peacekeepers in

[36] Clapham 1998; Williams 2004.
[37] Bellamy and Williams 2004: 7.
[38] Bellamy 2004: 34.
[39] Yamashita acknowledges these issues but does not address them in her analysis. Hikaru Yamashita. "'Impartial' Use of Force in United Nations Peacekeeping." *International Peacekeeping* 15(5) (2008): 619.
[40] Bellamy and Williams 2004: 5.
[41] Yamashita 2008: 618.
[42] Bellamy and Williams 2004: 5.
[43] Ibid: 4.
[44] Richard Gowan. "The Strategic Context: Peacekeeping in Crisis, 2006–08." *International Peacekeeping* 15.4 (2008): 453-469; Bruce Jones. "Peacekeeping in Crisis?" *The RUSI Journal* 154(5) (2009): 78-83; Fred Tanner. "Addressing the Perils of Peace Operations." *Global Governance: A Review of Multilateralism and International Organizations* 16(2) (2010): 209-217; Christine Gray. "Peacekeeping after the Brahimi Report: Is There a Crisis of Credibility for the UN?" *Journal of Conflict and Security Law* 6(2) (2001): 267-288. This contemporary "crisis" is, I argue, similar to the crisis in the mid-1990s that in part prompted the reconceptualisation of impartiality in peacekeeping and beyond. On the earlier crisis in peacekeeping, see Roberts 1994; Ramesh Thakur. *A Crisis of Expectations: UN Peacekeeping in the 1990s*. Boulder: Westview Press, 1995. On the crisis of liberal internationalism in the mid-1990s more broadly, see e.g., Stanley Hoffmann. "The crisis of liberal internationalism." *Foreign Policy* 98(2)(1995): 159-177.

implementing mandates; and difficulties of Member States and the Secretariat in meeting required needs as well as managing concern over costs.'[45]

1.2. Norm Contestation and the Politics of Peacekeeping

It is in this context that a critical examination of the dominant conception of impartiality as a norm of UN peacekeeping becomes essential. In undertaking such an examination, this dissertation calls into question the purported consensus surrounding the purposes of and actions involved in contemporary peacekeeping. Rather than accept that consensus exists, and that the decisions and actions of peacekeepers *are* impartial, I argue that these must be understood as claims that require empirical investigation. It is precisely because, as Franck asserts, impartiality's 'yoke is so eminently wearable', that consideration of contestation is warranted.

Two central and closely connected research questions provide the over-arching focus for this inquiry. First, how is impartiality understood as a norm of UN peacekeeping and, second, what are the effects of this understanding? To answer these questions, I conduct a multi-level analysis that understands peacekeeping as a dynamic practice. Specifically, I examine the macro-level politics surrounding the institutionalisation of the more assertive conception of the norm at the UN, as well as the micro-level politics surrounding its implementation in the specific case of the UN mission in the Congo, MONUC.[46] I identify the various sites and sources of contestation over assertive impartiality during each process, and explicate the linkages between institutionalisation and implementation. Moreover, to understand how, amidst such contestation, certain conceptions of the norm have become dominant both in policy and practice, I analyse different institutional decision-making pathways at both the macro- and micro-level, and the power dynamics therein. In doing so, this dissertation illuminates how certain actors wield greater influence than others in determining the policies and practices of UN peacekeeping.

The Congo case is particularly salient in examining these generalised institutional dynamics while it introduces, as I explain below, its own forms of contestation. The UN's largest and most expensive peacekeeping mission to date, MONUC was first deployed in late 1999, three years before the formal end of Congo's epic war.[47] It was a testament to the prevailing

[45] United Nations. *A New Partnership Agenda: Charting A New Horizon for UN Peacekeeping* (Henceforth, '*New Horizons*'). New York: DPKO and DFS, 2009: 6.
[46] MONUC officially ended in June 2010, but the mission continues to operate largely unchanged under its French acronym MONUSCO (Mission de l'Organisation des Nations Unies pour la Stabilisation en République Démocratique du Congo). This dissertation focuses primarily on MONUC but incorporates some insights from the period of MONUSCO.
[47] Chapter Five provides historical background on the Congo case.

thinking in the Security Council. During deliberations on the creation of the mission, the lessons learned from previous peacekeeping failures were recounted, and the need for robust peacekeeping affirmed by various member states.[48] Indeed, MONUC was emblematic of the desire for a new era of blue-helmet intervention and represented, as South African ambassador Dumisani Kumalo opined, a 'litmus test' for the Council's commitment to peacekeeping in Africa.[49]

MONUC's decade-long deployment saw the institutionalisation of the more assertive conception of impartiality manifest in Security Council resolutions, which steadily increased the putative robustness of the mission. Its Chapter VII mandate expanded to encompass the entire country, the naming and shaming of spoilers became a recurrent feature of resolutions, and the protection of civilians was designated MONUC's highest priority.[50] In addition, Congo has been a focus country for the ICC and, more broadly, the loci of numerous humanitarian reform initiatives associated with assertive liberal internationalism.

And yet, the ambitious plans and policies associated with the new conception of impartiality have seldom been borne out in practice. As much as the UN mission in the Congo has been lauded for its innovation and alacrity, it has also been condemned as 'useless', 'impotent' and 'cowardly'.[51] The mission's history is a chequered one, rife with instances of peacekeepers being passive in the face of civilian imperilment, pusillanimous in their responses to spoilers, and accused of being highly partial toward various armed actors. After 13 years of many varied attempts to "keep" peace, violence in eastern Congo continues unabated. Mortality levels are close to those at the peak of the war. Human-rights protection is illusory for many, if not most, Congolese. And since holding landmark elections in 2006, the country has dropped 20 places in the UNDP development rankings to claim the dubious accolade of being the world's least-developed state.[52]

The purpose of this dissertation is not to explain the effectiveness (or lack thereof) of peacekeeping in the Congo or elsewhere, but it is through an examination of contestation around the norm that the practices of peacekeeping and their effects are brought into sharper focus. In this respect, institutional dynamics are important but they do not tell the whole story. It is a main contention of this thesis that peacekeeping is fundamentally a contingent

[48] E.g., S/PV.4083 (1999): 6; S/PV.4143.1 (2002): 22; S/PV.4194 (2000): 6, 17.
[49] S/PV.4083 (1999): 6.
[50] S/RES/1856 (2008). *The Situation Concerning the Democratic Republic of the Congo.*
[51] Africa-Asia Confidential. "More policing of the peacekeepers." 1(9), July 2008; Lydia Polgreen. "A Massacre in Congo, Despite Nearby Support." *The New York Times*, 11 December 2008; Andrew England. "UN accuses its peacekeepers of Congo failure." *Financial Times*, 23 March 2005; David Lewis. "Congo: Step forward or back to the past?" *Reuters,* 20 January 2009.
[52] United Nations. *Human Development Report*. New York: United Nations Development Programme, 2006 and 2011.

process that is shaped by the historical, social and political dynamics of the particular places into which peacekeepers are deployed. My in-depth analysis of the Congo case illuminates the specificities of this context, including how local actors perceive and engage with peacekeepers during that process. This is vital, not only because the politics of the Congo shape and are shaped by macro-level dynamics, but also because one cannot understand the consequences of assertive impartiality without taking local dynamics into account.

As this dissertation shows, the robust role prescribed for peacekeepers raises expectations and creates incentives amongst local actors, which are related to the specific circumstances in which these actors find themselves. In doing so, it encourages particular types of action that would not have occurred were the role conceived, understood and enacted otherwise. Of particular consequence is the moral discourse associated with the assertive conception of the norm, which, as Chapter Six demonstrates, may be used as a powerful tool by local actors both to legitimatise themselves and to de-legitimise others, including, crucially, the mission and the UN. In 2012, the mission reached what was arguably the nadir of its legitimacy, when critics condemned it as a failure and railed that it had little to show for the billions upon billions of dollars that had been spent.[53] Some even suggested that that mission's failure spelled the death of peacekeeping, writ large.[54]

In this context accounting for both the macro-level and micro-level politics associated with the new conception of impartiality, and their dynamic interplay, is crucial to understanding the effects of the norm, both on peacekeeping and on the UN, the institution with which it has become so symbolically linked. As many scholars have noted, the legitimacy of the UN–and by extension the likelihood of its securing the resources and access so critical to its operations–derives in large part from whether it is seen to reflect and promote shared values,[55] as well as from the degree to which it is actually effective.[56] It is in this context that an examination of impartiality sheds light on peacekeeping and the UN's legitimacy in Congo and beyond.

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[53] Rosie DiManno. "In Congo, UN troops prove useless again." *The Star,* 21 November 2012; Dixon, Robyn. "U.N. Force in Congo, MONUSCO, criticized as ineffective." *Los Angeles Times*, 22 December 2012.

[54] Jessica Hatcher and Alex Perry. "Defining Peacekeeping Downward: The U.N. Debacle in Eastern Congo." *TIME Magazine*, 26 November 2012.

[55] Allen Buchanan and Robert Keohane. "The Legitimacy of Global Governance Institutions." *Ethics and International Affairs,* 20, (4) (2006), 405-37.

[56] Fritz Scharpf. *Governing Europe: Effective and Democratic?* Oxford: Oxford University Press, 1999. In addition to both these forms of legitimacy, scholars also note the importance of procedural legitimacy, that is, legitimacy related to the character of decision-making procedures. Whilst procedural objections over impartiality do appear, as discussed in Chapter Four, this dissertation argues that ultimately they are secondary to the more substantive and consequential objections. In short, reforms to address decision-making procedures will likely resolve these more fundamental differences. Moreover, in the context of the UN–where enlarging participation in decision-making is usually discussed as a way to bolster legitimacy in the respect–there is the risk that reform will come at the cost of effectiveness. Thomas Franck. *The Power of Legitimacy Among Nations*. Oxford: Oxford University Press, 1990.

1.3. Theoretical Approach

Whilst the empirical focus of this thesis is on the politics and practices of peacekeeping, existing theoretical literature on this subject has–as described above–been of limited help in understanding the ways in which impartiality has evolved and been contested. To examine this phenomenon, I have drawn broadly on constructivist approaches to the study of norms.

My interest in norm contestation and its concomitant connection to relations of power may lead some to question whether constructivism is a suitable theoretical approach within which to situate this study. Many constructivists regard non-ideational forms of power as the purview of realist scholars, and realism is frequently portrayed as a theoretical paradigm that is logically incompatible with, or, at least, antagonistic to, constructivism.[57] Whilst there are important differences between constructivism and realism, I am sympathetic to recent critiques that regard such rigid conceptual distinction as counterproductive.[58] Constructivism distinguishes itself within the discipline of International Relations (IR) by contributing the "logic of the social" that illuminates the inter-subjective construction of international politics.[59] This precludes neither considerations of norm contestation nor of the relative power of actors to influence the normative agenda or practice. Rather, such considerations are integral to processes of social construction, and must be accounted for.

In this respect, this dissertation consciously departs from more linear frameworks of normative development that are underpinned by a binary logic where actors either accept and internalise a norm or resist and reject it. Instead, I embrace the approach of those scholars, such as Antje Wiener, who seek to study norm contestation and its 'meaning in use'. These scholars offer a broad and complex perspective of norms in international politics by examining them as dynamic rather than static units. However, this approach is, as I argue in Chapter Two, nonetheless inadequate for the purposes of this study, given that these same scholars tend to examine contestation during implementation as an isolated phenomenon–wholly distinct from institutionalisation–and one which is largely devoid of power dynamics.

Chapter Two addresses these shortcomings and develops a framework for studying contestation. The first part of the framework introduces impartiality as a "composite norm",

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[57] Alexander Wendt. *Social Theory of International Politics*. New York: Cambridge University Press, 1999; Richard Lebow. "Thucydides the Constructivist." *American Political Science Review* 95(3) (2001): 547-560.
[58] E.g., Samuel Barkin. *Realist Constructivism: Rethinking International Relations Theory*. Cambridge: Cambridge University Press, 2010. Barkin denounces this as IR's "paradigmatism" in which the discipline is understood 'as a set of discrete paradigms that need not interact, that need not inform each other.' He argues that this 'encourages insular thinking and an emphasis on differences' (2010: 4). Rudra Sil and Peter Katzenstein. "Analytic eclecticism in the study of world politics: reconfiguring problems and mechanisms across research traditions." *Perspectives on Politics* 8(2)(2010): 411-431.
[59] Barkin 2010.

namely, an ideational structure consisting of both mutable and immutable components that shape the meaning of the norm over time and in particular contexts. In addition to capturing changes in the meaning of impartiality, a finer analysis of the norm and its content is necessary to analyse contestation. Instead of simply rejecting or accepting impartiality as a norm of peacekeeping, actors may resist particular elements of the norm and/or put forward their own alternative interpretations of these elements. Similarly, they may advance alternate interpretations of the norm as a whole. The second part of the framework advances two propositions about contestation for both the processes of institutionalisation and implementation. These propositions serve as a baseline for the empirical analysis in this dissertation.

1.4. Methodology

The theoretical approach adopted to study impartiality in this dissertation has methodological implications. Given my emphasis on the contextual and contingent nature of norms, this dissertation pursues an 'interpretivist' approach, which, as Mark Bevir explains, seeks to understand actions and events by taking into account 'the intentions, concepts, and ideas constitutive of them'.[60] In doing so, it employs a number of different methods.

Since this dissertation proceeds from the argument that there has been a shift in the dominant understanding of impartiality as a norm of UN peacekeeping, a first, key task was to demonstrate that change. I did so by constructing a historical narrative of impartiality in UN peacekeeping through a textual analysis of primary and secondary sources.[61] This included an examination of the norm's origins in UN peacekeeping, and its evolution over the last six decades of practice, as well as the conceptual ambiguity surrounding the dominant understanding of impartiality that was institutionalised in the new millennium.

My construction of a historical narrative draws heavily on a range of primary sources, including: policy documents, public debates, plenary sessions, speeches, communiqués, field manuals, military doctrine and training documents, and letters and memoirs of key individuals. UN and government research reports, including draft documents, were also consulted in order to capture institutional reflection and deliberations in the wake of particular events or following specific operations. This research was coupled with a close

[60] Mark Bevir. "Introduction: Interpretive Methods." In *Interpretive Political Science* (Volume 2), edited by Mark Bevir, London: SAGE Publications, 2010: vii.
[61] For a discussion of historical narrative see Hidemi Suganami. "Narrative Explanation and International Relations: Back to the Basics." *Millennium–Journal of International Studies* 37(2) (2008): 327–356; and Stephen Van Evera. *Guide to Methods for Students of Political Science*. Ithaca and London: Cornell University Press, 1997.

analysis of all UN Security Council Resolutions authorising peacekeeping forces of over 1000 soldiers to determine the changing substance and practices associated with impartiality and called for in mission mandates.

Primary sources were supplemented by secondary sources on peacekeeping, the UN, humanitarianism, international criminal justice, military intervention and international history more broadly. These secondary sources were critical in providing a broader context for impartiality's evolution at the macro-level, not least given that the change in the understanding of the norm in UN peacekeeping is situated in a broader shift towards a more assertive liberal internationalism.

The historical narrative and detailed account of impartiality's institutionalisation at the UN provides the basis for my subsequent analysis of contestation. To illuminate contestation over the dominant concept of impartiality, and its effects at both the macro- and micro-level, this dissertation draws on a multi-site ethnography, and on semi-structured interviews as well as additional document analysis. This research is situated amongst a growing body of IR scholarship that uses ethnographic methods to research international norms, practices and institutions–what some have labeled the 'ethnographic turn' in IR.[62] One of the advantages of this methodology is that it affords access to key institutional actors and local figures, and opportunities for sustained observation. In the present case, it provides insight into critical decision-making processes surrounding peacekeeping in the Congo and the effects of those processes on those responsible for and affected by the practices of UN peacekeeping. The same approach has enabled an in-depth analysis of impartiality at both macro-and micro levels, and by extension an account of the relationship between these two levels.

Fieldwork for this dissertation was carried out in several locations. Research to discern the contested understandings of impartiality at the macro-level was conducted primarily in New York where I was based for several months at the International Peace Institute (IPI) as a visiting scholar. Described by scholar Michael Doyle as the 'UN's only think tank', IPI was an ideal base from which to conduct this research given both its physical proximity to the UN as well as active engagement in policy debates related to peacekeeping.[63] Data collected while in New York was supplemented by additional research interviews with current and

[62] For IR scholarship drawing on ethnographic methods see Michael Barnett. *Eyewitness to a Genocide: The United Nations and Rwanda.* Ithaca: Cornell University Press, 2002; Stephen Hopgood. *Keepers of the flame.* Ithaca: Cornell University Press, 2007; Séverine Autesserre. *The Trouble with the Congo–Local Violence and the Failure of International Peace Building.* New York: Cambridge University Press, 2010. On international relations and ethnography see Wanda Vastri. "The Strange Case of Ethnography and International Relations." *Millennium–Journal of International Studies* 37(2) (2008): 279-301; June Nash. *Practicing Ethnography in a Globalizing World.* Plymouth: Altamira Press, 2007.
[63] Interview with Michael Doyle, Harold Brown Professor of US Foreign and Security Policy, Columbia University, New York, June 2011.

former UN officials and diplomats in Washington, Ottawa, London, Paris, Brussels, Geneva and Nairobi.

Research for the case study and the micro-level politics of peacekeeping was largely carried out during three periods of fieldwork in the Congo between 2008-2011. During that time, I was based in Goma, the capital of North Kivu Province. North Kivu is the centre of Congo's on-going conflict and thus for much of the last decade has been a priority area for the UN mission and its operations. Since 2007, over 90% of the force has been deployed in North and South Kivu with Goma serving as the seat of the eastern Command (otherwise known as 'Forward HQ').[64] Research was conducted throughout North Kivu in four of its five territories (Masisi, Rutshuru, Beni and Lubero). In addition, I made separate trips to Kinshasa and Bukavu to gain a broad spectrum of perspectives and ensure that my findings were representative of mission dynamics more broadly. By conducting research in a diversity of locales within Congo (from remote rural bases in the various territories, to field offices, to the national headquarters of the mission in the capital) I was able to discern critical differences in how officials in these areas understood their role and interpreted their mandates.

My fieldwork in Congo was shaped by a loose affiliation with MONUC. As I describe in detail below, this provided access to officials, meetings, and daily briefings, and allowed for data collection through participant observation that otherwise would not have been possible. Critically, this affiliation also provided necessary logistical support to areas with limited access and guarantees of security. I adopted various measures to mitigate the risk that such an affiliation might compromise or bias my findings, or affect the information provided during interviews. Interviews were conducted privately and away from UN bases. In each interview I emphasised that I was an independent researcher, and offered each interviewee anonymity. Moreover, I conducted research trips independently when and where I was able by taking local transport, and in several instances worked with local organisations. My independence as a researcher became particularly important in 2009 when, as I describe in Chapter Five, the mission deepened its partnership with government forces to conduct a series of military operations in the Kivus, and came thereby to be perceived by many as partial.

Multi-sited research allowed me to draw on multiple types of data to elucidate contestation and the effects of the norm. First, a significant proportion of data derives from more than

[64] Reliefweb, "Over 90% of MONUC Force deployed in eastern DRC." 15 December 2008.

200 semi-structured interviews conducted with current and former UN officials, member-state representatives, civil servants, diplomats and staff members of international and non-government organisations, as well as Congolese political and military officials, members of foreign and domestic armed groups, civil society actors, and civilians.[65] When selecting my interviewees, I strove to gain exposure to the broadest range of perspectives. I actively sought out individuals who contested the dominant conception of the norm but who were marginalised from decision-making during the processes of institutionalisation and implementation. In New York, for example, I met with numerous officials of states affiliated with the non-aligned movement (NAM), including representatives of the largest troop- and police-contributing countries (TCCs/PCCs). Findings from these interviews were supplemented by numerous discussions with political analysts and scholars who follow developments in the UN closely.

Interviews were generally between an hour and three hours in duration, and repeated interviews established considerable rapport with key figures, facilitating a detailed probing into more sensitive and controversial topics. The majority of people interviewed requested that they remain anonymous, given the political sensitivities surrounding this research and its potential professional, reputational and security ramifications. Offering anonymity facilitated access to individuals with considerable divergence of opinion, particularly amongst current UN officials, and allowed the discussions to highlight areas of tension and contestation.

Participant observation, which entails more intensive interaction between the observer and observed, complements semi-structured interview methods in this dissertation. Observation conducted primarily for the case research was facilitated through attendance at daily internal UN meetings in Goma,[66] field visits with UN staff, and accompanying peacekeeper patrol sweeps in rural areas.[67] These encounters illuminated the nature of organisational operations and assisted in understanding broader, ongoing political and security developments. This

[65] A total of 209 interviews were conducted as part of this research. This includes 16 interviews with members of the *Forces Démocratiques de Libération du Rwanda* (FDLR) going through a three-month demobilization and reintegration process at Matobo Reorientation Camp in Rwanda, 3 telephone interviews with active FDLR, and 5 interviews with members of the *Alliance des Patriotes pour un Congo Libre et Souverain* (APCLS) in Goma (North Kivu). In addition to these interviews, I hosted a roundtable discussion with 16 civil society actors and representatives from local NGOs working in South Kivu in 2011. A list of interviewees is omitted given assurances of confidentiality and non-attribution. Throughout the dissertation I fully reference only the data obtained through on-record interviews. In characterising anonymous interviewees, I list only their status and the month, year and location of the interview. In certain cases, location is omitted to ensure confidentiality.

[66] From January to April 2010, I attended the daily MONUC briefings at "Forward HQ" in Goma. These meetings were roughly an hour in duration and covered security and political developments throughout the eastern region (including North Kivu, South Kivu and Province Orientale). This was particularly advantageous as it enabled me to stay informed of dynamics beyond North Kivu, and was thus a means to ensure that my findings were representative of mission dynamics more broadly. In addition to the daily MONUC briefings, I attended two meetings of the "protection cluster". Hosted by OCHA, these co-ordination meetings draw together staff from UN agencies as well as from the wider humanitarian community to discuss protection needs and programming in the province.

[67] Visits were conducted to the company operating bases (COBs) of the main troop contributing countries to the mission in North Kivu (Indian, Nepalese, South African and Uruguayan), located in four of the provinces five territories.

access also provided a particularly effective way of exploring the difference between formal policies and mandates, and actual practice.

In addition to semi-structured interviews and participant observation, I consulted a comprehensive set of primary and secondary sources. These consultations were used to cross check data obtained through interviews and participant observation, to ensure accuracy and to mitigate potential bias or selectivity of the information gleaned from participants. This more abstracted investigation also provided a mechanism through which to track changes in the dominant conception of the norm of impartiality as it evolved at the macro-and micro-levels. In addition to the primary sources cited above, in Congo I was granted access to over 1,000 internal documents and memos, under the condition that I not identify my source. These documents provide considerable insight into decision-making at various levels within the mission, and shed light on contestation among officials about particular decisions or courses of action. These primary sources were supplemented and contextualised through secondary sources on the UN mission in the Congo, and the history and politics of the Great Lakes region.

Lastly, the methodological choice of a single-case study requires justification. Social scientists have highlighted the limitations of the single-case study approach, namely, the lack of generalisability across cases, and potential selection bias.[68] Whilst these concerns are applicable to scholars seeking to develop falsifiable claims, they do not apply to the present study, as discussed above. Rather, the rigorous single-case research approach chosen here is necessary to explicate in sufficient detail the process of norm change, contestation and impact across various levels of analysis. As such, the Congo case serves the heuristic purpose of elucidating contextual contingencies during both institutionalisation and implementation of norms, and the implications of assertive impartiality in UN peacekeeping.[69] In contrast to the 'theory testing' approach advocated by King, Keohane and Verba, the present project is more akin to 'theory generation'.[70] Such a study provides a strong empirical base, which, as George and Bennett argue, allows 'for conceptual refinements with a higher level of validity over a smaller number of cases'.[71] To include a second or third case would require a sacrifice of depth for the sake of breadth. Given the significance and complexity of the case at the micro- and macro- levels, objectives of generalisability are less applicable in this context.

[68] Gary King, Robert Keohane, and Sidney Verba. *Designing social inquiry: Scientific inference in qualitative research*. Princeton: Princeton University Press, 1994.
[69] Harry Eckstein. "Case Study and Theory in Political Science." In *Handbook of Political Science*, edited by Fred Greenstein and Nelson Polsby, Reading: Addison Wesley, 1975: 104.
[70] King, Keohane and Verba 1994.
[71] Alexander George and Andrew Bennett. *Case Studies and Theory Development in the Social Sciences*. Cambridge: MIT Press, 2005: 19.

Avenues for further research involving additional case studies, as well as other institutions and practices associated with assertive liberal internationalism, are discussed in the conclusion.

1.5. Outline of the Dissertation

This dissertation is divided into three parts. Part I (Chapter Two) draws on political theory and constructivist scholarship to outline the dissertation's overarching conceptual and theoretical framework. Both existing research on peacekeeping and popular discourse on UN operations are rife with conceptual confusion, exacerbated by the frequent conflation of 'impartiality' with 'neutrality'. This conceptual confusion is not limited to scholarship on peacekeeping. Impartiality figures as a central concept in moral, political and legal theory.[72] Yet, despite its ubiquity in the literature, impartiality is lamented by some critics as 'almost universally misdescribed',[73] 'haphazardly analyzed',[74] or as having 'stumbled its way into a series of holes, imponderables and seeming contradictions'.[75]

In order to address these deficiencies, and to ground the empirical investigation of this dissertation, the framework I develop in Chapter Two in part provides conceptual clarity regarding the norm of impartiality. It also situates this dissertation within the constructivist approach. Providing an 'objective definition' is, however, incompatible with the focus of this dissertation, which seeks to analyse how understandings of impartiality in UN peacekeeping have changed and the ways in which the norm itself has been contested during the processes of institutionalisation and implementation. Instead of working from a limiting or fixed definition, I sketch and expand upon what Franck has referred to as the broad 'structure of impartiality'.[76] I introduce the concept of a "composite" norm and advance several propositions about the dynamics of contestation during both the processes of institutionalisation and implementation.

Drawing on this framework, Part II (Chapters Three and Four) focuses on the politics of peacekeeping at the macro- organisational level. Chapter Three presents the history of impartiality in UN peacekeeping. It analyses the change in the understanding of the norm as institutionalised in UN policy documents and peacekeeping doctrine, and situates this change

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[72] See for example: Brian Barry. *Justice as Impartiality.* Oxford: Oxford University Press, 1995; Susan Mendus. *Impartiality in Moral and Political Philosophy.* Oxford: Oxford University Press, 2002; Albert Musschenga. "The Debate on Impartiality: An Introduction." *Ethical Theory and Moral Practice* 8(1-2) (2005): 1-10; William Lucy. "The Possibility of Impartiality." *Oxford Journal of Legal Studies* 25(1) (2005): 3-31.
[73] Bernard Gert. *Morality: Its Nature and Justification.* (Second edition).Oxford: Oxford University Press, 2005: 131
[74] Charles Geyh. "The Dimensions of Judicial Impartiality." *Indiana Legal Studies Research Paper* 201 (2012): 2.
[75] Geyh 2012: 2.
[76] Franck 1968.

in the turn towards a more assertive liberal internationalism. The roots of this shift lie in developments at the end of the Cold War. The breakdown of bipolarity ushered in a new and ambitious era of liberal international engagement that soon, however, became mired in crisis. As peacekeepers and other international actors became more heavily engaged in conflicts within states where consent for their operations was more tenuous, they confronted difficult questions about the sources of their own authority, and issues of how to adjudicate disputes between local competing claimants of authority.[77]

The change in the understanding of impartiality at the end of the 1990s was an attempt to address these questions and the broader crisis. The authority of peacekeepers, as well as of other international actors, was now grounded in human rights. Crucially, however, and contrary to what many constructivist theories would hold, impartiality's institutionalisation has not resulted in conceptual clarity. Chapter Three concludes by considering the various ways in which the new dominant understanding of impartiality is in fact ambiguous and imprecise, rife with inherent contradictions.

Chapter Four calls into question the purported consensus over the dominant conception of impartiality and the purposes of contemporary peacekeeping. It demonstrates how impartiality's ambiguity is a reflection of contestation, and elucidates the *procedural, substantive* and *consequential* objections of various actors at the macro, organisational level. It explains how, despite fierce contestation, the Council has continued to authorise robust mandates in accordance with the new conception of impartiality. This practice, I argue, is explained by the Council's overarching ability to determine peacekeeping policy and hold its members to a different course to that of the general membership. But crucially the Council's power is not, as I demonstrate, unbridled. It too faces constraints due to the very nature of assertive impartiality.

From here, the dissertation turns to Part III which analyses the process of implementation and the more micro-level politics associated with peacekeeping in the Congo. Chapter Five begins by setting out the process by which MONUC's role was constructed, interpreted, contested and enacted by officials within the mission through the four phases of its deployment. In examining each phase, I pay particular attention to judgments as to when, how and which civilians to protect, or to address "spoilers" of the Congo's various peace processes. These situations, which according to an assertive conception of the norm warrant the use of force and robust intervention, are particularly illustrative of contestation and the

[77] Anne Orford. *International Authority and the Responsibility to Protect.* New York: Cambridge University Press, 2011.

politics surrounding the norm's implementation. Judgments were far from uniform and MONUC's mandate was subject to numerous interpretations, influenced by both micro- and macro-level dynamics. Assertions regarding who was a "spoiler" and what constituted "spoiling activity" were subjective, fluid and deeply contested, and as a result, implementation of the norm was inconsistent. Civilians were protected in certain instances and not in others. Similarly, blue helmets targeted certain armed groups, whilst others shored up their power unopposed by the mission.

Chapter Six complements the study of contestation in Chapter Five by examining the effects and unintended consequences of the assertive conception of impartiality in the Congo case. Specifically, the analysis demonstrates how civilians who expected peacekeepers to behave in a particular manner were adversely affected when their expectations were not met; how armed groups and factions of the national army manipulated the mission and its assertive mandate in order to realise strategic and political aims. And how these effects, in turn, had negative implications for peacekeepers, for the mission's acceptance *as* an impartial actor, and for the UN's ability to act as a political arbiter. In sum, the Congo case reveals how even a norm as seemingly laudable and unassailably progressive as impartiality may be contested, compromised and blighted in practice.

The conclusion summarises the findings of this dissertation and suggests future avenues for research, with respect both to peacekeeping and to other practices associated with assertive liberal internationalism. It argues that analysis of the inherent and perhaps irreconcilable tensions and moral hazards associated with the new conception of impartiality is critical if we are to move beyond the usual litany of 'lessons learned' studies, and the technical solutions to peacekeeping dilemmas so frequently tabled by practitioners and academics.

Understanding contemporary peacekeeping practice as well as other liberal advances requires an acute sensitivity to context, and an appreciation of how politics–international, institutional and local–shape practice. More fundamentally, the way in which even the most laudable of international norms may produce grievous unintended consequences requires both practitioners and academics to be more reflective about the norms they study, defend, and even espouse. Seen from such a multiplicity of perspectives, the loud circling of MONUC's helicopter gunships over the tiny village of Loga in Congo represents a stage of evolution in international relations that this dissertation argues is anything but impartial.

2. Impartiality as a Composite and Contested Norm

In this chapter I develop a conceptual and theoretical framework to study impartiality in UN peacekeeping. Through this framework I will subsequently explore changes in and contestation over the norm, and its effects at both the macro-level and micro-level. The chapter also situates this study within constructivist approaches to International Relations (IR).

Constructivism is valued for demonstrating the possibilities of moral change in international politics: how what "ought" to be can become what "is".[1] Indeed, it is precisely a belief in and desire for change that draws so many to constructivism. Consequently, scholars adopting this approach often focus on people-centered issues and work at the 'hard edge of human misery' to identify conjectures propitious for change.[2] Over the last two decades, constructivists have rapidly staked out a place of prominence in the discipline by demonstrating how norms such as human rights, the responsibility to protect, and the prohibition of particular weapons or modes of warfare shape behaviour.[3] This focus on the *power of norms* has, however, translated into an underestimation of the *role of power* in changing norms and in determining when and why certain norms matter more than others, and to what effect. As a result, constructivist scholars have been criticised for giving inadequate consideration to the phenomenon of contestation, assuming the existence of, or leaving unexamined, the alleged consensus surrounding a given norm.[4]

This chapter argues that constructivism's reluctance to provide sustained consideration of norm contestation is deeply problematic and limits what it can tell us about change. Norms are not above the realm of politics; they are intimately bound up in social conflict. Even seemingly laudable norms such as those associated with peacekeeping are not unalloyed goods; rather, the effects of norms may vary greatly and the process of implementation may open up new sources of violence, repression and social exclusion. What "ought" to be is rarely universally accepted.

To address these variations and the attendant difficulties of making moral judgments in an imperfect world, scholars have recently called for a constructivist research agenda that, like the approach adopted in the English School tradition, examines the limits of moral obligation that

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[1] Richard Price, (ed.). *Moral Limit and Possibility in World Politics*. Cambridge: Cambridge University Press, 2008.
[2] Christian Reus–Smit. "Imagining society: constructivism and the English School." *The British Journal of Politics & International Relations* 4(3) (2002): 500.
[3] For an overview of the role of norms in IR scholarship see Andrew Hurrell. "Norms and Ethics in International Relations" and Emanuel Adler. "Constructivism in International Relations: Sources, Contributions and Debates." In *Handbook of International Relations*, edited by Walter Carlsnaes, Thomas Risse-Kappen, and Beth Simmons, 137-154. London: Sage, 2002; Ian Hurd. "Constructivism." In *The Oxford Handbook Of International Relations* (Vol. 5), edited by Reus–Smit, Christian, and Duncan Snidal. Oxford: Oxford University Press, 2008: 298-317. For a more general discussion of ideas and politics see Daniel Beland and Robert Cox, (eds.). *Ideas and Politics in Social Science Research*. Oxford: Oxford University Press, 2011.
[4] Noteable exceptions are discussed in Section II of this chapter.

can be ethically justified within the current structure of international politics.[5] They suggest that implicit or explicit judgments by scholars about what "ought" to be should require more substantive grounding in "what is".[6]

Whilst the development of an ethical constructivist framework is beyond the scope of this study, this chapter explains why consideration of norm contestation and the practical consequences of such contestation is a necessary step in such an endeavour. Rather than accept that consensus exists over the purposes of peacekeeping, and that the decisions and actions of peacekeepers *are* impartial, I argue that these must be understood as claims that require empirical investigation before normative judgments concerning their desirability are to be made. By examining contestation during the institutionalisation and implementation of impartiality as a core norm of peacekeeping, the framework developed in this chapter hopes to shed light on the limits, possibilities and perils of ideational change in UN peacekeeping and beyond.

This chapter proceeds in three sections. Section one begins by discussing the characteristics of norms generally. I define impartiality as a norm and address a number of aspects that are important for studying contestation. In section two I critically review the dominant constructivist theories of norm construction, change and contestation and explain why extant analyses, which focus either on norm institutionalisation or norm implementation, are inadequate for the present study. Section three presents a framework for studying impartiality in UN peacekeeping. I introduce and develop the concept of a composite norm to account for both changes in impartiality's content and for contestation over this particular norm. I define norm contestation as disagreement over the meaning and/or appropriateness of a norm that may occur during the distinct, but related, processes of institutionalisation and implementation. From there, I advance several propositions about the dynamics of contestation, which, I posit, provide analytical starting points for examining impartiality and the local and global politics of peacekeeping.

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[5] Price 2008; Reus-Smit 2002. For an overview of the English School see Andrew Linklater and Hidemi Suganami. *The English school of International Relations: A Contemporary Reassessment*. Cambridge: Cambridge University Press, 2006. Scholars working within the English School tradition adopt an inductive approach to understanding international society, where conceptions of possible justice are grounded in the actual degree of international consensus. Concerned above all else with maintaining stability and order within international society, they caution against normative change that reflects the preferences of the powerful but is not shared more widely. They urge scholars to plumb the vagaries of existing state practice to discern the degree of actual consensus and thus ethical possibility. E.g., R.J Vincent. *Nonintervention and International Order*. Princeton: Princeton University Press, 1974.
[6] On English School methods see Cornelia Navari. "The concept of practice in the English school." *European Journal of International Relations* 1(2010): 1-20.

2.1. What is a Norm?

Evidence of international norms goes back to the first written records of inter-state relations. Cuneiform tablets from Southern Mesopotamia document a code of conduct and means for third-party arbitration that existed amongst Sumerian city-states on the alluvial plain (2000 BCE).[7] Over time, international norms have come to include international regulations associated with domestic policies, such as suffrage, democracy, and prohibitions against slavery and apartheid. They also include norms governing inter-state relations, such as the expansion of cooperative security and monitoring of elections, as well as restrictions on certain types of warfare.

That norms have a long lineage in international relations is a widely shared observation.[8] There is, however, less agreement amongst scholars on what they are, and when and how they matter. Andrew Hurrell's assertion that all normative analysis revolves around two classic meanings of the term "norm" offers a helpful entry point from which to situate this dissertation in the discipline of IR and elucidate the statement that impartiality is a norm.[9]

According to the first meaning of the term, norms are understood as descriptive and predictive. They reflect patterns of regular behaviour among actors, giving rise to 'expectations as to what will in fact be done in a particular situation'.[10] In other words, norms refer to what is "normal". The second meaning of the word contains a deontic element. By this account, norms prescribe patterns of behaviour that encompass a feeling of obligation on the part of the actors–a sense of 'what ought to be done' that is socially rooted.[11]

In IR, neorealist and neoliberal approaches typically subscribe to the first meaning of norms as being descriptive and predictive. Borrowing from rational choice theory, they assume that individuals act to maximise their utility according to a set of exogenously given interests. This leads neorealists and neoliberals to view norms either as epiphenomenal, inconsequential window-dressings of the powerful for the former,[12] or helpful "road maps" in certain "strategic situations" for the latter.[13] For both sets of scholars, however, norms are regulative and functional;

[7] Evan Luard. *Types of International Society.* New York: The Free Press, 1976.
[8] Edward H. Carr. *Twenty Years' Crisis, 1919-1939.* New York: Harper and Row, 1946; Hedley Bull. *The Anarchical Society: A Study of Order in World Politics,* (2nd Edition). Columbia University Press, New York, 1977; Martin Wight. *Systems of States.* London: Leicester University Press, 1977; Nicholas Onuf. *World of Our Making. Rules and Rule in Social Theory and International Relations.* Columbia: University of South Carolina Press, 1989.
[9] Hurrell 2002: 143.
[10] Ibid: 143.
[11] Ibid: 143.
[12] Stephen Krasner. *Sovereignty: Organized Hypocrisy.* Princeton, New Jersey: Princeton University Press, 1999.
[13] Judith Goldstein and Robert Keohane, (eds.). *Ideas & Foreign Policy: Beliefs, Institutions, and Political Change.* Ithaca, NY: Cornell

they do not shape individual interests, which are viewed as ontologically prior to social institutions. The implication for norms research is that rational choice scholars are less interested in the ideas contained in norms themselves or in the possibility that people act or are expected to act in certain ways because it is understood to be the legitimate and right thing to do. Instead, they analyse norms as objective facts.

Moving beyond the precepts of rationalism's methodological individualism, constructivism emerged in the late 1980s and advanced a social understanding of international politics more akin to the second meaning of norms suggested by Hurrell. The "logic of the social" introduced by constructivists is premised on the belief that 'we can't understand people, their interests, their discourses or behavior in isolation from their social context'.[14] For constructivists, then, norms imply a sense of obligation and expectation precisely because, as I describe at length below, they are social beliefs.

This emphasis on the social realm means that constructivist scholars do not focus solely on the *regulative* effects of norms–how they order behaviours–they also illuminate their *constitutive* effect.[15] That is, the ways in which norms define actor identities and interests, 'create…certain kinds of activity' and 'foster group identification' that allows for 'the coordination of…social power'.[16] This concern with the constitutive effects of norms is reflected in the definition adopted by most, although not all, constructivists. According to this conception, norms are 'collective expectations for the proper behavior of actors with *a given identity'*.[17]

Impartiality in UN peacekeeping is a norm in this second sense of the term in that it dictates how peacekeepers *ought* to behave, thereby giving rise to social expectations of behaviour. As I describe in section three, impartiality is a procedural norm which prescribes that decision-making be unbiased and informed. Impartiality is also widely considered a constitutive norm, integral to the identity of peacekeepers and to what peacekeeping is–'that is to say, [it specifies] what *counts as that activity'*.[18]

University Press, 1993.
[14] Barkin 2010: 58.
[15] The distinction between regulatory norms and constitutive norms has a long lineage in philosophy and jurisprudence. E.g., John Rawls. "Two Concepts of Rules." *The Philosophical Review* 55 (1955): 3-32; John Searle. *The Construction of Social Reality.* New York: Free Press, 1995.
[16] Hurrell 2002: 145.
[17] This definition was heralded by Checkel as an indication of the constructivist research agenda's consolidation in the late 1990s and is now common parlance in much of the literature. Jeffrey Checkel. "The Constructivist Turn in International Relations Theory." *World Politics* 50(2) (January 1998): 334.
[18] John Ruggie. *Constructing the World Polity: Essays on International Institutionalisation.* London and New York: Routledge, 1998: 22.

Whilst this classification provides a helpful analytical distinction, contestation over the norm of impartiality in peacekeeping calls into question the relationship between the regulative and constitutive effects of the norm. Understanding identity as a definitional element of norms, as many constructivists do, becomes tenuous when contestation is analysed. Different interpretations of a norm like impartiality may result in divergent expectations over what constitutes appropriate behaviour and thus conceptions of actor identity.[19] As I demonstrate in Chapter Four, institutional claims that impartiality is constitutive of peacekeeping persist, even though member states and groups within particular operational contexts perceive the behaviour of the UN differently. This disjunction became more pronounced in the 1990s as the content of the norm changed significantly, leading some to question whether the more robust posture associated with the dominant new understanding of impartiality is peacekeeping at all.

Thus, in examining impartiality as a contested norm, I adopt the definition offered by Abram Chayes and Antonia Chayes. They define norms as 'prescriptions for action in situations of choice, carrying a sense of obligation, a sense that they ought to be followed'.[20] This definition is useful for my purposes in that it captures the sociality of norms whilst emphasising that even for widely accepted norms, interpretations may vary and thus expectations of appropriate behaviour may also differ.[21]

2.1.2. Intersubjectivity: Norm Content and the Importance of Context

For constructivists, the sense of "oughtness" inherent in norms such as impartiality stems from their existence as 'social facts'.[22] Norms are beliefs or ideas that have no independent material or physical reality. They exist only because they are held intersubjectively by actors in a group or community.[23]

As social facts, norms are not reducible to individual actors. The content of a particular norm and the degree of obligation that is attached to it are defined by a broader group or community, which judges the correctness of that behaviour. In other words, the importance of a norm 'lies

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[19] This definition is also problematic for constructivist scholars who aim to study the effects of international norms *on* state identity. See critique by Hurrell 2002: 145.
[20] Abram Chayes and Antonia Handler Chayes. "Regime Architecture: Elements and Principles." In *Global Engagement: Cooperation and Security in the 21st Century*, edited by Janne Nolan, 65-130. Washington, D.C.: Brookings Institution, 1994: 65.
[21] Sarah Sewall. *The Civilian in American Warfare: Normative Pathways and Institutional Imperatives.* DPhil Thesis, Oxford University, 2010 (Unpublished): 39.
[22] John Ruggie. "Continuity and Transformation in the World Polity: Toward a Neorealist Synthesis." In *NeoRealism and Its Critics*, edited by Robert Keohane, New York: Columbia University Press, 1986: 12.
[23] Constructivists distinguish between social and material facts. Social facts '…are facts only by human agreement and which account for the majority of the facts studied in IR. [They] differ from rocks and flowers, because… their existence depends on human consciousness and language'. Adler 2002: 121.

not in being true or false', but in the fact that it is 'shared' to some degree.[24] This perspective follows the early sociological distinction between norms and values, which holds that

> values are individual, or commonly shared conceptions of the desirable, i.e., what I and/or others feel we justifiably want–what it is felt proper to want. However, norms are generally accepted, sanctioned prescriptions for, or prohibitions against, others' behaviour, belief, or feeling… Values have only a subject–the believer–whilst norms have both subject and objects–those who set the prescription, and those to whom it applies.[25]

It is precisely because norms are not objective truths but rather intersubjectively held beliefs, that they can change and be contested, shaped by practice and by the broader social context in which they are situated. This lends them a "dual quality": on the one hand they are often stable enough that actors take them as a given reference for behaviour; on the other, they are flexible, constructed through socially embedded practices and therefore able to evolve over time and according to place.[26] Impartiality, as I show in the empirical chapters, both affects and is affected by actor interactions.

For a norm to be rendered meaningful, social actors must interpret it and determine, as Hurrell notes, 'its place within the broader normative order'.[27] Shifts in the broader order and/or in individual interpretations can thus produce changes in the content of the norm–in how it is understood–and cause it to be strengthened or weakened. Moreover, and of critical importance for this study, interpretations can diverge and engender disagreement over the meaning and appropriateness of a norm within a particular context. In other words, a gap between the subjective and intersubjective appraisals of a norm may open up, such that expectations of what "norm following" entails may diverge.[28] Such changes in the content of norms and differences in how they are interpreted are important precisely because they shape behaviour and social expectations of that behaviour. As Martin Hollis reminds us: 'norms are no less effective for being fluid and no less real for being negotiable'.[29] The contestability of norms does not invalidate, or even necessarily weaken them.

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[24] Peter Katzenstein. "Coping with Terrorism: Norms and Internal Security in Germany and Japan." In *Ideas & Foreign Policy: Beliefs, Institutions, and Political Change*, edited by Judith Goldstein and Robert Keohane, Ithaca, NY: Cornell University Press, 1996: 268.
[25] Richard Morris. "A typology of norms." *American Sociological Review,* 21(5) (1956): 610.
[26] Audie Klotz. "Can We Speak a Common Language?" In *Constructing International Relations: The Next Generation*, edited by K. M. Fierke and K. E. Jorgensen, 223-235. Armonk, NY: M. E. Sharpe, 2001: 229; Antje Wiener. "The Dual Quality of Norms and Governance beyond the State: Sociological and Normative Approaches to 'Interaction.'" *Critical Review of International Social and Political Philosophy* 10(1) (2007): 47-69.
[27] Hurrell 2002: 144.
[28] Nicola Contessi. "Multilateralism, Intervention and Norm Contestation: China's Stance on Darfur in the UN Security Council." *Security Dialogue* 41(3) (2010): 325.
[29] Quoted in Hurrell 2002: 146.

However, the intersubjective ontology of norms–that which makes them "real"–means that they are tricky to study. As Audie Klotz submits, '[i]f meanings are malleable… is it acceptable to assume that social structures are stable enough for us to identify norms or rules? If identities are fluid and overlapping, are we ever justified in using "national interest" as a category of analysis? Should we treat language as action or as evidence of individual beliefs?'[30] Moreover, and of relevance for this study of impartiality as being a matter of shared assessments, how many actors must "share" a common understanding, or how completely must interpretations of a norm overlap, for it even to be considered a norm?

Constructivists have attempted to overcome these methodological and epistemological hurdles by adopting one of two contending approaches to the study of norms. Whilst both approaches, discussed further in the following section, have furthered norms research, they fail to capture fully the complexity in and possible contestation over norms *as* intersubjective social beliefs. Norms, as my review of existing theories reveals, are overwhelmingly portrayed therein as single and seemingly simple entities over which the expectations of actors converge.[31]

To counter this tendency and better account for the inherent dynamism and complexity of impartiality, I explain in section three why it is necessary to understand norms as ideational structures or "composites"–consisting of both mutable and immutable components that shape the meaning of the norm over time and in particular contexts. In addition to capturing changes in the meaning of impartiality, a finer analysis of the norm and its content is necessary to understand contestation. Instead of simply rejecting or accepting a norm, I explain how actors may resist particular elements of a norm and/or put forward their own alternative interpretations of these elements, or the whole thing, during the processes of institutionalisation and implementation. However, before turning to this framework, the following section surveys the existing literature on norm construction, change and contestation, and identifies areas in need of refinement.

[30] Audie Klotz. "Moving Beyond the Agent-Structure Debate." *International Studies Review* 8(2) (2006): 355.
[31] Notable exceptions include: Sarah Percy. *Mercenaries. The History of a Norm in International Relations*. Oxford: Oxford University Press, 2007; Dominik Zaum. *The Sovereignty Paradox: The Norms and Politics of International Statebuilding*. Oxford: Oxford University Press, 2007. See section III for further discussion.

2.2. Existing Literature on Norm Construction, Change and Contestation

2.2.1.Two Approaches to the Study of Norms

As suggested above, constructivist scholars have responded differently to the epistemological challenges posed by intersubjectivity. Broadly speaking, these two contending approaches can be characterised as "positivist" and "post-positivist".[32]

The positivist approach emerged in the 1990s as a direct challenge to rationalism, and is frequently identified with American scholarship.[33] Those who adopt a positivist epistemology maintain 'that the socially constructed international system contains patterns that are amenable to generalisation and [to] falsifiable hypotheses'.[34] Consequently, scholars within this approach tend to conceive of norms as stable. They focus on the structuring power of norms: how they emerge and shape state interests and behaviour. To establish that "logic of appropriateness" is as important as the "logic of consequences" scholars of this approach have tended to select 'hard' test cases, such as state security, in pursuit of which, actors arguably have a strong material interest to act one way, but instead opt to behave according to what is deemed morally appropriate.[35] By adopting a positivist epistemology, scholars within this approach were able to successfully enter into debate with rationalists, catapulting them to a place of prominence within mainstream IR.[36]

However, the assumptions adopted by positivists in order to explain behaviour–namely, that norms are stable and unchanged by the interpreter–has attracted criticism from fellow constructivists who contend that a social ontology is incongruent with an epistemology that rests on a separation between an external world and interpretations of that world by individuals.[37] These critics form the second approach, otherwise known as post-positivist constructivism.

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[32] Categorisations of this sub-disciplinary division abound and have prompted 'vociferous disagreement' amongst scholars. As Klotz notes, common characterisations include "modern" versus "post-modern", "naturalists" versus "anti-naturalists", "conventional" versus "consistent" or "critical" constructivists. Klotz 2006: 355.

[33] Robert Keohane's 1989 ISA annual conference keynote was formative in compelling some scholars to adopt a positivist approach. In his address, Keohane conceded that the criticisms made by reflectivists–those to whom the ideational was important–had merit. However, he challenged them to produce analyses based on rationalism's positivist precepts that could be tested.

[34] Hurd in Reus-Smit and Snidal 2008: 307.

[35] "Logic of appropriateness" is behavior that occurs in accordance with legitimated norms. "Logic of consequences" is behavior that is based on cost-benefit calculations to maximise individual utility. See James March and Johan Olsen. *Rediscovering Institutions. The Organizational Basis of Politics*. New York: Free Press, 1989.

[36] As testament to its place of prominance, less than a decade after Keohane's speech, the 50th anniversary issue of *International Organization* was organised around the opposition of rationalism and constructivism. Peter Katzenstein, Robert Keohane, and Stephen Krasner. "Preface: International Organization at its golden anniversary." *International Organization* 52 (4)(1998): 15-18.

[37] K.M. Fierke. "Constructivism" In *International relations theories: discipline and diversity*, edited by Tim Dunne, Milja Kurki, and Steve Smith, Oxford: Oxford University Press, 2007.

Frequently associated with European scholarship on norms, post-positivists are less concerned with engaging rationalists. Those who subscribe to this approach eschew the goal of causal explanation. Instead they trace the instability of norms across contexts, as well as the malleability of social understandings and structures. They re-conceptualise the interplay between institutions, identities and interests to give greater prominence to individual agency. The focus is more on processes of interpretation and the fact that the intersubjective dimension of norms may produce changes in the meaning of a norm or in strengthening/weakening of the norm itself. As I explain more fully in section three, my emphasis on impartiality as a dynamic norm that is subject to interpretation, content change and contestation, is such that a post-positivist approach is more appropriate to comprehensive understanding, though such approach is not without its own limitations.

The remainder of this section outlines both of these approaches in greater detail, with specific attention to how they account for norm contestation. I begin by examining theories of norm institutionalisation, which generally are the purview of positivists. I then discuss the literature on norm implementation developed largely by post-positivists. For each process I provide an overview of existing models, followed by critique. This lays out the foundation for my own analysis, which examines the processes of institutionalisation and implementation associated with impartiality as a core norm of UN peacekeeping. That constructivist scholars have tended to focus on one process to the exclusion of the other is, I argue, a limitation of existing scholarship. The form and substance of contestation in both processes may be inextricably linked in ways that are salient to understanding the effects and implications of impartiality and other norms.

2.2.2. Norm Institutionalisation

To chart the causal influence of norms in world politics, positivist scholars have developed theories of norm construction and change that focus heavily on the processes by which norms are institutionalised. The importance accorded to institutionalisation by these scholars is premised on their belief that the formal adoption of norms by states and the incorporation of norms into domestic institutions will result in norm compliance and changes in political behaviour. Consequently, several scholars assert that the measure of a norm's salience depends on its degree of institutionalisation.[38]

[38] For a critique, see Judith Kelley. "Assessing the Complex Evolution of Norms: The Rise of International Election Monitoring." *International Organization* 62(2)(2008): 232.

Scholarship on the institutionalisation of international norms developed in a series of 'waves'.[39] The first wave considered norms as developed and transported by 'norm entrepreneurs' and social networks to be institutionalised internationally. The second and third waves focused on norm institutionalisation and diffusion as regional and domestic-level processes. These theories were complemented by a separate yet related body of work that focuses on argumentation during the process of institutionalisation.

2.2.2.1. The Norm Life Cycle and Beyond: Four Waves of Scholarship

Martha Finnemore and Katherine Sikkink's 'life cycle' is the most widely cited model within the first wave of scholarship.[40] Their model employs an evolutionary logic to classify the three stages of norm development: norm emergence, norm cascade and norm internationalisation.

In the first stage, *norm emergence,* highly motivated entrepreneurs conceive of and actively pursue the creation of a norm. At this stage, the norm must compete with other norms given, as Finnemore and Sikkink observe, that all norms emerge into 'highly contested normative spaces'.[41] To strengthen their position, entrepreneurs use platforms such as international organisations to reach a wider and more diverse audience, and begin institutionalising the norm. During institutionalisation, early-adopting states socialise other states to follow them through a combination of persuasion, social and cognitive pressures. For Finnemore and Sikkink, this is a critical step, if not *the* critical step, in the life cycle, in that it is during institutionalisation that the norm gains support as states 'clarify what, exactly, the norm is and what constitutes violation (often a matter of some disagreement among actors) and…spell out specific procedures by which norm leaders coordinate disapproval and sanctions for norm breaking.'[42] By introducing precision, they contend that 'institutionalization contributes strongly' to the potential for a *norm cascade* during which a critical mass of states embrace the norm.[43] Once the cascade occurs, the norm enters the third stage, the *internalisation* of the norm. At this mature stage, Finnemore and Sikkink argue that norms 'become more important than domestic politics for effecting norm

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[39] Amitav Acharya. "How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism." *International Organization* 58(2) (2004): 239-75.
[40] Martha Finnemore and Kathryn Sikkink. "International Norm Dynamics and Political Change." *International Organization* 52(4) (1998): 887-917.
[41] Ibid: 897. See also Ronald Jepperson, Alexander Wendt, and Peter Katzenstein. "Norms, Identity and Culture in National Security." In *The Culture of National Security: Norms and Identities in World Politics*, edited by Peter Katzenstein, New York: Columbia University Press, 1996: 56.
[42] Ibid: 900. See also Jeffrey Legro. "Which Norms Matter? Revisiting the 'Failure' of Internationalism." *International Organization* 51(1) (1997): 31-63; Thomas Risse, Stephen Ropp and Kathryn Sikkink, (eds.). *The Power of Human Rights: International Norms and Domestic Change.* Cambridge: Cambridge University Press, 1999. It is important to note that Finnemore and Sikkink recognise that not all norms will be internalised. However, they do not consider the reasons for 'regressive outcomes'. McKeown develops a 'norm death series' to explain the process in which norms lose 'salience and become *de*-internalized'. Whilst I accept that norms may 'recede' or 'regress', I disagree with his assertion that they may face 'death', implying that they cease to exist. As ideas, norms never fully 'die' but rather may re-emerge over time to take on new life and meaning. Ryder McKeown. "Norm Regress: US Revisionism and the Slow Death of the Torture Norm." *International Relations* 23(1) (2009): 5-25.
[43] Finnemore and Sikkink 1998: 900.

change.'[44] They achieve a 'taken for granted' quality and become part of the social structure;[45] and actors simply 'internalize the roles and rules as scripts to which they conform, not out of conscious choice, but because they understand these behaviors to be appropriate.'[46] As Ann Florini describes, internalised norms are like 'genes', acting as 'instructional units' in their 'host'.[47]

Whilst scholars of the first wave conceived of institutionalisation as an international process, scholars in the second wave brought the investigation of global norms into the domestic realm. Moving beyond the first wave's focus on whether norms matter for understanding state behaviour, these scholars were concerned with determining when they matter.

In their critique of the first wave, scholars associated with the second wave sought to demonstrate the significance of local agents and socio-legal structures in explaining variance in the institutionalisation of new identities and interests, and thus the influence of norms on political outcomes.[48] For example, Jeffrey Checkel explains how 'historically constructed domestic identity norms create barriers to agent learning from systemic norms'.[49] He argues that an understanding of domestic structure–classified as either liberal, corporatist, statist or state-above-society–is therefore critical in illuminating the pathways to institutionalisation and in explaining compliance.[50] Similarly, in his comparative study of British and German militaries and the role of international norms on their respective conduct of war, Jeffrey Legro demonstrates how 'organisational culture… acts as a heuristic filter,' determining which new international norms are to be accommodated.[51]

Whilst commending Checkel and others for broadening the study of norms to dynamics at the domestic level, Amitav Acharya problematised the determinism of their theories. In what he labeled the 'third wave', Acharya introduced the notion of *localisation:* the adaptive processes of 'reinterpretation' and 'reconstitution' through which international norms become congruent

[44] Ibid: 902.
[45] Ibid: 896.
[46] Martha Finnemore. "Constructing Norms of Humanitarian Intervention." In *The Culture of National Security: Norms and Identity in World Politics*, edited by Peter Katzenstein. New York: Columbia University Press, 1996: 29.
[47] Ann Florini. "The Evolution of International Norms." Special Issue: Evolutionary Paradigms in the Social Sciences, *International Studies Quarterly* 40(3) (1996): 364.
[48] One of the earliest examples is Thomas Risse. "Ideas Do Not Float Freely: Transnational Coalitions, Domestic Structures and the End of the Cold War." *International Organization* 48(2) (1994): 185-214. See also Risse, Ropp and Sikkink 1999; Jeffrey Checkel. "Norms, Institutions, and National Identity in Contemporary Europe." *International Studies Quarterly* 43(1) (1999): 83-114; Michael Zurn and Jeffrey Checkel. "Getting Socialized to Build Bridges: Constructivism, Rationalism, Europe and the Nation-State." *International Organization* 59(4) (2005): 1045-1079; Andrew Cortell and James Davis. "Understanding the Domestic Impact of International Norms: A Research Agenda." *International Studies Review* 21 (2000): 65-87.
[49] Checkel 1998: 6.
[50] Checkel 1999.
[51] Legro 1997: 36.

with preexisting local normative orders during institutionalisation.[52] Localisation is distinct from socialisation because it emphasises the critical role of local actors in affecting norm institutionalisation at the domestic level. Acharya saw this as an important counter to what he rightly regarded as the tendency of constructivists to focus on seemingly universal and "good" norms which were assumed to be more normatively desirable than local norms.[53] Localisation, according to Acharya, thus goes further than socialisation and is the 'active construction (through discourse, framing, grafting, and cultural selection) of foreign ideas by local actors, which results in the former developing significant congruence with local beliefs and practices'.[54] For an idea to stick it must have, or be made to have, local resonance.

Finally, an additional group of scholars caused their own 'wave' in the literature by introducing a "logic of arguing" to the study of norm dynamics.[55] Drawing on Jürgen Habermas' theory of communicative action, these scholars focused on the role of persuasion implicit in much of the institutionalisation literature, and ascribed explanatory power to the better argument. As Thomas Risse explains in his seminal article 'Let's Argue!', the goal of communicative action is 'to seek a reasoned consensus' as actors try to convince each other to change their beliefs using different modes of argumentation.[56] This attention to argumentation has led some to suggest that the fourth wave of scholarship provides more of a conceptual opening to norm contestation during institutionalisation.[57]

2.2.3. Challenges to Theories of Institutionalisation

The models developed in each wave of scholarship on norm institutionalisation have outlined at length the stages of norm construction and change, providing increasingly detailed analyses of both international and domestic-level processes of institutionalisation and norm adoption. However, these models and the empirical studies they have generated rely on three closely related assumptions–norm convergence, norm stability, and norm linearity–that limit their use-

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[52] Acharya 2004: 244.
[53] Ibid 242; See also Amitav Acharya. "Norm Subsidiarity and Regional Orders: Sovereignty, Regionalism, and Rule Making in the Third World." *International Studies Quarterly* 55(1) (2011): 95-123.
[54] Through *framing* 'norm advocates highlight and "create" issues' through a deliberate and purposeful use of language often evoking emotion. *Grafting* is a tactic 'to institutionalize a new norm by associating it with a preexisting norm in a similar issue area'. *Cultural selection* is a borrowing of 'only those ideas that are, and can be made, congruent with local beliefs and that may enhance the prestige of the borrower'. Ibid: 243-245. See also David Capie. "Localization as Resistance: The Contested Diffusion of Small Arms Norms in Southeast Asia." *Security Dialogue* 39(6) (2008): 637-658.
[55] See for example: Thomas Risse, Stephen Ropp and Kathryn Sikkink, (eds.). *The Power of Human Rights: International Norms and Domestic Change.* Cambridge: Cambridge University Press, 1999; Thomas Risse. "'Let's Argue!" Communicative Action in World Politics." *International Organization*, 54(1) (2000): 1-39; Thomas Risse and Mareike Kleine. "Deliberation in negotiations." *Journal of European public policy* 17.5 (2010): 708-726; For critique see Tine Hanrieder. "The false promise of the better argument." *International Theory* 3(3) (2011): 390-415.
[56] Risse 2000: 9.
[57] Antje Wiener. "The Dual Quality of Norms and Governance beyond the State: Sociological and Normative Approaches to 'Interaction.'" *Critical Review of International Social and Political Philosophy* 10(1) (2007): 52.

fulness for the purposes of the present study and for the study of norm contestation more generally. I outline these assumptions and their implications before proceeding to a discussion of norm implementation.

2.2.3.1. Norm Convergence

Positivists overwhelmingly portray institutionalisation as a process of convergence in expectations over the content of a norm. Whilst Finnemore and Sikkink acknowledge the tension between norms during the early stages of the 'life cycle', contestation ceases during institutionalisation as clarity and precision surrounding a given norm emerge. Florini likens this process to Darwinian evolution in which the 'better norm' is 'naturally select[ed]' to become 'dominant'.[58] Similarly, scholars such as Checkel and Legro illuminate the various factors that contribute to the successful adoption of a norm and the domestic context into which it is introduced and subsequently institutionalised. And whilst Acharya ascribes greater dynamism to the notion of localisation, his concern is nonetheless with explaining congruence and the processes by which foreign ideas become 'consistent with a local cognitive prior'.[59] Across these models, institutionalisation is conceived of as a progressive process that produces greater consensus over a norm, and clarity as to its meaning. That a dominant norm could become embedded institutionally and still remain ambiguous and contested is not considered by the first three waves of scholarship on institutionalisation.

A similar assumption underpins the related body of theory developed by communicative action scholars. Habermas sets three conditions to distinguish argumentative rationality from dialogue based on a strategic logic of consequences. First, actors must have the ability to empathise and consider arguments from alternative perspectives. Second, 'actors need to recognize each other as equals and have equal access to the discourse, which must also be open to other participants and be public in nature… relationships of power, force, and coercion are assumed absent'.[60] Last, actors must share a 'common life world': 'a shared culture, a common system of norms and rules perceived as legitimate'.[61]

Recognising the unattainability of these conditions in actual empirical discourse, Risse and others stress that these conditions constitute the 'ideal speech situation' and thus should be judged according to their analytical value as counterfactual presupposition rather than as empirical

[58] Florini 1996: 364.
[59] Acharya 2009: 21-23.
[60] Risse 2000: 11.
[61] Ibid: 10

fact.[62] In other words, Risse asserts that we should take the Habermasian 'ideal' of argumentative rationality as a standard from which to assess real international debates and negotiations.[63] However, the positing of an 'ideal' nonetheless presumes that participants and researchers share a common perspective in assessing which *is* the better and therefore more persuasive argument.

Nicole Deitelhoff's use of the 'logic of arguing' to analyse the negotiations leading up to the creation of the Rome Statute of the International Criminal Court (ICC) provides a telling example. Deitelhoff identifies two classes of arguments in the debate over the legal design of the court: opponents of a strong court adopted a 'conservative' frame that stressed state sovereignty and security; whilst proponents of a strong court adopted 'public interest' frames 'based on the potentially universal principles of equality and impartiality'.[64] Deitelhoff traces changes in the discourse during the negotiations, and identifies islands of persuasion. Positions short of full consensus, these are approximations of rational discourse in certain phases and between certain actors. She concludes that the progressive shift toward a strong ICC and against the interests of major powers, including the US and China, was the product of moral persuasion.

The problem with this argument, as Tine Hanrieder notes, is that Deitelhoff's 'observation' of the impact of the better argument crucially depends on agreement as to what that better argument is.[65] In other words, both 'conservative' and 'public interest' frames could both plausibly have assumed prominence in persuading delegates. Without justification for and evidence that the latter *is* the superior ethical claim, Deitelhoff's conclusion that it is what accounts for the legal design of the court is theoretically unpersuasive.

That communicative action theory and the aforementioned models of institutionalisation focus predominantly on norm convergence is deeply problematic. The ongoing contestation over and ambiguity of norms, such as those associated with the ICC, problematises the generalising perspective of these scholars which fails to fully capture existing social relations. The politics that underlie these norms remain elusive, and the result is an overzealous reification of certain norms as valid and universally accepted.

[62] Ibid: 10.
[63] In this way, the theory seeks to offer empirical insight about persuasion during the process of constructing new agreements, and aims to have normative force by setting out desirable parameters for argumentation and legitimate ideational change. Hanrieder 2011: 390.
[64] Nicole Deitelhoff. "The discursive process of legalization: charting islands of persuasion in the ICC case." *International Organization* 63 (1) (2009): 53
[65] Hanrieder 2011.

Constructivism's emphasis on convergence and disregard for norm contestation may in part be explained by what some accurately describe as the 'liberal bent' of existing scholarship.[66] This is not to say that constructivism and liberalism are incongruous, or that the normativity of liberalism has little to contribute to constructivism as an empirical social theory. Rather, as Barkin explains, the danger in such theorising is that the belief that certain norms *should* be universalised will transpose into a belief that they *are* universal or *can* be universalised.[67] In other words, where many positivist constructivists are remiss is in assuming that liberal norms are 'objectively privileged in the construction of international politics' and that convergence can and does occur over their meaning and appropriateness.[68]

2.2.3.2. Norm Stability

The assumption of normative convergence relates closely to the second assumption underpinning extant theories, namely norm stability, which is central to the positivist approach. The boundaries of a norm are regarded as fixed and its content as static so that behavioural outcomes can be explained**.** As a result, the contestation that occurs during institutionalisation is largely centered upon competition *between and among* norms–decisions about which norm is valid–and not about the actual meaning of the norm that is in the process of 'ascending'.[69] The assumption is that a norm means the same thing to everyone while being adopted and that it continues to mean the same thing following its institutionalisation.

However, by conceiving of a norm as a fixed and stable entity to explain behaviour, existing theories simplify the relationships between norms. They overlook the ways in which norms may overlap and how these areas of overlap may operate as loci for the metamorphosis of a given norm within a particular context. This is particularly problematic since these relationships may shape behaviour. Moreover, this omission is somewhat surprising given that scholars of this approach often highlight the importance of adjacency claims as well as rhetorical and strategic framing for norm adoption. For example, Finnemore and Sikkink recall how activists had little traction in mobilising the masses against female genital mutilation when the practice was labelled "female circumcision" because of its close connection to the widely accepted practice of male circumcision.[70] It was only when linked with the more deeply-rooted prohibitory

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[66] Barkin 2008: 97. Laura Landolt. "(Mis) constructing the Third World? Constructivist analysis of norm diffusion." *Third World Quarterly* 25(3) (2004): 579-591.
[67] Ibid: 115.
[68] Ibid: 139.
[69] See Wiener's critique in "The Dual Quality of Norms and Governance beyond the State: Sociological and Normative Approaches to 'Interaction.'" *Critical Review of International Social and Political Philosophy* 10(1) (2007): 49-52.
[70] Finnemore and Sikkink 1998: 908.

norm of "violence against women", under the label of "female genital mutilation", that the movement resonated with states and had the mobilising power to diffuse more widely.[71]

Whilst the importance of these other norms is acknowledged, the *power* of these associations is appreciated only insofar as they are understood to have impact on a norm's adoption.[72] Scholars of this approach do not consider how interaction between norms during and following institutionalisation may shift the meaning of a norm and occasion conflicting interpretations of the norm. Instead, it is presumed that for a norm to become dominant it must 'fit' and continue to fit 'coherently with other existing norms'.[73]

2.2.3.3. Norm Linearity

Finally, by focusing on the processes by which individual norms are adopted, 'locked in' and made stable enough to be taken as given, scholars within this approach have largely overlooked what happens after a norm is institutionalised. Indeed, at the core of much constructivist theory is an assumption of linearity; a norm's formal adoption is considered the bellwether of behavioural change.

What follows internalisation–actual practice or, what some refer to as the fourth stage of the norm cycle–is left largely unattended in existing scholarship.[74] 'The traditional end-point of normative analysis', as James Tully argues, 'even when it is related to practical case studies, leaves the entire field of implementation and review to empirical social sciences, often under the false assumption that implementation is different in kind from justification, simply a technical question of applying rigid rules correctly.'[75] This conflation of institutionalisation and implementation is problematic because it ignores the very real possibility of contestation either between two norms that do not fit coherently together, or of conflicting interpretations of the same norm following its formal acceptance.

Even if we accept that consensus exists and institutionalisation is reached through, for example, communicative action, disregard for norm implementation is a consequential oversight because of the multi-dimensional nature of international politics. Whilst implementation processes will invariably differ from norm to norm, the likelihood of contestation over interna-

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[71] See also Charli Carpenter. "Setting the advocacy agenda: Theorizing issue emergence and nonemergence in transnational advocacy networks." *International Studies Quarterly* 51.1 (2007): 99-120; Brooke Ackerly, Maria Stern, and Jacqui True, (eds.). *Feminist methodologies for international relations*. Cambridge University Press, 2006.
[72] Finnmore and Sikkink: 908.
[73] Florini 1996: 376.
[74] Kelley 2008: 232.
[75] James Tully. "The Unfreedom of the Moderns in Comparison to Their Ideals of Constitutional Democracy." *The Modern Law Review* 65(2) (2002): 227.

tional norms following their formal adoption is particularly great given that they are prone 'to travel'. That is, the interpretation and implementation of an international norm generally occurs at a distance–both metaphoric and physical–from the context in which it originated and was negotiated. In many instances, those involved with the institutionalisation of a norm–what Checkel refers to as 'norm makers'–may have little direct relation with those tasked with implementation–the so-called 'norm takers'.[76] As Wiener writes,

> arguing takes place within a context of negotiation that is bounded and exclusive, say within one particular committee dealing with a specific policy issue over a limited period of time. It is hence conducive to establishing social recognition of a fundamental norm within that specific and limited context only.[77]

The notion that the norm of impartiality could mean the same thing to all people over time, irrespective of the various political contexts into which, for example, a peacekeeper is introduced, assumes an improbably straight line between ideas and outcomes. It suggests a somewhat simplified view of human agency in which action is reduced to 'something that approaches stimulus-response behaviour'.[78] As I argue in the final section of this chapter, rather than assume that a norm's institutionalisation translates automatically into practice, we must understand implementation as a separate, though related, process during which contestation over a norm may occur. As I explain below, those working within a post-positivist approach have begun to take up this task.

2.2.4. Norm Implementation

In contrast to positivists, post-positivist constructivists assert the difficulties of wresting definitive meaning from, and take issue with, assumptions of norm stability and linearity.[79] Until recently, this scholarship was primarily historical in focus. Adopting a genealogical approach, scholars interested in such issues as foreign military intervention, the use of chemical weapons,[80] and the use of mercenaries,[81] charted discursive conjunctures and disjunctures over time to explicate how norms of the present 'were formed out of the past'.[82]

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[76] Checkel 1999.
[77] Antje Wiener. "Enacting Meaning in Use. Qualitative Research on Norms and International Relations." *Review of International Studies* 35(1) (2009): 175-193: 181.
[78] Stacie Goddard and Daniel Nexon. "Paradigm Lost? Reassessing Theory of International Politics." *European Journal of International Relations* 11(1) (2005): 14.
[79] Alex Betts and Phil Orchard. *Implementation and World Politics: How International Norms Change Practice.* Oxford: Oxford University Press (forthcoming). Other scholars have used the concept of implementation; however, it remains conceptually underdeveloped. E.g., Autesserre 2010; Carolyn Deere. *The Implementation Game: The Trips Agreement and the Global Politics of Intellectual Property Reform in Developing Countries*: New York: Oxford University Press, 2009.
[80] Richard Price. *Chemical Weapons Taboo.* Ithaca: Cornell University Press, 1997.
[81] Percy 2007.
[82] Jens Bartelson. *A genealogy of sovereignty.* Cambridge: Cambridge University Press, 1995: 73.

Building on this body of historical work, a growing group of scholars have shifted their attention to examine norm contingency and contestation within and across contemporary contexts of norm implementation. They insist that the parameters of a norm introduced during institutionalisation cannot cover every contingency. In what follows, I provide an overview of Antje Wiener's theory of contestation and 'meaning-in-use', as it provides the basis for much of this fledging area of research. I then highlight the limitations of this approach.

2.2.4.1. Contestation and 'Meaning-in-Use'

In the *Invisible Constitution of World Politics,* Wiener develops a theory of norm contestation to understand the 'enactment' of international norms and account for what she describes as 'meaning-in-use'.[83] Whilst the empirical focus of her research is on constitutional norms associated with the European Union (EU), other scholars have applied her theory in a diversity of case studies, including the prohibition of torture, military intervention, and elections monitoring.[84]

To study normative meaning and contestation, Wiener identifies three dimensions of a norm. First, there is the *formal validity* of a norm that results from treaty negotiation. Second, a norm has *social recognition.* She argues that this is the structural component that provides a reference frame and guides behaviour. Finally, she specifies *cultural validation* as the active component of a norm that reflects and constitutes 'meaning-in-use'.[85] This notion of 'cultural validation' refers to the invisible quality of norms; the 'normative baggage', 'background knowledge' or 'ways of life' amassed through experience and interaction within a specific context.[86] To study cultural validation, Wiener contends that group- or individual-based assessments of a norm are necessary to reveal variation in the interpretation of meanings across settings. The emphasis shifts from 'treaty texts'–the visible constitution of a norm–to 'understanding the input of social practices that form expectations of treaty *substance*', engendering their own logic of appropriateness specific to the context and group.[87]

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[83] Antje Wiener. *The Invisible Constitution of Politics. Contested Norms and International Encounters.* Cambridge: Cambridge University Press, 2008.
[84] See contributions in Antje Wiener and Uwe Puetter. "Quality of Norms is What Actors Make of It: Critical-Constructivist Research on Norms." Special Issue. The *Journal of International Law and International Relations* 5(1) (2009); Contessi 2010.
[85] Wiener uses Jutta Weldes' definition of 'meaning-in-use' as 'intersubjective structures [. . .] that provide the categories through which we represent and understand the world'. Wiener asserts that they therefore offer a reference frame for empirical studies that seek to reconstruct the respective meaning which has been enacted at a particular point in time by particular actors. ' They represent meaning in use.' Wiener 2009: 180. See also Jutta Weldes. "Bureaucratic Politics: A Critical Constructivist Assessment." *Mershon International Studies Review,* 42 (1998): 2216–25.
[86] Wiener 2008: 11.
[87] Wiener 2008: 6.

Wiener theorises that the 'contestedness' of a norm relates to two separate sets of factors. First, she maintains that contestation is tied to the type of norm and its specificity.[88] Second, she posits that contestation increases when the feedback necessary to interpret a norm and ensure wider social recognition is reduced.[89] To test her theory, Wiener focuses on the second condition and conducts a situated discourse analysis of fundamental norms associated with EU constitutionalism. Interviewing elites, she compares the input of cultural practices in Brussels, a transnational arena, with those in the domestic contexts of London, Paris and Berlin, to demonstrate how contestation increases where elites have little sustained and continuous transnational interaction. Wiener concludes that a deepening of day-to-day interactions at the transnational level can mitigate contestation over, and deepen convergence of, normative meaning, as the development of a shared culture strengthens shared expectations of what is appropriate behaviour.

2.2.5. Challenges to Theories of Implementation

Wiener and those who have followed her approach provide a more encompassing and complex perspective of norms in international politics by highlighting the social practices associated with norm interpretation and implementation. For the purposes of the current study, however, this nascent approach remains inadequate. In seeking to analyse contestation over the norm of impartiality in UN peacekeeping, I identify two challenges to Wiener's theory of norm contestation.

2.2.5.1. Contestation in Isolation

First, Wiener's theory of contestation is greatly circumscribed by its exclusive focus on implementation. To elucidate the diverging cultural practices that incite contestation during norm implementation, Wiener assumes the 'formal validity' of the fundamental norms she studies. She describes these norms, somewhat offhandedly, as having 'found their way into international treaties, conventions or agreements'.[90] But she makes no effort to explain *how* they 'found their way' or perhaps are 'still finding their way' in processes of ongoing institutionalisation. In other words, disagreement over the meaning or appropriateness of norms during institutionalisation is analytically bracketed. In doing so, Wiener overlooks the potential effect that contes-

[88] She argues that *fundamental norms*–such as sovereignty and human rights–which lack precision are more likely to be disputed. She compares these with *organising principles,* such as international election monitoring, or *standardised procedures,* such as proportional representation, which she contends are more specific.
[89] Wiener 2008: 6. Specifically, she highlights conditions of i) historical contingency; ii)changes in social practice; and iii)situations of crisis. In her analysis of the EU, Wiener focuses on the second condition.
[90] Wiener 2008: 82.

tation during the process of institutionalisation may have on the very practices that she seeks to understand.

This omission is problematic for a theory that purports to explain norm enactment and meaning. It assumes that the practice of international norms such as the responsibility to protect, or those regulating climate change or the use of nuclear weapons, can be understood without consideration of how these norms are debated, drafted, and institutionalised–processes that are frequently fraught with contestation and unresolved differences. By shifting her focus from 'treaty text' to expectations of 'treaty substance', Wiener's theory does not account for how the process of treaty negotiation may result in 'text' that embodies prior disagreement and that privileges particular interpretations of a norm.

The limitations of examining consensus in isolation are clear for the present case. If the meaning of impartiality was contested during its institutionalisation and as a result the 'text' is vague and ambiguous, the study of the norm's implementation cannot be considered in isolation from the broader politics associated with the development and institutionalisation of the norm. Further, as I explain in section three below, such linkages are particularly salient when, as with the norm of impartiality, certain actors who contested the dominant interpretation during institutionalisation are then tasked with its implementation.

Whilst widening the analytical lens to account for contestation during institutionalisation would address this first shortcoming, the second challenge to Wiener's theory is even more fundamental.

2.2.5.2 Contestation without Relational Power

Wiener's theory of contestation largely omits consideration of power relations. By focusing on individual interpretations–that is, on how individual civil servants in Europe interpret the norms associated with EU constitutionalism–Wiener's account of 'meaning-in-use' does not consider the relative influence of these individuals in determining which meaning of a norm *is* enacted. Indeed, her theory would suggest that all norm contestation is among interpretations of equal standing. The relative power of actors in the negotiation, adoption and implementation of a norm and the ways in which these processes may privilege particular outcomes is left unattended. Wiener is candid about this excise of power from her theory of contestation, acknowledging that 'the evolving and changing power position' of her research subjects 'is left to one side'.[91]

In this way, the conditions set by Wiener to account for contestation during implementation are similar to those underpinning theories of institutionalisation: namely, that individuals are equal and have equal access to discourse and the shaping of meaning. Whilst both sets of scholars adopt markedly different methodological and epistemological approaches, their common assumptions lead to surprisingly similar conclusions about the possibilities for consensus. For those working within a positivist approach, convergence occurs through socialisation or rational argumentation during institutionalisation. For Wiener and post-positivists, convergence is something that can be actively cultivated and achieved through increased cultural interaction and socialisation amongst implementation actors.

Taken together, both of these approaches underscore constructivism's imperviousness to how power affects disagreements over norms such as impartiality. In other words, constructivist scholars have largely overlooked the inherent politics surrounding norms. This downplaying of norm contestation is antithetical to constructivism's "logic of the social". Understanding the social construction of international relations necessitates a comprehensive account of those viewpoints that make up the social realm, and consideration of how certain interpretations become dominant. Who gets to participate in the institutionalisation and implementation of a norm? When do they participate? In what, and with what, capacity? And to what end? I maintain that these questions, left largely unattended by constructivists, are necessary to understand impartiality and the politics of peacekeeping. To that end, in the final section of this chapter I develop a framework for studying impartiality in UN peacekeeping and, in particular, contestation over the norm during institutionalisation and implementation.

2.3. Framework: Impartiality as a Composite and Contested Norm

This dissertation adopts a post-positivist constructivist approach to analyse how understandings of impartiality have changed and been institutionalised, the ways in which the norm is contested, and the consequences of contestation for peacekeeping practice in the Congo case as well as in the UN more broadly. Implicit in this approach is an assumption that the meaning and content of a norm may change, and an underlying appreciation of norms as dynamic rather

[91] Wiener 2009: 191.

than static units. However, as I argued in the preceding section, this approach still leaves a number of crucial issues to be discussed in the present study. To examine impartiality as a core norm of peacekeeping, I made the case for moving beyond current conceptions of contestation as an isolated phenomenon largely devoid of power, and suggested that a finer parsing of norms and their content may be a necessary step in such an endeavor.

In this section, I address these shortcomings and develop the framework through which I will explore the core questions of this dissertation. I begin by introducing the concept of a "composite" norm. I elucidate the two core components of impartiality and explain the ways in which they manifest in the context of UN peacekeeping. Second, I describe the processes of institutionalisation and implementation as they figure in the case of impartiality and in this dissertation's concern with the UN as a normative actor. For each process I advance two propositions about contestation to be substantiated in the empirical chapters of Parts II and III, which examine institutionalisation and implementation respectively.

2.3.1 Impartiality as a Composite Norm

Rather than being single, discrete and seemingly simple entities, norms are often ideational structures–comprised of different sub-norms or normative elements that shape and constitute their meaning. The "composite norm" is a heuristic tool that captures this complexity and provides analytical purchase.[92] The concept of a composite norm takes inspiration from two related bodies of scholarship.

First, it builds on constructivist analyses that highlight the interdependence of norms to better account for their meaning and changes in their meaning over time.[93] For example, in her history of mercenaries, Sarah Percy chronicles the intimate ties between the anti-mercenary norm and other norms and ideas as varied as the belief that the 'state ought to have control over the use of force' and 'the norm against prostitution' to reveal 'what particular states find dangerous about mercenaries at particular times.'[94] Similarly, Price explains how components of the chem-

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[92] The composite norm is a heuristic tool in the sense that it serves 'to find out or discover something'. *New Shorter Oxford English Dictionary* 1993: 1228. The application of an idea as 'heuristic' implies, as Humphreys notes, 'only that the idea helps us to understand that to which it is applied'. Adam Humphreys. "The heuristic application of explanatory theories in International Relations." *European Journal of International Relations* 17(2)(2011): 262.
[93] On ideas as cluster concepts see Mark Blyth. "Structures do not come with an instruction sheet: Interests, ideas, and progress in political science." *Perspectives on politics* 1 (2003): 695-706.
[94] Percy 2007: 30. According to Percy, two basic factors have historically made mercenaries different from other fighters: They 'lie outside legitimate control and are not motivated to fight by an appropriate cause.' Ibid: 49.

ical weapons taboo shed light on international practices of violence.[95] Finally, Dominik Zaum elucidates the changing and unchanging tenets of sovereignty in his analyses of international statebuilding efforts over time.[96] Unlike positivist accounts of norm associations, these studies emphasise how the meaning of a particular norm within a particular context may be constituted by other adjacent norms.

Second, the composite norm is similar to the notion of a 'regime complex' advanced by neo-liberal institutionalists.[97] Like the composite norm, the regime complex is a heuristic instrument that introduces heterogeneity and complexity for greater analytical insight. However, several key differences are worth noting. Regime complexes are concerned with entire, and potentially overlapping, issue areas and are thus more expansive in terms of their object of study. Furthermore, they consist only of formal institutions such as agreements and treaties, which, given the rationalist approach adopted by regime theorists, are treated as objective facts with fixed meaning. In contrast, the composite norm is more specific in focus and may encompass more informal norm associations that are flexible and made meaningful by actor interpretation. As composites, norms consist of both immutable and mutable components that shape their potential meaning in a particular context. These components may at times form a coherent structure. Or, as I explain in the following section, they may be characterised by ambiguity and dissonance.

The composite norm enables and supports my analysis in three crucial ways. First, understanding impartiality as a composite norm allows for a disaggregation of the norm, and accounts for changes in its meaning within and across historical and contemporary peacekeeping missions. Second, the composite norm assists in revealing divergent interpretations of the norm. It enables a move beyond the binary depiction of norms pervasive in the literature, in which an actor either accepts and internalises a norm or resists and rejects it. Instead, the composite norm allows for a nuanced account of contestation according to which actors may object to a particular element of a norm. Take for example the prohibitory norm regarding the use of nuclear weapons; a norm that is thought to be so widespread that some scholars label it 'taboo'.[98] Yet elements of the norm, including the use of nuclear weapons as an instrument of deterrence,

[95] Price 1997: 9.
[96] Zaum defines sovereignty not as a single norm, but rather 'an institution comprising several sometimes conflicting norms'. 2007: 4.
[97] Raustiala and Victor defines a regime complex as a 'collective of partially overlapping and nonhierarchical institutions governing a particular issue area'. 2004: 279. For an overview of the literature on regime complexity see Karen Alter and Sophie Meunier. "The Politics of International Regime Complexity." *Perspectives on Politics* 7(1) (2009): 13-24; Robert Keohanae and David Victor. "The Regime Complex for Climate Change." *The Harvard Project on International Climate Agreements*. Cambridge, MA: Harvard University, 2010.
[98] Nina Tannenwald. *The nuclear taboo: the United States and the non-use of nuclear weapons since 1945*. Cambridge: Cambridge University Press, 2007.

and the prohibition on nuclear proliferation, are increasingly contested and ambiguous in international relations.[99] Thus, an understanding of the politics of the prohibitory norm of nuclear weapons requires analysis of its components. Last, the composite nature of a norm affords a potentially richer account of its implementation. By permitting a detailed account of contestation over the components of a norm, the composite norm allows for a nuanced examination of how certain interpretations and understandings of a norm are realised in practice. And related, how certain interpretations or group interpretations of a norm become and maintain primacy in the process of social construction.

In what follows, I examine two core components of impartiality: the *mode of* decision-making, and the *basis for* decision-making. The discussion is both abstract, generally specifying the properties of the components, and empirical, addressing the ways in which they manifest in peacekeeping. The aim is to provide some conceptual clarity on the norm, and outline what Thomas Franck referred to as the 'broad structure' of impartiality.[100] This outline grounds subsequent treatment of the changing content of impartiality and contestation over the norm, which is the focus of the subsequent two chapters.

2.3.1.1. The *Mode of* Decision-Making: Absence of Bias and Informed

The first component of impartiality, the *mode of* decision-making, refers to the procedural dimension of the norm, specifically, to the manner in which decisions are made and actions are taken. It prescribes that actors be unbiased and informed when passing judgment.

An impartial actor is one that passes judgment and acts by setting aside particular preferences or interests vis-à-vis a conflict or contest. His or her decisions and actions are not prejudged or biased–that is, influenced by whether they help or harm one person or group over another–but rather are made according to a certain external standard.[101] An impartial decision, in other words, is one in which the interests of everyone count equally unless specified otherwise by the

[99] Robert Falkner. "The United States and the Global Climate Norm: Who's Influencing Whom?" *Paper presented at the annual meeting of the ISA's 50th Annual Convention "Exploring the past, anticipating the future", New York,* Feb 15, 2009.
[100] Franck 1968.
[101] Gert's formal conception of impartiality captures this basic understanding. He stipulates that 'A is impartial in respect R with regard to group G if and only if A's actions in respect R are not influenced by which member(s) of G benefit or are harmed by these actions.' Bernard Gert. *Morality: Its Nature and Justification* (Second Edition). Oxford: Oxford University Press, 2005: 132.

basis for decision-making.[102] What differentiates an impartial actor from other actors is the independence or otherwise of his or her status.[103]

In addition to being unbiased and independent, an actor's possession of the requisite knowledge about the issue over which he or she is expected to pass judgment is often regarded as a necessary but not sufficient condition of the norm. A judge, for example, needs to be informed of the facts of a case in order to be sufficiently equipped to pass judgment. In this way, impartiality, as Franck contends, entails 'the idea of an *informed* decision, one…formulated on the basis of all the available relevant data ascertained with as much accuracy as science and the senses can provide'.[104] As I discuss below, this in part inspires the confidence that parties have in the decision or actions taken by peacekeepers.

As a norm commonly associated with a number of professional roles and institutions, impartiality figures as an attribute of decision-making within a particular social context.[105] Whilst an individual or institution may develop a reputation for being impartial, impartiality does not exist as an absolute or intrinsic characteristic of that person or institution. As such, understanding what is meant in saying that a peacekeeper or other actor is impartial requires, in the first instance, 'knowing both toward which group the person is impartial and in what respect the person is impartial with regard to the group'.[106]

Recognising impartiality as a norm that operates within particular contexts of decision-making and with regard to specific roles is necessary to establish when and where a particular actor may be expected to act impartially and what that might mean. Life is saturated with partiality and affective commitments. These commitments, as moral philosophers such as Susan Mendus assert, are precisely what makes it meaningful and worth living.[107] As with other actors, if peacekeepers are to act impartially this can only reasonably be expected of them in their capacity *as* peacekeepers and not as a more general norm applicable in other areas of their life. Consequently, the legitimacy of impartial judgment stems in part from its recognition and ac-

[102] Ronald Dworkin. *Taking Rights Seriously.* Boston: Harvard University Press, 1977: 227. On impartiality and equality see also Susan Mendus. *Impartiality in Moral and Political Philosophy.* Oxford: Oxford University Press, 2002; Thomas Nagel. *Equality and Partiality.* Oxford: Oxford University Press, 1990.
[103] Independence and impartiality are not, however, the same. 'Independence' as Rosanvallon explains 'does not guarantee impartiality… one can be independent of the government hierarchy and still entirely biased on the issues that one is charged with overseeing… Impartiality requires independence, but independence by itself is not enough to achieve impartiality.' Pierre Rosanvallon. *Democratic Legitimacy: Impartiality, Reflexivity, Proximity.* Princeton University Press, 2011: 95.
[104] Franck 1968: 153.
[105] As such, the common characterisation of actors *as* 'impartial' is somewhat misleading and, as Gert describes, 'always elliptical'. Gert 2005; Rosanvallon 2011; William Lucy. "The Possibility of Impartiality." *Oxford Journal of Legal Studies* 25(1) (2005): 3-31.
[106] Gert 2005: 131. See also Rosanvallon 2011.
[107] Mendus 2002.

ceptance as a norm for that specific sphere of activity, and an awareness by actors of the boundaries between different social spheres.[108]

2.3.1.1 a) Institutional Measures

Institutions like the UN that are tasked with operationalising impartiality frequently adopt measures to ensure adherence to the procedural requirements of the norm. As I discuss below, these efforts may be just as much about projecting an image of impartiality as of effecting that impartiality in practice. This imperative *to be seen as* impartial is vital in peacekeeping, which traditionally has been a consent-based activity. If peacekeepers are incompetent or biased, or are seen to be so, consent for their activities or for the operation as a whole may be withdrawn. Four measures taken by the UN to insure adherence to the procedural requirements of impartiality warrant mention.

First, institutional *selection processes* for peacekeeping personnel–both civil and military–have been designed to include provisions for individual expertise and the mitigation of potential biases. Similar to the principle of judicial disqualification, in instances where a senior official or troop contributing country has, or is perceived to have, a vested interest in a conflict or lacks the necessary expertise, potential peacekeepers may have their participation blocked by members of the Security Council or the host state.[109]

In addition to individual selection and disqualification procedures, attention to the composition of the group is regarded as strengthening impartiality through the aggregate, preventing what legal scholar John Griffith describes as 'corporate bias'.[110] The Charter, for example, stipulates that Secretariat staff be drawn from as 'wide a geographical basis as possible'.[111] The importance of obtaining a cross-section of nationalities for a force's deployment has historically been emphasised in order to safeguard a mission's impartiality and to project an imagine of

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[108] This resonates with the conception of differentiated social spheres put forward in Michael Walzer's theory of justice. Michael Walzer. *Spheres of Justice: A Defence of Pluralism and Justice.* New York: Basic Books, 1983.
See also Bo Rothstein and Jan Teorell. "What is quality of government? A theory of impartial government institutions." *Governance* 2(2) (2008): 165-190.
[109] Judicial disqualification is a fundamental principle in law, dating back to the Roman Code of Justinian which maintains that litigants who believed a judge to be biased or unfair are permitted to recuse him, so long as this is done before the issue is joined. On judicial selection processes, see for example Peter Russell and Kate Malleson. *Appointing judges in an age of judicial power: Critical perspectives from around the world.* Toronto: University of Toronto Press, 2006.
[110] Griffith identifies two forms of bias: personal bias and corporal bias in which actors as 'a corpus decide certain types of cases in a biased way'. Whilst the issue of judicial disqualification speaks to the former, judicial representation seeks to address the latter form of bias. It reflects the view that judges should represent the gender, cultural, ethnic, and religious diversity of the community in which they work. John Griffith. *The Politics of the judiciary*, 5th edition, London: Fontana, 1997.
[111] United Nations. *Charter of the United Nations.* New York: United Nations, 1945.
http://www.un.org/en/documents/charter/index.shtml.

international will.[112] Since the inception of peacekeeping, over 130 states have participated in operations.

The issue of representation also figures prominently in the operations of the Security Council, which as I describe below, is the principle authorising body for peacekeeping missions and their mandates. Many argue that the internal structure and composition of the Council is such that its resolutions symbolically represent the will of the "international community".[113] By this account, the veto, as Cronin argues, 'helps guard against any single state or combination imposing their own interests under the guise of community norms.'[114]

Second, the procedural requirements of the norm are manifest in the *codes of conduct and training* for personnel. UN staff are expected to abide by standards of personal conduct aimed at ensuring that 'the highest integrity and impartiality' is displayed and that they do not 'abuse or misuse [their] authority'.[115] Moreover, rules and regulations concerning relations with host country communities, including non-fraternisation policies, are intended to prevent interactions that may undermine a force's acceptance and impartiality.

Third, *professional immunities and privileges* are regarded as important features to foster commitment to the organisation, shelter individuals from external influences that could lead to bias, and obtain information.[116] As an organ of the institution, peacekeeping personnel enjoy similar immunities to other UN officials.[117] These are enumerated in the Status of Forces Agreement (SOFA), which constitutes an important legal basis for any operation, and is signed by both the host state and the UN in consultation with the TCCs.[118] Most SOFAs, including the current standard UN model SOFA, emphasise the exclusively impartial nature of an operation and frequently encompass provisions for the mission's right of freedom of movement on the territory

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[112] This is discussed further in Chapter Three.

[113] Ian Hurd. "Legitimacy, Power, and the Symbolic Life of the UN Security Council." *Global Governance* 8 (2002): 35.

[114] Cronin 2008: 70.

[115] United Nations. *UN Standards of Conduct*. http://cdu.unlb.org/UNStandardsofConduct/CodeofConduct.aspx

[116] In addition, the provision of permanent contracts to civilian personnel has long been underscored as essential to the strengthening of an organisational *esprit de corps*. This is not applicable to military personnel who are rotated every six to twelve months. On job security and judicial impartiality see Gregory Huber and Sanford Gordon. "Accountability and coercion: Is justice blind when it runs for office?." *American Journal of Political Science* 48(2)(2004): 247-263.

[117] UN officials are granted immunity 'in respect of words spoken and written, and all acts performed by them in their official capacity.' A/RES/22 A(I) (1946). *Privileges and Immunities of the United Nations*.
The level of immunity accorded to a member of peacekeeping force depends on the category of personnel. See F.J. Hampson and A. Kihara-Hunt. "The accountability of personnel associated with peacekeeping operations." in Coning de Aoi and Ramesh Thakur, 2007: 195; Carsten Stahn. *The law and practice of international territorial administration: Versailles to Iraq and beyond*. Cambridge: Cambridge University Press, 2008: 581.

[118] According to Bowett, SOFA's 'represent compromises and shifts between the law of visiting forces on the one hand and the law of international privileges and immunities on the other, against the background of functional necessity'. D. W. Bowett. *United Nations Forces: A Legal Study of United Nations Practice*. London: Stevens & Sons, 1964: 434. In some instances, the Council may delegate to regional organisations under the Charter.

of deployment.[119] Unimpeded access in the field is critical in that it allows officials to gather necessary information on which to base their decisions and actions.

Lastly, the *use of symbols and rituals* may also aim to buttress 'in group' loyalty, and affect an outward projection of impartiality. In this respect, the iconic blue beret and badge and the white armored vehicle not only distinguish peacekeepers from enemy forces clad in camouflage, but also strengthen the sense of fidelity that national contingents have to a mission. They project an image that links those contingents to the 'larger metaphorical space' that the UN occupies.[120] Similarly, routine tasks and rituals such as manning observation posts or conducting patrols–activities which were part of the original observer mission–'create a shared sense of meaning among the mission members' that ties them to a large collectivity and history of peacekeeping.[121]

2.3.1.1 b) Impartial Judgment as Subjective Judgment

Whilst these four institutional measures seek to ensure that peacekeepers are informed and unbiased in their decision-making, the impartial actor does not have complete objectivity of judgment, as some characterisations and theories would hold.[122] As Franck explains, '[l]ike the parties to a dispute' the impartial actors' perceptions 'are grounded in the senses, and are thus subjective... Where he differs from the parties… is that *his* subjectivity is *not that of the disputant.'*[123] In other words, the independent status of peacekeepers affords them an opportunity to make informed subjective determinations with, as Franck asserts, 'the greatest possible openness, sensitivity, and receptivity'.[124]

That judgments considered to be impartial have a subjective dimension has a long tradition in legal thought, which recognises that juridical judgments invariably entail subjective determinations. Recent research in the social sciences has expanded on the ways in which human commitments affect the administration of justice.[125] Moreover, without such commitments, schol-

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[119] Findlay 2002: 17.
[120] Robert Rubinstein. "Intervention and Culture: An Anthropological Approach to Peace Operations." *Security Dialogue* 36(4) (2005): 535.
[121] Ibid: 535.
[122] See discussion in Rosanvallon 2011: 107-109; Martin Leroche. "Adam Smith's intuition pump: The impartial spectator." *Homo Oeconomicus* 25.1 (2008): 1-22.
[123] Franck 1968: 307.
[124] Franck 1968: 307.
[125] For example, research describes how judges are influenced by ideological predilections (Jeffrey Segal, et al. "Ideological values and the votes of US Supreme Court justices revisited." *The Journal of Politics* 57.03 (1995): 812-823.) and policy preferences (Lee Epstein and Jack Knight. *The choices justices make.* Washington: Jack Knight, 1998), and may draw upon subconscious biases (Chris Guthrie et al., *Blinking on the Bench: How Judges Decide Cases,* Cornell Law Review 13(1)(2007).

ars contend that '[t]he beings then judging us, would know nothing at all of what standard human lives look and feel like or, knowing something, would completely ignore it.'[126] If a Solomon cannot feel for the human frailty of those who come before him, how can he make a wise determination?

Dispelling the notion that impartial actors are omniscient figures, and consequently recognising that impartiality is subjective, is important in several respects. First, as I discuss below, it suggests that a degree of social unity must exist among the impartial judge, the disputants and other actors in the wider social sphere where decision-making takes place. This unity, as Hegel asserts, enables 'the confidence which the parties feel in the subjectivity of those who give the verdict.'[127] Second, accounting for subjectivity allows for the possibility of differential outcomes. Like other actors, peacekeepers do not, nor can they reasonably be expected to, always make the same decisions or follow the same course of action when presented with the same facts. Interpretations of a norm may differ, leading to variation in judgment and actions. In some instances, interpretations may clash as actors reasonably disagree on what constitutes an appropriate decision or course of action (i.e., differences over what action most faithfully adheres to the principle of impartiality).

The *mode of* decision-making is fundamental to understanding impartiality and contestation over judgments that actors claim to be impartial. Specifically, it sheds light on disagreements that may arise over whether the actor is informed and unbiased. However, whilst the procedural dimension is critical to explicate the manner in which peacekeepers should behave, it tells us little about the nature of that behaviour–what peacekeepers *actually* do, are expected to do, and why decisions and actions claimed as impartial by some may be contested by others. To understand the content of impartiality and contestation over the meaning and appropriateness of the norm within a particular context, we must look to the substantive *basis for* decision-making.

2.3.1.2. The *Basis for* Decision-Making

Impartial judgments rest explicitly or implicitly on what Charles Taylor describes as 'a background of valuation'. It is from this that an impartial actor 'selects what is relevant to the judgment'.[128]

[126] Lucy 2005: 15.
[127] Georg Hegel. *Philosophy of Right*. Translated by T.M Knox. Oxford: Clarendon Press, 1952: 144-5.
[128] Charles Taylor. "Neutrality in the University." In *Neutrality and Impartiality: The University and Political Commitment*, edited by Alan Montefiore. Cambridge: Cambridge University Press, 1975: 130.

Whereas the procedural requirements of the norm remain constant across contexts and roles, the 'background of valuation' differs according to the type of actor and the social sphere in which they are located. Judges, for example, administer justice according to the law. Civil servants take guidance from their constitutional mandate. Peacekeepers look to the mission mandate.[129] For each of these actors, it is the *basis for* decision-making–the 'background of valuation'–that determines the substantive content of the decisions and actions they claim as impartial.

The 'background of valuation' for peacekeeping missions is far from fixed; the content of mandates varies across and within contexts of deployment.[130] This variation is partly because the Security Council formulates mandates in relation to particular circumstances of conflict or potential conflict, and as a complement to a broader peace or political process. As such, mandates frequently encompass details of the ceasefire or peace agreement that peacekeepers are entrusted to oversee and assist in implementing. These invariably differ from case to case. In some instances, peacekeepers may be tasked with monitoring demobilisation zones or frontiers; in other cases, the organisation and oversight of elections by a UN mission may be stipulated in the peace agreement. In addition, the variation in the content of mandates also reflects their embodiment of a broader set of norms related to international peace and security. In this respect, and as I detail in the following chapter, the changing nature of peacekeeping, visible through the mandates authorised by the Council over time, can thus be regarded as a reflection of more macro-level political and normative shifts in the international system.[131]

2.3.1.2 a) Consent, Consensus and Legitimate Authority

The authority of impartial actors is premised to a large extent on whether the *basis for* decision-making is acknowledged as legitimate by disputants and other actors within the wider social context in which decision-making takes place. In the context of peacekeeping, this acknowledgment has traditionally come in the form of consent. Indeed, deployment of a mission has historically been contingent on securing the explicit consent for the mission and its mandate from all the parties in the context of operation. The renewal of mandates is thus a means to manage 'continuing consent' following the 'initial consent' for the mission's inception. [132]

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[129] As I discuss in Chapter Three, peacekeeping was not foreseen in the Charter. It initially emerged through the actions of the GA in the creation of UNEF I. However, following the controversy surrounding ONUC the Council assumed control of peacekeeping and has since retained it.
[130] Since 1964, individual mission mandates are renewed on a semi-annual basis or when changes in circumstances are such that reconsideration of the *basis for* decision-making is warranted.
[131] Paris 2003.
[132] In this sense, the renewal of mandates was regarded as a means to manage 'continuing consent' following the 'initial consent' for the mission's inception. Johnstone: 2011.

In addition to the direct consent of the parties, mandates are also thought to reflect a broader international consensus on norms related to international peace and security. Here, the 'power of consent' is held 'collectively by the international community, rather than an individual state' or actors within the state.[133] Inis Claude referred to this as the 'collective legitimization' offered by Security Council authorisations.[134] Claude maintained that the internal structure and composition of the Council allowed for it to play the role of arbiter of what constitutes a consensus on the course of action that would best further international peace and security. As Cronin explains, 'since the five permanent members represent the most powerful states in the world, a consensus among them provides the means for implementing commonly held standards'.[135]

As I describe in Chapter Three, the shift in the understanding of impartiality reflects a change in the *basis for* decision-making and critically how the authority of peacekeepers is justified and legitimated. The judgments which contemporary peacekeepers *claim as* impartial are no longer based exclusively on terms consented to by all parties to a dispute. Rather, they are premised on a more ambitious and expansive set of norms relating largely to human rights, over which many declare there is international consensus. Implicit in this change is the belief that 'collective agreement' on these norms can 'override an individual objection'.[136]

That the *basis for* decision-making must have "buy in" either through consent or as a reflection of consensus is critical in several respects. First, it is important because impartiality requires, as Franck asserts, that disputants adopt a 'temperamental detachment'. By this he meant that 'disputants renounce the possibility of being *objectively* right'.[137] They enter the decision-making context with a '*preference* for winning but a *willingness* to lose'.[138] Parties to a ceasefire agreement, for example, consent to the deployment of a mission with the knowledge that the mission may call out violations of the agreement. Similarly, in signing the UN Charter, members delegate specific power to the Security Council, and under Article 25, agree to be bound by Council mandates authorised under Chapter VI and VII. The willingness of actors to adopt such a position–and in the case of the UN's general membership to supply resources to carry out such decisions–derives in large part from an acceptance that by having a variety of great powers, decision-making is less likely to be in the interest of one power, and thus is less likely to be bi-

[133] Cronin 2008: 67.
[134] Inis Claude. "Collective legitimization as a political function of the United Nations." *International Organization* 20(3) (1966): 367-379.
[135] Ibid: 70.
[136] Ibid: 76.
[137] Franck 1968: 306.
[138] Franck 1968: 306.

ased. Similarly, such considerations will shape significantly whether the decisions and actions of the impartial actor are accepted *as* impartial.

Second, acceptance of the *basis for* decision-making is crucial, given that judgment may lead to differential treatment of the disputants. In other words, whilst the procedural requirements of impartiality dictate that parties to a dispute be treated as equal, this treatment is only in relation to the *basis for* decision-making. In certain instances, the *basis for* decision-making may contain injunctions for differential treatment, or lead to outcomes that *are* unequal.[139] Judges, for example, are expected to consider individuals equally without prejudice or prejudgment, but this is only insofar as the law regards these individuals as warranting equal treatment. In most countries, convicted murderers are not viewed as equal to other citizens before the law insofar as the crimes they have committed are seen to warrant differentiated treatment (e.g., imprisonment, withdrawal of voting rights). This results in impartial judgments that treat these individuals differently. Whilst judgments may be criticised–a murderer, for example, may disagree with his sentencing or whether, according to the law, certain kinds of killing constitute murder at all–the credibility of the judge and the meaningfulness of his role are rooted in a broader acceptance of the *basis for* his judgment. What constitutes "murder" and thus justifies unequal treatment under the rubric of impartiality may differ across social, religious and legal and even circumstantial contexts. Consequently, judgment regarded as impartial in one context may be admonished as deeply partial in another.

2.3.1.2 b) Impartial Judgment as Partial Judgment

This example raises a fundamental issue. It underscores that while peacekeepers can be impartial in their application of the mandate, like the judge, they cannot be impartial *about* the mandate itself–they are committed, '*partial*' in a sense, to the 'background valuation' implicit in the mandate that provides the basis for their judgment. This is encapsulated in Jeremy Bentham's paradoxical proclamation that 'it is the duty of the judge to be impartial therefore it is his duty to be partial'.[140] It is further reflected in Franck's conception of impartial judgments as '*in-truths*…that are valid or invalid, effective or ineffective, "true" and "good", or "false" and "bad" only within the context of a given value system.'[141] He cautions that when an individual or institution attempts to make an impartial judgment outside the particular social sphere in which such 'in-truths' do not obtain–that is, in contexts in which the 'values are *not* commonly

[139] Impartiality, as Dworkin notes, requires not that everyone receive equal treatment, but rather that 'everyone be treated as an equal' Dworkin 1977: 227.
[140] Jeremy Bentham. *Rationale of Judicial Evidence. Vol. VI.* (1843): 350.
[141] Franck 1968: 306.

shared'–they face an impossible task: the 'invention of a decision that is universally valid–an *extruth*'.[142]

In this respect, it is a judge or peacekeeper's commitment to the substantive 'background of valuation' that differentiates impartiality from neutrality. Impartiality allows a person to be judgmental so long as his or her judgment adheres to the values that are generally agreed upon within that particular social context. Neutrality, however, requires *withholding* judgment. It refers to the apolitical and non-active character of a person's role. The Swiss jurist and expert on IHL, Jean Pictet, captured this distinction well when he wrote that 'the neutral man (sic) refuses to make judgments whereas the one who is impartial judges a situation in accordance with pre-established rules'.[143]

That impartial judgments rest on a 'background of valuation' which is, in a sense, partial, requires not only that the disputants adopt a 'temperamental detachment', but similarly that impartial actors be open and willing to re-appraise the basis upon which their decisions are made. In other words, the *basis for* decision-making must hew closely to shared purposes. Mandates must change to reflect the specifics of new peace agreements or political processes, as well as evolving norms related to international peace and security. As Franck aptly describes:

> The impartiality of the judge is his ability to perceive, and then work with, hypotheses that, like sets of numbers, have no provable external validity but are the hypothetical shorthand of group communication used to communicate group-values. Moreover, he must be able to sense when the hypotheses have shifted, and if the shift is clear and non-aberrational, he should be able and willing to find the midpoint of a new line or work with a new set of figures.[144]

However, this also leaves the impartial actor in a precarious position. The very fact that the *basis for* decision-making may change–the hypothesis may shift–means that the legitimacy of the impartial actor is never secure. The 'impartial institution' is, as Rosanvallon notes, 'by its very nature subject to constant testing. The legitimacy of impartiality needs to be fought for at all times'.[145] In this way, both contestation over the norm and claims by peacekeepers and the Security Council that their decisions are impartial are significant because of what they tell us about the legitimacy and authority of these actors and their practices.

[142] Ibid: 306.
[143] Jean Pictet. *The fundamental principles of the Red Cross.* Geneva: Henry Dunant Institute, 1979: 3.
[144] Franck 1968: 87.
[145] Rosanvallon 2011: 95.

Having introduced the concept of a composite norm, I now consider how we might conceive of impartiality as a *contested* composite norm during both the processes of institutionalisation and implementation.

2.3.2. Impartiality as a Contested Norm

In order to analyse contestation over the norm of impartiality, I take institutionalisation and implementation to be open-ended processes that may take place successively or simultaneously. Impartiality may be contested during either process, and may be linked in ways that are salient to understanding peacekeeper behaviour and the effects of the norm. Simply put, the politics of institutionalisation may affect implementation; and the politics of implementation may in turn affect institutionalisation.

I argue that contestation over impartiality during both processes may be informed by ideational and material considerations. In other words, actor interpretations and motivations to accept or reject the norm may reflect both "logic of appropriateness" *and/or* "logic of consequences". Whilst the separation of "logics" remains widespread in the literature, a healthy skepticism about the professed autonomy of these logics has begun to develop, and a growing group of constructivist scholars have come to regard this distinction as spurious.[146] They illustrate the various ways in which norm adoption and behaviour are often motivated by both social belief and strategic considerations, in ways that are difficult to separate. In line with this scholarship, I conceive of both logics as often entwined, and accept that material factors may shape how impartiality is interpreted, contested and enacted.

In what follows, I introduce institutionalisation and implementation as processes associated with the norm of impartiality in UN peacekeeping, and advance two propositions about contestation for each which serve as a baseline for subsequent empirical analysis.

2.3.2.1. Institutionalisation

The institutionalisation of international norms may occur at various levels (local, national, regional and international). Whilst impartiality has been institutionalised in the national doctrine of troop-contributing countries as I discuss in Chapter Three, this dissertation focuses on insti-

[146] Betts and Orchard (forthcoming); Percy 2007; Hurd 2008; Alexander Betts. "Survival migration: a new protection framework." *Global Governance: A Review of Multilateralism and International Organizations* 16(3)(2010): 361-382.

tutionalisation as a primarily macro-level, international process. During that process, impartiality became reflected in the UN and specifically in organisational policy documents, standard operating procedures, and formal and informal agreements between members of the organisation.[147]

As with other norms, the institutionalisation of impartiality was prompted by several factors– what scholars have described as the 'particular constellation' of conditions that is often necessary for the germination of a new norm or for changes to an existing norm.[148] Finnemore and Sikkink highlight the importance of 'world time context' when 'historical events such as wars or major depressions in the international system can lead to a search for new ideas and norms.'[149] Similarly, for Albert Hirschman, large-scale and rapid ideological change takes place in 'creedal periods' when ideas in and of themselves have greater causal force.[150] In this way, impartiality as a core norm of peacekeeping, indeed the origination of peacekeeping itself, was inextricably linked to macro-level developments, namely the end of the Second World War and the onset of the Cold War and its termination in the late 1980s. However, whilst tectonic shifts in global order were of consequence, the institutionalisation of impartiality was also prompted by a combination of more micro-level policy challenges and failures.[151] Moreover, as the discussion of peacekeeping's inception in the next chapter demonstrates, institutionalisation in many ways followed implementation insofar as impartiality was first encoded as a core norm of peacekeeping as a result of practice.

Whilst various factors may act as triggers for institutionalisation, I understand institutionalisation to be an open-ended process. Impartiality was institutionalised in various forms and, as a result, the way in which the norm has been reflected in the UN has changed over time. That institutionalisation is an open-ended process does not, however, mean that impartiality has always been in a state of active institutionalisation. As with other norms, impartiality went through long periods of dormancy during the Cold War when the norm acquired a certain degree of stability.

My conception of institutionalisation as an open-ended process is in marked contrast to existing scholarship that overwhelmingly portrays it as a progressive and finite process. According to these scholars, institutionalisation introduces precision over a norm, which greatly enables

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[147] Susan Park and Antje Vetterlein. *Owning development: creating policy norms in the IMF and the World Bank*. Cambridge: Cambridge University Press, 2010.
[148] Ibid: 21.
[149] Finnemore and Sikkink (1998): 909.
[150] Quoted in Nina Tannenwald and William Wohlforth. "Introduction: The Role of Ideas and the End of the Cold War." *Journal of Cold War Studies* 7(2) (2005):5.
[151] Park and Vetterlein 2008: 18.

actors to reach agreement.[152] Whilst clarity and consensus over a norm could well be obtained during institutionalisation, albeit with a degree of impermanence, I consider the alternative for the reasons I outlined in the previous section. To that end, I advance two propositions about how contestation over the meaning and appropriateness of impartiality may figure during the process of institutionalisation.

Proposition I: *Institutionalisation does not necessarily reduce norm ambiguity; ambiguity may reflect contestation.*

The institutionalisation of a norm such as impartiality may not introduce clarity and precision. Instead, as I assert, impartiality could become embedded within the UN and yet still remain ambiguous. That is, the meaning of the norm could be vague and unclear, it could contain inherent contradictions or tensions, and its relationship to other norms could be underspecified. Furthermore, I posit that such ambiguity may in fact reflect contestation over the norm that occurs during the process of institutionalisation. There are at least two potential ways in which contestation during the process of institutionalisation might manifest in ambiguity over the norm of impartiality.

First, ambiguity may reflect *actual* disagreement aired during the process of institutionalisation that produces what some scholars have characterised as a 'lowest-common-denominator' conception of a regime or norm, where indeterminacy results from a failure to reach a more substantive agreement.[153] In such circumstances, ambiguity may reflect long-standing and deeply seated differences aired during the process of institutionalisation. Alternatively, institutionalisation may itself engender contestation over the norm. In other words, irreconcilable divisions may develop where previously none existed, as parties articulate what they intend the norm to mean and the implications of particular interpretations become apparent.

Second, ambiguity may not be an expression of confrontational politics during the institutionalisation of a norm; rather, it may represent a deliberate attempt to evade or stymie possible contestation–what some refer to as 'strategic ambiguity'.[154] Actors may wish to paper over anticipated differences real or perceived for a number of reasons. For example, ambiguity may be regarded as necessary to finalise a document or bring a round of institutionalisation to a close.

[152] Finnemore and Sikkink 1998. See discussion in Section II.
[153] Bruno Simma and Dirk Pulkowski. "Of planets and the universe: self-contained regimes in international law." *European Journal of International Law* 17.3 (2006): 493.
[154] Alter and Meunier 2009; Frank Schimmelfennig. "The community trap: Liberal norms, rhetorical action, and the Eastern enlargement of the European Union." *International organization* 55.01 (2001): 47-80.

In such circumstances, actors may contend that the norm can be clarified at some time in the future and that ambiguity is necessary to move the process along.[155] Strategic ambiguity may also reflect the more calculative designs of parties that are in a position to minimise debate and a norm's specificity so that in the future they may interpret the norm in ways that suit their interests or avoid implementation at all.

As a reflection of actual disagreement or as a means of contestation avoidance, norm ambiguity often relates to the second proposition that I advance for institutionalisation.

Proposition II: *Institutionalisation may privilege certain conceptions of a norm. This may in turn heighten contestation during implementation and again during institutionalisation.*

Whilst constructivists have largely ignored the ways in which institutionalisation may privilege certain actors more than others, other scholars interested in international institutions analyse how power differentials shape institutional processes and policy. Recent studies focusing on such diverse issue areas as financial and corporate governance, refugees and migration, human rights, and trade, elucidate the influence that particular state and non-state actors have in setting agendas, controlling information and influencing political outcomes.[156] To explain these differences, scholars highlight the importance of institutional structure, access to informal and formal decision-making, procedural design and format, and actor capacities, including resources and expertise.

Drawing on this literature, I posit that certain actors may enjoy a privileged role during the process of institutionalising impartiality and thus have greater influence in determining how the norm is reflected in the organisation. Moreover, I submit that the privileging of particular conceptions of impartiality during institutionalisation may be of significant consequence and serve to heighten contestation over the norm.

For example, actors that are dissatisfied with the conception of a norm that is dominant during institutionalisation may continue to contest the norm despite its embedding in the organisation. In certain cases, ongoing contestation may prompt additional rounds of institutionalisation as actors attempt to realise their preferred conception. For example, Jennifer Welsh demonstrates

[155] Itay Fischhendler. "When ambiguity in treaty design becomes destructive: a study of transboundary water." *Global Environmental Politics* 8(1)(2008): 111-136.
[156] Amrita Narlikar. "New powers in the club: the challenges of global trade governance." *International Affairs* 86(3)(2010): 717-728; Walter Mattli and Ngaire Woods, (eds.), *The Politics of Global Regulation.* Princeton: Princeton University Press; 2009; Betts 2010.

how, despite its formal adoption by the General Assembly in 2005, Responsibility to Protect remains mired in controversy, leading some states such as Brazil to promote their own conception of RtoP.[157] To do so, actors may be inclined to select alternative forums or processes. Instead of fostering agreement, this may introduce fragmentation as the norm is discussed and institutionalised in multiple forums in ways that contradict one another.

In addition to prompting further contestation at the international level by privileging certain conceptions of a norm, institutionalisation may also heighten contestation during norm implementation. Implementation actors that did not participate or were prevented from participating in the process of institutionalisation may reject the norm or interpret it differently from those who were involved. In other instances, those involved with a norm's institutionalisation, may nonetheless contest the norm in practice, revealing disagreement that was marginalised or overlooked during the institutionalisation process.

2.3.2.2. Implementation

Implementation is a distinct but related process to that of institutionalisation. During this process, actors interpret and follow the prescriptions associated with the norm that has been endorsed. Whether implementation is a national, regional or international level process, or one that occurs concurrently at several levels, depends on the norm in question. As a norm of peacekeeping, impartiality gives rise to a multi-level process of implementation that encompasses a variety of actors from the Security Council, which provides the initial authorisation for and ongoing guidance to a mission, down to the boots on the ground.

Contestation during implementation may, as I describe below, be linked to the process of institutionalisation, or it may be specific to the context of implementation, involving actors both internal and external to the organisation. Peacekeepers and mission officials may disagree on what constitutes an impartial decision or action, or whether it is an appropriate norm to apply in a particular context at all. Similarly, the constellation of actors located within the context of implementation may contest the decisions or actions of peacekeepers. As with the process of institutionalisation, certain actors may wield more influence and have a greater ability to realise their preferred conception of the norm in practice.

[157] Jennifer Welsh. "Civilian Protection in Libya: Putting Coercion and Controversy back into RtoP'. *Ethics and International Affairs,* 25(3) (2011): 255-262. Brazilian President Dilma Rousseff's introduced the notion of "Responsibility While Protecting" (RWP) at the opening of the 66th General Assembly in 2011. See also, Thorsten Brenner. "Brazil as a norm entrepreneur: the 'Responsibility While Protecting' initiative." Berlin: GPPI Working Paper, 2013.

Proposition I: *Implementation may illustrate and magnify contestation during the process of institutionalisation.*

Contestation at institutionalisation may only become apparent, or may only become fully apparent, during the implementation process, as actors interpret and enact the norm, making it 'real' in the sense described above by Hollis. Peacekeeping practice may, for example, reveal the extent of impartiality's ambiguity, reflecting disagreements that were unresolved or purposefully marginalised during the process of institutionalisation. This ambiguity may become evident in practice more generally, irrespective of where the norm is implemented. Conversely, characteristics specific to a context of implementation may highlight dimensions of the norm that are unclear or vague. Part III demonstrates how ambiguity over the new conception of impartiality and its relationship to sovereignty became particularly acute in the Congo case, given the government's involvement in widespread human-rights abuses.

Also pertinent to the ambiguity of a norm, implementation may be important in revealing what actors actually intended the norm to mean during institutionalisation.[158] This may be reflected in their own behaviour, and in their expectations and appraisals of the behaviour of others. In other words, differences in how a norm is implemented, or opinions on how it should be implemented, may illustrate contestation that either occurred or was sublimated during institutionalisation.

By illuminating contestation over the norm, the process of implementation may, as Weiss and Badescu contend, prompt further institutionalisation that clarifies the norm and resolves contestation.[159] Conversely, as will be shown in the Congo case, implementation may also heighten contestation at the institutional policy level, as disagreements between actors and the implications of particular interpretations of the norm are revealed.

Proposition II: *Implementation as a process may generate additional forms of contestation*

In addition to illustrating and magnifying contestation that either implicitly or explicitly occurs during institutionalisation, the process of implementation may give rise to its own forms of contestation. During the process of implementation, impartiality operates at a more micro-level in relation to specific peacekeeping missions. Here, the norm encounters a host of new actors

[158] Van Kersbergen and Verbeek 2007: 218-19, 22.
[159] Cristina Badescu and Thomas Weiss. "Misrepresenting R2P and Advancing Norms: An Alternative Spiral?" *International Studies Perspectives* 11(4) (2010): 354-374.

in contexts characterised by their own social and political dynamics. Consequently, implementation may generate its own forms of contestation by different actors both internal and external to the peacekeeping mission.

Peacekeepers do not form a homogeneous group, and peacekeeping missions have a particular institutional structure that warrants consideration. UN missions encompass a diversity of actors with differing bureaucratic and operational identities and interests, capacities and capabilities. This has been particularly the case in the integrated missions of the last decade, which encompass a diversity of personnel from various UN agencies to the multi-national civilian and military components of a peacekeeping force, which are often geographically dispersed within the mission context. This diversity of actors and interests may engender contestation within a mission during implementation.

In this respect, contestation amongst members of a mission may refer to the manner in which decisions are made, or how the mandate is interpreted as well as the mandate itself. During implementation, peacekeepers may behave in ways that subsequently are regarded as biased or in contravention of the mandate by others in the mission. In other instances, disagreement about what constitutes an impartial decision or course of action may precede the decision or action. At these junctures, certain actors within the mission may have greater influence in determining what decisions are taken and what particular course of action is pursued.

In addition to contestation amongst mission officials during the process of implementation, actors external to the mission may contest the norm of impartiality. These actors–distinct from those tasked with implementation–may similarly contest the manner in which peacekeepers make decisions and the more substantive *basis for* their decisions. This contestation may be informed by a number of ideational and material considerations. Local actors may, for example, contest action that peacekeepers claim as impartial when it has the potential to adversely impact their interests or strategic aims. In other circumstances, the historical role of the UN within a country or region, including its previous engagement in peacekeeping activities, may shape local interpretations of, and contestation over, the meaning, appropriateness and feasibility of impartiality as a norm for that mission. Moreover, contestation by local actors during implementation may in turn inform how UN officials interpret the norm and assess its appropriateness for that specific context.

2.4. Conclusion

The framework developed in this chapter, which understands impartiality as a composite and contested norm of peacekeeping, aims to capture the politics associated with the norm and the attendant power dynamics that shape its meaning and impact in particular contexts. It is premised on the assertion that as social facts, norms are complex ideational structures that always reflect and embody politics past and present, near and far.

Moving beyond existing approaches, the propositions I advance to study impartiality highlight the possibility of contestation during both implementation and institutionalisation and the potential linkages between the two processes. Disagreements over a norm and how it should be reflected institutionally may, as I argue, have consequences for how actors understand and interpret the norm in practice, refracted through the ambiguity inherent in the norm. Conversely, the implementation process may engender its own forms of contestation specific to the context in which the norm is interpreted and enacted but which can reflect back on interpretations of the norm at the macro-level. Both processes, I submit, may privilege particular conceptions of the norm, which may in turn heighten contestation.

Contestation over the meaning and appropriateness of impartiality during both processes is important precisely because of the ways in which it demonstrably shapes behaviour and social expectations of that behaviour at both the global and local level. More fundamentally, it is necessary to account for contestation over norms, given constructivism's core tenet of intersubjectivity. Understanding the social construction of international relations necessitates a comprehensive account of those viewpoints that make up the social realm and which almost invariably engender contestation.

3. From Passive to Assertive Impartiality

In his colourful and perceptive early analysis of the UN, Conor Cruise O'Brien describes the essence of the global institution as *Sacred Drama*–a theatrical construction with a profoundly theological content.[1] The creation of the UN in 1945 following the ravages of two world wars was, as O'Brien opined, 'humanity's prayer to itself to be saved from itself'.[2]

In the name of 'the peoples of the United Nations', the famous opening words of the institution's founding Charter offered this sacred prayer, reaffirming 'faith in fundamental human rights' and expressing its members' commitment to renounce the use of 'armed force… save in the collective interest'.[3] The power and promise of this post-war exhortation lay in the universality of the UN's membership. The extension of formal sovereign equality beyond what was formerly the sole remit of 'civilised' European states meant that to many it represented an unprecedented attempt to build a 'genuinely *global* order', in which 'all peoples would be governed by an identical code of legal rules.'[4]

The Charter's idealism is, however, tempered by a good dose of realism reflecting the desire of the UN's founders to overcome the structural weaknesses of its predecessor, the League of Nations. Whilst the Charter develops an ambitious framework for collective action, it also contains a number of provisions which mean that it falls short of a genuine collective security system amongst equal states and peoples.[5] The creation of the Security Council and the powers of the veto, conferred on its five permanent members by Article 27, are most notable in this respect.[6] It is demonstrably a pragmatic system of collective action founded on the primacy of the strong—what Franklin Roosevelt referred to as a 'trustee of the powerful'—that are expected to manage peace and security through a modicum of political consensus.[7] Enduring elements of the old hierarchy of states remain.[8]

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[1] Conor Cruise O'Brien with Feliks Topolski. *The United Nations: Sacred Drama*. New York: Simon and Schuster, 1968.
[2] O'Brien 1968: 19.
[3] UN Charter 1945. For a historical overview of the collectivist theme in international relations see Andrew Hurrell. "Collective Security and International Order Revisited." *International Relations* 11(1) (1992): 37-55.
[4] Edward Keene. *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics*. Cambridge: Cambridge University Press, 2002: 136. Article 25 of the Charter requires member states to accept and carry out the Security Council's decision in accordance with the Charter.
[5] A collective security system, as Roberts and Zaum describe, is one in which 'each state in the system accepts that the security of one is the concern of all, and agrees to join in a collective response to threats to, and breaches of, the peace'. Adam Roberts and Dominik Zaum. *Selective Security: War and the United Nations Security Council Since 1945*. Abingdon: Routledge, 2008: 11.
[6] UN Charter 1945: Chapter VII, Articles 27 and 39. Other departures from a collective security system include the 'inherent right of individual and collective self-defence' inscribed in Article 51 (Chapter VII); specifications for regional security arrangements in Article 57 (Chapter VIII); and Articles 53 and 107 which permitted wartime allies to conduct relations with enemy states in the Second World War outside the Charter framework. See Adam Roberts, Jennifer Welsh, Vaughen Lowe, and Dominik Zaum, (eds.). *United Nations Security Council and War*. Oxford: Oxford University Press, 2008.
[7] United Nations. "History of the UN" www.un.org/en/history
[8] Mark Mazower. *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations*. Princeton: Princeton University Press, 2009.

The Cold War laid bare these tensions and impeded the implementation of the Charter's more ambitious collective goals.[9] The global divide meant that international conflict was invariably cast in terms of opposing ideologies, and consensus on the rights and wrongs of particular crises was a rarity. The powerful worshiped different sacred gods. The UN-authorised force in Korea, approved by the Council in 1950, was the only occasion during the Cold War in which the UN's collective security powers were invoked and enforcement action was undertaken by the institution. The UN remained noticeably absent from the main theatres of the Cold War.[10]

The global schism did not, however, lead to the UN's obsolescence, or, as Adam Roberts notes, to the 'complete abandonment of efforts to develop collective uses of armed forces'.[11] Instead, under the leadership of Dag Hammarskjöld, the second Secretary-General of the UN, the organisation carved out a limited role in the area of peace and security. Beginning with the Suez Crisis of 1956, lightly armed peacekeepers were deployed to assist states in creating the conditions for peace, with the consent of those directly involved.[12] Unforeseen by the UN's founders, peacekeeping was situated at the interstices of the Charter–beyond the Security Council's procedures for conciliation and yet distinct from the type of force envisaged under Chapter VII. Hammarskjöld famously referred to it as a 'Chapter 6 ½' activity–a 'fictive' category that, as Franck asserts, illustrated the Charter's adaptation to practice.[13] In this respect, peacekeeping was, like its institutional progenitor, a 'radical…experiment in international cooperation'.[14] Military forces, whose national loyalties had long epitomised the essence of partiality, were expected in their capacity as peacekeepers to act impartially in support of peace.

Over the past six decades, the deployment of blue helmets has become a mainstay of UN activity and the norm of impartiality has come to be regarded as the 'bedrock' of

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[9] UN Charter Article 43-45 calls for armed forces to be made available to the Security Council. Articles 46 and 47 outlined details for Military Staff Committee. These provisions of the Charter were never implemented. See Adam Roberts. "Proposals for UN Standing Forces: A Critical History" in Vaughan Lowe *et al.* 2008: 99-129.

[10] The UN had little involvement in addressing the 1948 Berlin crisis, the Soviet invasions of Hungary (1956) and Czechoslovakia (1968), US intervention in South East Asia (1948-91), the Indonesian invasion of East Timor (1975-99) and the Iran-Iraq war (1980-88). Adam Roberts. "Towards a World Community? The United Nations and International Law." In *The Oxford History of the Twentieth Century*, edited by M. Howard and W.R. Louis. New York: Oxford University Press, 1998: 311.

[11] Roberts 2008: 129.

[12] The UN Special Committee on the Balkans (UNSCOB, 1947– 1952), the UN Truce Supervision Organization (UNTSO, 1948 – present), and the UN Military Observer Group (UNMOGIP, 1949- Present) are occasionally cited as earlier peacekeeping missions. While these three missions were progenitors of peacekeeping, they were all strictly observer missions. UNEF was the first military mission and provided the impetus for the codification of core principles. See for example, Marrack Goulding. *Peacemonger*. Baltimore: Johns Hopkins University Press, 2002: 452. For a discussion on "Peacekeeping" before the UN see Norrie Macqueen. *Peacekeeping and the International System*. London: Routledge, 2006: 23-43.

[13] Thomas Franck. *Recourse to force*. Cambridge: Cambridge University Press, 2002: 40.

[14] Dag Hammarskjöld. *To speak for the world: speeches and statements by Dag Hammarskjöld, Secretary-General of the United Nations 1953-1961*. Stockholm: Atlantis, 2005: 68.

peacekeeping.[15] The political and normative context in which peacekeeping emerged has, however, changed dramatically since the days of the Cold War, and thus so too has the dominant understanding of what it means to 'keep' the peace impartially. No longer passively impartial—tasked with observing frontiers and ceasefire agreements based on terms directly consented to by those parties in dispute—peacekeepers regularly operate with Chapter VII mandates and are now expected to be assertive: the vanguard of human-rights protection.[16]

This chapter analyses the change in the dominant understanding of the composite norm of impartiality as institutionalised in UN policy documents and peacekeeping doctrine. This change, I argue, is significant not only because it marks a radical shift in the practices and purposes of UN peacekeeping, and more broadly, the values and norms projected by the UN as an institution, but also because it represents an evolution in how the authority of peacekeepers is created, justified and practised. The judgments which contemporary peacekeepers claim *as* impartial are no longer based on terms consented to by all parties to a dispute. Rather, they are premised on a more ambitious and expansive set of norms relating largely to human rights, over which many claim there is now international consensus.

The chapter proceeds chronologically. Section one provides an overview of peacekeeping's inception and conceptual development during the Cold War. It explains how a passive conception of the norm guided the decisions and actions of peacekeepers throughout this period, albeit with some exceptions. Lightly armed and donning blue berets they carried out a limited number of unintrusive tasks, and their authority was limited to that which the parties conferred upon them. In many of these early operations, forces could best be described as 'fair witnesses'.[17]

Section two focuses on peacekeeping during the 1990s, a decade that was ushered in with high hopes and newfound ambition for the UN, but which quickly became marred by a string of tragedies in Somalia, Rwanda and the former Yugoslavia. I elucidate how the challenges confronted by peacekeepers and conceptual confusion regarding their role in each of these contexts was indicative of a broader crisis in liberal internationalism. As international actors became more heavily engaged in conflicts within states where consent was more tenuous, they confronted difficult questions about the sources of their own authority and how to adjudicate between local competing claimants of authority. The change

[15] Shashi Tharoor. "Should UN Peacekeeping Go 'Back to the Basics?." *Survival* 37(4) (Winter 1995-6): 58.
[16] *Capstone Doctrine* 2008.
[17] William Durch and Madeline England. "The Purposes of Peace Operations." In *Robust Peacekeeping: The Politics of Force*, New York: CIC, 2009: 40.

in the understanding of impartiality can be seen as an attempt to address this crisis and the questions it raised for peacekeepers as well as for several other international actors.

Section three, which focuses on peace operations in the new millennium, analyses the new conception of the norm and situates this change in a broader shift towards a more assertive liberal internationalism. Section four concludes by illuminating ambiguities inherent in the new dominant conception of the norm. I argue that these ambiguities point to an enduring tension within the United Nations as an organisation which, though composed of and founded on the sanctity of sovereign states, has since its inception aspired to more collective purposes, including those that promote individual rights. Moreover, as Chapter 4 demonstrates, ambiguity over impartiality and the substantive basis for decision-making reflects the more fundamental contestation over the dominant understanding of the norm and the politics of contemporary peacekeeping.

3.1. Peacekeeping's Inception and Development during the Cold War

In October 1956, the UN faced two crises. Within the span of a few days, the Soviet suppression of the Hungarian uprising and Israel's attack on the Sinai Peninsula threatened to further deepen the Cold War divide. While both cases were brought before the General Assembly, the responses they elicited were noticeably different: inaction and comparatively muted criticisms over the former; direct moves to develop a system of international peacekeeping in the latter.

Israel's invasion had been backed by Britain and France and was part of a covert, tripartite plan to control the Suez Canal, which Egyptian President Gamel Abdel Nasser had nationalised earlier that year.[18] As Anglo-French involvement became plainly apparent, the attack incurred international opprobrium.[19] The United States, which had been kept in the dark about the plan, was particularly trenchant in condemning the behavior of its erstwhile allies.[20] Western solidarity began to fray at precisely the moment when violence on the streets of Budapest signaled it might be most needed.

[18] Avi Shlaim. "The Protocol of Sevres, 1956: Anatomy of a War Plot." *International Affairs,* 73 (1997) 509.
[19] William Louis. *Ends of British Imperialism: The Scramble for Empire, Suez, and Decolonization*. London: IB Tauris & Co., 2007.
[20] See remarks of US Secretary of State Dulles, UN, A/562 A (1956) *First Emergency Session.*

Sidestepping Anglo-French vetoes in the Security Council, the Suez crisis was transferred to the General Assembly on 1 November under the 'Uniting for Peace' procedure.[21] At the suggestion of Canadian Foreign Minister Lester Pearson, Resolution 998 was passed, requesting that the Secretary-General submit to the Assembly 'a plan for the setting up, with the consent of the nations concerned, of an emergency international United Nations Force to secure and supervise the cessation of hostilities'.[22]

Recognising the urgency of the situation and with a commitment from Britain and France that they would withdraw their troops if such a force were to be deployed, Hammarskjöld quickly developed a plan in consultation with his advisors. In a matter of days the Secretary-General presented two reports on the formation of the United Nations Emergency Force (UNEF), both of which were endorsed by the Assembly.[23] Whilst the concept of peacekeeping and its core principles would subsequently be refined, these reports laid the foundations for what Brian Urquhart, senior advisor to the secretary-general, described as 'an entirely new kind of international activity'.[24]

In his reports, Hammarskjöld differentiated UNEF from previous UN observer missions by specifying that it was to be paramilitary in character. However, unlike combat operations, the force, he explained, was not to be deployed with the aim of 'controlling the territory in which it [was] stationed'.[25] UNEF was to operate with the consent of Egypt–in accordance with what would later be referred to as the "good faith" agreements. Peacekeepers would abstain from political involvement in the crisis and were to be prohibited from using force, save in self-defense. UNEF's role, as a scholar at the time submitted, was 'passive and pacific'.[26]

In assembling the force, Hammarskjöld rejected Canada's initial proposal to subsume Anglo-French troops under the UN flag, expressing concern, accurately, as it turned out, that it

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[21] The "Uniting for Peace" resolution (GA/RES/377A) was adopted on 3 November 1950. It states that in any cases where the Security Council, because of a lack of unanimity amongst its five permanent members, fails to act as required to maintain international peace and security, the General Assembly shall consider the matter immediately and may issue any recommendations it deems necessary in order to restore international peace and security. If not in session at the time the General Assembly may meet using the mechanism of the emergency special session. See Dominik Zaum. "The Uniting for Peace Resolution." In *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945*, edited by Lowe *et al.* 2008: 154-175.
[22] A/RES/998 (4 November 1956).
[23] A/RES/1000 (5 November 1956) established the UN command for the force. A/RES/1002 (7 November 1956) asked the Secretary-General to report to the Assembly on Israeli, British and French withdrawal.
[24] Brian Urquhart. *Hammarskjöld*. New York: W.W. Norton & Company, 1994: 180; United Nations. A/3943 (1958). *Summary study of the experience derived from the establishment of the United Nations Emergency Force*: para 14.
[25] United Nations. A/3302 (1956). *Report of the Secretary-General on basic points for the presence and functioning in Egypt of the United Nations Emergency Force.*
[26] Herbert Nicholas. "UN Peace Forces and the Changing Globe: The Lessons of Suez and Congo." *International Organization* 17(2) (1963): 326.

would merely legitimate their aggressive actions.[27] Instead, he specified that UNEF should have an international character and contributions from the permanent members of the Security Council were to be excluded.[28] To differentiate members of the UN force from Anglo-French troops, the Secretariat purchased stocks of American army helmet liners and spray-painted them UN blue.

On 15 November 1956, advance units of the force arrived in Cairo. Within six months, UNEF, which comprised ten national contingents and totaled roughly 6,000 forces at its peak, had fulfilled the majority of its mandated tasks.[29] These included: the oversight of British and French withdrawal; clearing of the Suez Canal; maintenance of minimum order through patrols and monitoring; and, through interposition, the separation of Egyptian and Israeli combatants.

The virtue of the force's design and mandate, as Norrie MacQueen argues, was that 'most of the protagonists of the crisis could interpret some aspect of UNEF's deployment as benefiting their own national interest'.[30] Unlike Chapter VII enforcement action, the authorisation for UNEF, which came from the General Assembly, did not assign blame or explicitly identify an aggressor during the crisis. In this way, the force's deployment enabled Britain and France to retreat with minimal loss of face whilst vindicating Nasser's claim of imperial interference and the increasingly popular view, as Roger Louis notes, that 'colonialism was an anachronism'.[31] The mission was heralded as an initial success.

3.1.1. Soldiers without Enemies: Passive Impartiality in Theory and Practice

Whilst UNEF was developed as an ad hoc and temporary solution to the Suez crisis, peacekeeping quickly became a core component of the UN's engagement and an important signal, as Jean-Marc Coicaud argues, that the UN 'could have *some* positive effect in the field of security' during the Cold War.[32] It was regarded as a form of 'preventive diplomacy'–a

[27] Urquhart 1994: 178.
[28] A/3302 (1956).
[29] UNEF's mandate was carried out in four stages: 1) From November to December 1956, UNEF supervised the withdrawal of British and French forces; 2) From December 1956 to March 1957, UNEF facilitated the separation of Israeli and Egyptian forces, and oversaw Israel's withdrawal from all areas captured during the war, with the exception of Gaza and Sharm-el-Sheikh; 3) In March of 1957 UNEF oversaw the final withdrawal of Israeli forces from Gaza and Sharm-el-Sheikh; and 4) From March 1957 to May 1967, UNEF troops were deployed as observers along the Armistice Demarcation Line. See Rosalyn Higgins. *United Nations Peacekeeping 1946-1967. Documents and Commentary.* Oxford: Oxford University Press, 1980: 250-260.
[30] MacQueen 2006: 72.
[31] Louis, in Lowe Vaughan *et al* 2008: 297. See also Louis 2007.
[32] Jean-Marc Coicaud. *The legitimacy of international organizations.* New York: United Nations University, 2001: 265.

strategy advanced by Hammarskjöld to mitigate and contain conflicts that risked escalating into larger superpower conflagrations.[33]

Unlike the maiden UNEF mission, most of the other thirteen missions fielded during this period were authorised by the Security Council.[34] As an activity authorised by the Council, peacekeeping was invariably limited and only took place within 'permitted areas'. Its perimeters were 'fixed by tacit agreement between East and West, and excluded issues and regions where core national interests were in play'.[35] As the strategic interests of the superpowers were fluid, peacekeeping's prevalence paralleled the waxing and waning of Cold War relations.[36]

In addition to serving as a *via media* between East and West, peacekeeping figured as an important instrument during the process of decolonisation. This role was commensurate with Hammarskjöld's conception of the UN as the 'main protector' of newly minted states.[37] In Cyprus, Palestine, and the Congo, peacekeepers were deployed to buttress the often-abrupt ending of empire and to safeguard countries' new independence. In other cases, such as Kashmir, Gaza and Lebanon, peacekeepers were sent to quell the 'conflicted aftermath of partition stemming from imperial practices of divide-and-rule'.[38]

In both respects–as handmaiden to Cold War and Third World politics–the form and content of peacekeeping reflected the statist commitments of the Charter. With little consensus on how states–new or old–should be governed, and in the absence, as R.J. Vincent opined, of a 'coherent and pervasive morality which transcends international frontiers and which might then inform and justify particular acts of intervention',[39] the principles of sovereignty, non-intervention and self-determination became 'the cornerstone of the UN system' and the foundation of peacekeeping during the Cold War.[40] As missions were deployed to safeguard the process of decolonisation, the Council dared not trespass

[33] United Nations. A/4390/Add.1(1960). *Introduction to the Annual Report of the Secretary- General of the Work of the Organization, 16 June 1959–15 June 1960.*

[34] For an overview see Norrie Macqueen. *The United Nations, Peace Operations and the Cold War,* 2nd edition, Harlow: Pearson, 2011.

[35]Macqueen 2006: 112.

[36] Until the late 1960s, a number of new missions were deployed to the Middle East. This reflected a mutual desire on the part of both superpower to contain conflict in the region. As tensions deepened in the 1970s, peacekeeping activity all but ceased and no new missions were authorised between 1978 and 1988. See Macqueen 2011.

[37] Brian Urquhart. "International Peace and Security: Thoughts on the Twentieth Anniversary of Dag Hammarskjold's Death." *Foreign Affairs* (Fall 1981): 2-3. Steven Ratner estimates that the UN conducted 32 operations (including diplomatic) that dealt with the process of de-colonisation during the Cold War. *The New UN Peacekeeping.* New York: St Martin's Press, 1995. 112-16.

[38] Phil Cunliffe. *Legions of Peace: UN Peacekeepers from the Global South.* New York: Hurst & Co Publishers (forthcoming 2013): 383.

[39] Vincent 1974: 345-46.

[40] A/5746 (1964). *Report of the Special Committee on the Principles of International Law Concerning Friendly Relations and Co-operation Among States.*

into the domestic realm, and resolutions rarely passed judgment on the character of the 'self' whose self-determination they were assisting. In addition, discussion of human rights was stymied by a lack of consensus on what exactly constitutes a human right and which rights were to be prioritised.[41] In this context, peacekeeping figured as a buffer force or stop-gap measure deployed to defuse tensions *between* sovereign states. Its forces were passively impartial, beholden to the wishes and policies of those parties to a dispute in areas permitted by the superpowers. Peacekeepers, as the title of a training manual from the period aptly put it, were expected to be *Soldiers Without Enemies*.[42]

3.1.1.1. The Master Texts of Peacekeeping

The 'basic principles and rules' of Cold War peacekeeping were inscribed in what Hammarskjöld referred to as the 'master texts'.[43] Buoyed by UNEF's initial success and with decolonisation gathering pace, Hammarskjöld established a study group in the summer of 1957 to distil UNEF's experience and discourage future improvisation.[44] The group's work, coupled with the Final Report from November 1956, formed the basis for the secretary-general's own Summary Report, which he delivered to the General Assembly in October 1958.[45] Guidelines for the Second UN Emergency Force to the Middle East (UNEF II), written by Secretary-General Kurt Waldheim in 1973, supplemented these initial texts.[46]

At the core of these documents was what became known as the 'holy trinity' of peacekeeping norms: impartiality, consent, and the non-use of force (except in self-defence).[47] While no formal doctrine was developed during the Cold War, these norms came to be regarded as the bedrock of peacekeeping, and were closely associated with, if not always adhered to by, the missions fielded by the UN during this period.[48] As Herbert Nicholas noted in 1963: '[t]hese three principles… are merely in the present state of the world indispensable. They may be stretched, modified, even conceivably bypassed; they cannot within the framework of the present United Nations be replaced by any positive alternatives.'[49]

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[41] Paul Hunt. *Reclaiming Social Rights*. Aldershot: Ashgate, 1996.
[42] Larry Fabian. *Soldiers Without Enemies: Preparing the United Nations for Peacekeeping*. Washington: Brookings Institution, 1971. See also Alan James. *The Politics of Peace-Keeping*. New York: Praeger, 1969; D.W. Wainhouse. *International Peacekeeping at the Crossroads: National Support—Experience and Prospects*. Baltimore: Johns Hopkins University Press, 1973.
[43] Dag Hammarskjöld, "The Uses of Private Diplomacy" in Wilder Foote (ed)., *The Servant of Peace: A Selection of the Speeches and Statements of Dag Hammarskjöld*. London: The Bodley Head, 1962. 170.
[44] Urquhart 1994: 228.
[45] A/3943 (1958). *Summary study of the experience derived from the establishment of the United Nations Emergency Force.*
[46] S/11052/Rev.1 (1973). *Report of the SG on the implementation of the SC Resolution.*
[47] Although widely used, the origin of the phrase 'holy trinity' as it refers to peacekeeping is unknown.
[48] A/32/394/AnnII/App.I (1977). *Report of the Special Committee on Peace-keeping Operations, 11th Report of the Working Group, Draft Formulae for Articles of Agreed Guidelines for United Nations Peace-keeping Operations.*
[49] Nicholas 1963: 336.

With respect to impartiality, the master texts contained a number of specifications to ensure that the procedural requirements of the norm were met: principally, that peacekeepers should be informed and unbiased when making decisions and taking action. Underscoring the necessity of access to information, Hammarskjöld dictated that peacekeepers enjoy freedom of movement within the operational area consented to by the parties and that they be deployed with the communications necessary to carry out their mandate.[50] Likewise, to prevent potential biases, the national composition of peacekeeping missions was to be subject to scrutiny. Forces were to be 'exclusively international in character'[51] and were 'not to include units from any of the permanent members of the Security Council' or 'from any country which, because of its geographical position or for other reasons, might be considered as possibly having a special interest in the situation'.[52] Moreover, the consensual nature of peacekeeping meant that troop contributions by member states were to be voluntary and, as had been the case with UNEF, subject to host-state approval.[53]

In accordance with these requirements, peacekeepers were frequently selected during the Cold War from 'middle power' states like Canada, Denmark, Sweden and Norway.[54] These countries, it was argued, were considered acceptable because they did not have colonial legacies and were regarded as having less at stake in any given conflict. Moreover, they were, as Pearson explained, 'big enough to discharge with effect the responsibilities' required by mandates, but, crucially, 'not big enough' to pose a credible threat.[55]

In addition middle power peacekeepers, Third World states–most of which were newly independent–were regularly looked to for troop contributions. Many of these former colonies had large armies of available forces. Moreover, crucially, their involvement carried symbolic significance. Their participation alone was regarded by many as distinguishing peacekeeping from the imperial conquests they had endured, and the Cold War ideologies in opposition to which they defined themselves. In the initial decade of peacekeeping, many soldiers from the Third World transitioned seamlessly 'from military service in support of a

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[50] A/3943 (1958).
[51] A/3943 (1958): para 14.
[52] A/3943 (1958): para 160.
[53] In other words, states were not obligated as under Article 43 to make forces available to the Council. See Urquhart 1994: 188 for overview of the tense discussions regarding the force composition of UNEF between Nasser and Hammarskjold. Controversy over the selection and composition of troop-contributing countries was not only an issue with UNEF, but was also contentious in other instances of Cold War peacekeeping. See Arthur Cox. *Prospects for Peacekeeping*. Washington: The Brookings Institution, 1967.
[54] These states were repeatedly selected for missions from contingents specifically earmarked for UN use. The Netherlands, Austria, Italy, Iran and New Zealand also maintained dedicated forces for UN service. See Alex Bellamy and Paul Williams. "The West and Contemporary Peace Operations."*Journal of Peace Research* 46(1) (2009): 39-57.
[55] Fabien 1973: 94.

global empire to service in support of an international organisation'.[56] For example, in 1960 when, as Phil Cunliffe recounts, the Nigeria regiment of the Royal West African Frontier Force became the army of independent Nigeria, it was immediately re-deployed to the UN peacekeeping mission in newly independent Belgian Congo. There, forces from Nigeria were joined by 'their erstwhile comrades-in-arms of empire'–soldiers from independent Ghana, the Federation of Malaya, Ceylon, India and Pakistan.[57]

In addition to the procedural requirements of the norm, the impartiality of peacekeepers during the Cold War was predicated on consent for a mission and its mandate. Security Council resolutions reflected the peace agreement or ceasefire arrangement that parties had reached prior to a mission's deployment, and provided peacekeepers with the basis for their decisions and actions. In this way, the role of peacekeepers was akin to that of a mediator whose authority is limited to that which is conferred on it by parties to a dispute. To ensure that consent was firm and comprehensive, the master texts advised that peacekeeping missions be prohibited from involvement in conflicts internal to sovereign states, as non-state actors were less likely to be reliable partners, and domestic disputes risked embroiling international actors in local politics.[58]

By adhering to those terms directly consented to by states party to a dispute, Hammarskjöld maintained that peacekeepers would less likely be 'used to enforce any special political solution of pending problems or to influence the political balance decisive to such a solution'.[59] Peacekeepers, he asserted, were to be 'impartial, in the sense that [they] would not serve as a means to force settlement in the interest of one party, of political conflicts or legal issues regarded as controversial'.[60] That the actions of peacekeepers could be without controversy–their decisions perceived *as* impartial–was seen to be contingent solely on the consent of the parties and the tacit acquiescence of the superpowers and their allies. And not, as later theorising—including this dissertation—and practice would adumbrate, a matter of basic inconsistencies in the norm itself.

The impartiality of, and consent for, a peacekeeping mission were in turn thought to obviate the need for more forceful action, since it was assumed that parties would comply with the agreement that provided the basis for the mission's deployment, and subsequent actions in

[56] Cunliffe Forthcoming 2013: 222.
[57] Ibid: 222.
[58] A/3943 (1958): para 166.
[59] A/3943 (1958): para 166.
[60] A/3512 (1972): *Report of the Secretary-General in pursuance of General Assembly Resolution 1123* (XI): Part 2 A, Para 4

support of the mandate.[61] Moreover, if force was used, it risked being seen as partial, thereby jeopardising consent and potentially dragging UN forces into a fight for which they were ill-equipped. Peacekeepers, being comprised mainly of infantry units, had limited defensive capabilities and were not trained for enforcement action.[62] Self-defence, the only exception to the requirement of the non-use of force, was, according to Hammarskjöld to be exercised 'under strictly defined conditions' for fear that it might 'blur the distinction between [peacekeeping] operations and combat operations'.[63]

While the next secretary-general, Kurt Waldheim, subsequently expanded the conditions under which force could be used to include 'force in defense of the mandate', this change in guidelines was of little consequence during the Cold War, given that the tasks outlined in peacekeeping mandates were limited to and based on prior agreement amongst the parties.[64] Were an agreement to disintegrate, were consent to be formally withdrawn, or political consensus in the Council to deteriorate, peacekeepers had little recourse to defend their mandate. UNEF was a case in point. On 16 May 1967, the mission closed amid much controversy, Secretary-General U Thant having unsuccessfully attempted to persuade Nasser to rescind his request for the mission's withdrawal.[65] Following UNEF's expulsion, Egypt increased its military activity near the border and blocked the Straits of Tiran to Israeli ships, causing Israel to launch a pre-emptive attack on Egypt's air force, thus precipitating the cataclysmic 1967 war. A temporary force that aimed to foster conditions conducive to conflict resolution by the parties themselves, UNEF, like other Cold War missions, was not intended as a substitute to a parallel or separate peace process. The authority of a peacekeeping mission was limited to that which the parties conferred on it; peacekeepers were passive to their demands.

3.1.2. The Limits of Passive Impartiality: Cold War Peacekeeping in the Congo

The model of peacekeeping developed in the master texts was based largely on the UNEF experience. As such, it assumed a modicum of agreement amongst the superpowers, firm

[61] Nicholas 1963: 326.
[62] A/3943 (1958): para 178.
[63] A/3943 (1958): para 179. Very little detail on 'self-defense' was provided and so it was narrowly conceived in UNEF. Secretaries-General U Thant and Waldheim later clarified the meaning of 'self defense' and provided an expanded definition that included for example protection for UN civilians, and force to secure freedom of movement. However, given the limited nature of mandates, these changes were irrelevant. S/5653 (1964). *Note by the Secretary-General concerning certain aspects of the function and operation of the UN peacekeeping force in Cyprus*; S/5950 (1964). *Report by the Secretary-General on the United Nations Operation in Cyprus;* S/11052/Rev.1 (1973). *Report of the SG on the implementation of the SC Resolution.* The omission of this expanded notion from the *Peacekeeper's Handbook* attests to lack of controversy over this change during Cold War period. International Peace Academy. *Peace Keeper's Handbook*. New York: Pergamon Press, 1984. See also Findley 1990: 99-123.
[64] S/11052/Rev.1 (1973).
[65] United Nations. *Background Note: UNEF I,* http://www.un.org/Depts/dpko/dpko/co_mission/unef1backgr2.html#one.

consent from those states involved in a dispute, and the provision of a clear mandate from the Council–conditions that did not always materialise during the Cold War. UN peacekeeping missions in Congo (1960), Cyprus (1963), and later Lebanon (1978) were aberrations from this model and involved the deployment of UN forces into civil conflicts where assuming a passive posture was challenging, if not untenable. Of the three missions, the United Nations Operation in the Congo (Opération des Nations Unies au Congo, or ONUC) was most notable in this respect, and presaged many of the issues with which peacekeepers in the post-Cold War context would grapple.

ONUC was a milestone in peacekeeping–unparalleled both in its size–nearly 20,000 troops at its peak–and in its cost, which nearly bankrupted the UN.[66] The mission was deployed in July 1960, shortly after the country was granted independence from Belgium. It was created at the request of the newly elected Prime Minister, Patrice Lumumba, who sought assistance in preventing Congo's ex-colonial power from meddling in its internal affairs.[67] Belgium had re-entered the country without the consent of the Congolese government, ostensibly to protect foreign nationals, and sent paratroopers to support the secessionist movement of Moise Tshombe's in the province of Katanga.

From its inception, ONUC had to walk a fine political line. In the Council, Britain and France were sympathetic to Belgian concerns, whilst in the General Assembly the latter's actions were criticised as an assault on sovereignty.[68] Consequently, Security Council Resolution 143 established ONUC under the pretense of responding to international aggression, but without explicitly naming Belgium's actions as such.[69] Moreover, the mission was issued with the contradictory mandates of both assisting the fledging government *and* abstaining from involvement in conflict internal to the country. The challenges of such a mission operating at cross-purposes quickly became apparent. Hammarskjöld's refusal to assist the central government in suppressing the secessionist movement in Katanga provoked a fiery response from Lumumba who, in an irate letter to the secretary-general, 'question[ed] his impartiality and proper implementation of the mandate and challeng[ed] his

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[66] For an account by the Head of ONUC from 1960 to 1961 see Rajeshwar Dayal. *Mission for Hammarskjold.* Princeton: Princeton University Press, 1976. For a more recent comparative analysis of ONUC and MONUC Jean-Claude Willame. "De l'ONUC à la MONUC: La Communauté Internationale au Chevet du Congo." In *Congo 1960: Echec d'une Décolonisation*, edited by Colette Breackman. Brussels: GRIPS, 2010: 145-156.
[67] S/4382 (1960). *Cable from the President and the Prime Minister of Congo to the Secretary-General.*
[68] For a vivid account of dynamics in the GA and Council see O'Brien 1968. With Cold War tensions running high, members of the Council still sought to curry favor with Third World states in the GA in the hopes of gaining their allegiance. Consequently, Third World states had an impact on policy. O'Brien also highlights the crucial impact that racial politics in America had on its policies towards African states.
[69] S/RES/143 (1960) *UNSC Resolution on the Congo Question.*

interpretation of the resolutions'.[70] According to the Congolese prime minister, the UN had 'reneged on the original terms on which its assistance had been sought and offered'.[71]

Tensions were further inflamed by the constitutional crisis of September 1960, which pitted Prime Minister Lumumba against President Kasavubu.[72] Faced with competing claimants of lawful authority, UN officials attempted to maintain a pretense of impartiality, but, in fact, sided with the pro-western Kasavubu and his Army Chief of Staff, Colonel Mobutu, after it became known that Lumumba had accepted military and financial support from the Soviets.[73]

On 14 September, Lumumba was unseated from power and placed under house arrest by Mobutu in a CIA-backed coup. In public, Hammarskjöld called for Lumumba to be treated according to due process of law; in private, the secretary-general told senior diplomats that 'Lumumba must be "broken".'[74] Appeals by Lumumba to local UN forces for protection following his escape from arrest came to no avail. On 17 January 1961, Congo's first elected prime minister was tortured and killed in Katanga–an act still viewed by many Congolese as 'the country's original sin'.[75]

Following Lumumba's death, ONUC's original policy was overturned and the Council authorised the mission to launch military operations in support of the central government in Katanga.[76] The mission's complete abandonment of its passive stance and the forcing of Tshombe's surrender suggested to some that robust action could deliver results. However, the death of 249 UN peacekeepers–the largest number of fatalities of any mission in the UN's history, before and since–meant that even to those in support of an assertive role for ONUC, it was a pyrrhic victory.[77]

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[70] Georges Abi-Saab. *The United Nations Operation in the Congo 1960-1965*. Oxford: Oxford University Press, 1978: 46.
[71] Norrie MacQueen. *United Nations Peacekeeping in Africa since 1960*. London: Longman, 2002: 44.
[72] On 5 September 1960 President Kasavabu under a controversial article of the interim constitution handed down by the Belgians dismissed Prime Minister Lumumba and six other ministers causing a constitutional crisis. Parliament responded by nullifying Kasavubu's dismissal and Lumumba responded by dismissing Kasavubu. See Georges Nzongola-Ntalaja. *The Congo from Leopold to Kabila: A People's History*. London: Zed Books, 2002: 108.
[73] The UN's relationship to Lumumba changed in the autumn of 1960. It was rumored that Lumumba accepted military and financial support from the Soviets to put down the Katanga rebellion, which the UN had refused his requests for assistance in suppressing. ONUC was pro-Kasavubu and then decidedly pro-Mobutu, both of whom commanded favour with the US. Perceptions of ONUC's partiality were compounded by the presence of several senior Americans within the mission.
[74] *Foreign Relations of the United States (FRUS), 1958-1960: Africa*. Washington, D.C.: US Government Printing Office, 1992: 444.
[75] Georges Nzongola-Ntalaja. "Patrice Lumumba: the most important assassination of the 20th century." *The Guardian*. 17 Jan 2011
[76] S/RES/161(1961) and S/RES/161(1969) *UNSC Resolution on the Congo Question*.
[77] James Traub. *The Best Intentions: Kofi Annan and the UN in an Era of American World Power*. New York: Farrar, Straus, Giroux, 2006: 14.

The political fallout of ONUC's policy was tremendous. Lumumba's toppling, and enforcement activities in Katanga, led several Third World states to withdraw their contingents in protest over what they saw as the UN's distinctly partial role.[78] Similarly, the Soviet delegation in New York condemned Hammarskjöld for failing 'to display the minimum impartiality' and for 'functioning most unashamedly on the side of the colonialists, thus compromising the United Nations in the eyes of the world'.[79] These accusations eventually led the Soviet Union to propose the abolition of the position of secretary-general, to be replaced by a 'troika,' representing Western, Socialist and NAM countries.[80]

Whilst the Soviet proposal was ultimately rejected, the UN's involvement in the Congo exposed the perils of deploying peacekeepers *within* a state, and the attendant challenges of passive impartiality. Political developments following the mission's arrival in the Congo indicated the ephemeral nature of the initial consent secured for the mission and fragility of what little authority ONUC may have had. In the context of the Cold War, in which competing visions of social and political order were precisely what the superpowers believed to be at stake, decisions by senior UN officials to liaise with one set of internal actors over another were invariably controversial, and were seen by some as indisputably partial. In this way, the UN's involvement in the Congo, as MacQueen admonishes, did more to 'actively provoke superpower conflict than suppress it'.[81]

The chastening experience in the Congo resulted in a retrenchment to those few peacekeeping missions in which it was believed that the "holy trinity" could be unquestionably upheld. Blue berets were deployed in Cyprus (UNFICYP) and again along the Egyptian-Israeli border (UNEF II), and observer missions were sent to monitor hostilities between India and Pakistan (UNIPOM), and Israel and Syria (UNDOF). With the exception of UNIFIL, which was the last mission to be deployed during the Cold War, these generally consisted of lengthy monitoring operations in which forces could simply toe a blue line.[82]

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[78] A total of more than 6,000 troops were withdrawn by the United Arab Republic, Indonesia, Mali, Guinea, Yugoslavia and Morocco. Arthur Cox. *Prospects for Peacekeeping*. Washington: The Brookings Institution, 1967: 92.
[79] United Nations. S/4497 (1960), *letter of 9 September from First Deputy Foreign Minister of USSR*.
[80] Ibid.
[81] Macqueen 2006: 19.
[82] UNIFIL's deployment in 1978, at the end of the era of détente, was an exception. Hastily cobbled together, it was deployed largely at the behest of the US to supervise Israel's withdrawal from Southern Lebanon. Deployed into an area of ongoing hostilities, UNIFIL suffered from poor planning, the absence of a viable political process and agreement by the parties on UNIFIL's role, and the retraction of consent from belligerents. The myriad problems which beset UNIFIL were precisely those which had prompted states to move away from UN peacekeeping following experiences in the Congo and which, unfortunately, were a bellwether of the types of mission to come in the post-Cold War period.

3.2. Peacekeeping during the 1990s

Changes in the political landscape that accompanied the easing of Cold War tensions resulted in a newfound optimism over the UN's potential role in maintaining international peace.[83] Informal diplomatic consultations in late 1986 to bring an end to the Iran-Iraq war marked the beginning of what former Secretariat officials would later refer to as the 'great thaw'[84] and 'melting'.[85] Renewed interest in peacekeeping, particularly on the part of Soviet Union, indicated a growing receptivity towards multilateralism.[86] Following a decade-long hiatus, ten new UN missions were fielded between 1988 and 1991. In places like Namibia, El Salvador and Cambodia, peacekeepers, as I discuss below, played an increasingly active role in managing the transition from war to peace.

Whilst these missions foreshadowed a new era of peacekeeping, the UN-authorised enforcement action against Iraq over Kuwait in 1990 helped to re-energise the doctrine of liberal internationalism that would fundamentally alter peacekeeping, its purposes and the dominant understanding of impartiality at the end of the decade. The US-led coalition garnered an unprecedented degree of international support, signifying to many the beginning of what President George H.W. Bush exulted as the 'new world order,' in which the UN 'was poised to fulfill the historic vision of its founders'.[87] With the sound and fury of the Cold War over, and its ideological cleavages erased, it was believed that a sort of 'natural contract' between states would once again characterise international relations and forge collective purposes.[88] To that end, on 31 January 1992, following the first-ever Security Council summit at the level of heads of state, the leaders in attendance issued a strongly worded statement asserting 'their commitment to the collective security of the charter'.[89]

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[83] The disintegration of the Soviet bloc had a pronounced effect on the Security Council's activity: Between 1946 and 1990, 192 resolutions were vetoed (an average of 43 per decade). In comparison, between 1990 and November 2006, only 20 resolutions were vetoed (an average of 13 per decade). See Peter Wallensteen and Patrik Johansson. "Security Council decisions in perspective." In David Malone. *UN Security Council: From the Cold War to the 21st Century*. Boulder: Lynne Rienner Publishers, 2004.

[84] Interview with Iqbal Riza, Special adviser to the Secretary-General of the United Nations; former Chief of Staff to Secretary-General Kofi Annan; former Assistant Secretary-General in the Department of Peacekeeping Operations, New York, June 2011.

[85] Interview with Alvaro De Soto, Peruvian Diplomat; former UN Assistant Secretary-General for Political Affairs (1995-1999) and former Senior Political Adviser to Secretary-General Boutros Boutros-Ghali (1992-1994), New York, June 2011.

[86] Robert Legvold. "The revolution in Soviet foreign policy." *Foreign Affairs* 68(1)(1988): 82-98; Thomas Weiss and Meryl Kessler. "Moscow's UN policy." *Foreign Policy* 79 (1990): 94-112.

[87] Bush cited in Michael MacKinnon. *The Evolution of US Peacekeeping Under Clinton: A Fairweather Friend*. London: Frank Cass, 2000: 15.

[88] United Nations. Statement of the Presidency on behalf of the Council's membership, S/23500 (1992). See also, Adam Roberts and Benedict Kingsbury, (eds.). *United Nations Divided World: The UN's Role in International Relations* (2nd edition). Oxford: Oxford University Press, 1993: 4.

[89] United Nations. S/23500 (1992): 3. The meeting was attended by thirteen heads of state and government and two foreign ministers.

An expanded definition of security and concomitant threats was an integral part of this new vision for managing global order. According to the Council's statement, an 'absence of war and military conflicts amongst States' did not 'in itself ensure international peace and security' and 'non-military sources of instability in the economic, social, humanitarian and ecological fields [had] become threats to peace and security'.[90] The notion of 'human security', which shifted the referent from state to individual, became an increasing concern of the Council during the 1990s, prompting in certain instances, as I discuss below, authorisation to use force for humanitarian ends under Chapter VII.[91]

This change in Council practice was not solely attributable to the advent of a more complex world of heightened insecurity, as some scholars and practitioners suggest.[92] The Cold War had been rife with threats to human life. Extreme violence against civilian populations–including genocide and crimes against humanity–had occurred widely in such places as Cambodia, Bangladesh and Uganda. However, collective action to protect and promote human rights was hindered by tensions between the superpowers and contestation over the inherent meaning of these values.[93] That these sources of human vulnerability had 'become threats to international peace and security', as the Council stated in 1992, was due perhaps less to an exogenous change, than to the fact that its members now regarded them as such.[94]

3.2.1. Liberal Peacekeeping and the New World Order

This shift in the political and normative landscape had a significant impact on peacekeeping and its purposes. From December 1990 to July 1993, the number of UN personnel deployed surged from roughly 10,000 to over 78,000.[95] In response to the flurry of activity, in 1992 the Department of Peacekeeping Operations (DPKO) was created. Overnight, peacekeeping became a global activity. Missions were fielded in areas that previously would have been unthinkable, given the strategic stakes, including Europe. In addition to its geographic expansion, the face of peacekeeping drastically changed. States that had been barred from contributing forces during the Cold War became stalwart supporters of peacekeeping in the early 1990s, with Britain, France and the United States providing troops to operations in

[90] United Nations. S/23500 (1992): 3.
[91] For an overview see Neil MacFarlane and Yuen Foong Khong. *Human Security and the United Nations*. Bloomington: Indiana University Press, 2006.
[92] See for example A/47/277-S/24111 (1992). *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping:* para 17 (Henceforth '*Agenda for Peace*')
[93] The Security Council's authorisation of enforcement action over Rhodesia and South Africa were, however, notable exceptions.
[94] Nicholas Wheeler. *Saving Strangers: Humanitarian Intervention in International Society*. Oxford: Oxford University Press, 2002.
[95] United Nations. *Operations Year in Review 2009*, http://www.un.org/en/peacekeeping/resources/publications.shtml.

Cambodia, Bosnia, Somalia, and Latin America.[96] The implicit assumption was that these troops could now be accepted both locally and internationally as unbiased actors, impartial in their decision-making and actions.

No longer principally confined to interposition *between* states or to observer tasks, deployment of peacekeepers *within* states began in the late 1980s to become the norm rather than the exception. In this new operational context, the conception of "peace" that blue helmets were tasked with "keeping" and, in many cases, "making" and "building" fundamentally changed.[97] Peace was no longer the by-product of a debate between two competing visions of social and political order. With the end of the Cold War, peace became synonymous with one party's—the West's—conception of peace and good government, and its concomitant revulsion against illegitimate forms of violence. The peace of the new world order was a *liberal* peace and peacekeepers were now tasked with promulgating 'a particular vision of how states should organize themselves internally.' Such vision was to be based, as Roland Paris notes, on 'the principles of liberal democracy and market-oriented economics'.[98]

The practices associated with liberal peacekeeping were a far cry from those undertaken during the Cold War. Operations in the late 1980s and early 1990s comprised a range of specialised elements, including military and civilian police, election monitors, and rule of law, human-rights and gender experts, who sought to promote and bring about this more ambitious conception of peace by assisting with constitution-drafting, election-monitoring, disarmament-programming, protection of humanitarian assistance and the implementation of agreements–what British Foreign Minister Douglas Hurd aptly called 'painting a country blue'.[99]

3.2.1.1. An Agenda for Peace

The seismic shift in the form and content of peacekeeping was rapid and unforeseen, and developed largely in the absence of an overarching UN security framework. Recognising this deficiency and with a view to 'strengthening' and 'making more efficient' its engagement, in 1992 the Security Council commissioned a report from the newly appointed Secretary-General, Boutros Ghali. Buoyed by peacekeeping's early successes in places like Cambodia

[96] The two main exceptions were Britain's provision of forces to UNFICYP and France to UNIFIL.
[97] Michael Doyle, Ian Johnstone, and Robert Orr. *Keeping the Peace: Multidimensional UN Operations in Cambodia and El Salvador*. Cambridge: Cambridge University Press, 1997.
[98] Paris 2002: 637.
[99] Quoted in Goulding 2003: 11

and Namibia, the Secretary-General's *Agenda for Peace* presented an ambitious and proactive vision for realising the liberal peace.[100] Yet for all its zeal and alacrity, the Secretary-General's conceptual analysis of peacekeeping lacked rigour and clarity, raising more questions than it answered.[101]

The Secretary-General acknowledged that the nature of peacekeeping operations had fundamentally changed in the post-Cold War era. Nonetheless, he maintained that the traditional principles of peacekeeping and the 'basic conditions for success remain unchanged'.[102] What seemed to be an affirmation of the holy trinity outlined in the master texts was, however, at odds with the definition offered by the Secretary-General for peacekeeping. Peacekeeping, according to Boutros-Ghali, was the 'deployment of a United Nations presence in the field, *hitherto* with the consent of all the parties concerned'.[103] The Secretary-General's proposal to create specialised 'peace enforcement units' further muddied the conceptual terrain, as the distinction between these units and peacekeeping forces deployed with or without consent, was not specified. Impartiality was not mentioned in the *Agenda for Peace* other than its specification as a principle of humanitarian assistance.

The Secretary-General's qualification of the traditional requirement of consent was a significant departure from the 'tried-and true principles of UN peacekeeping' and was presented, as Roberts lamented, without 'full discussion of all the implications'.[104] The challenges of attempting to engage as an impartial actor in contexts where one was not invited in as guest–the security and reputational risks, as well as the sheer commitment such engagement required in places that now were often of marginal strategic interest to members of Council–were given cursory consideration at best. The Secretary-General's report was, in sum, far from a clear and actionable agenda for peacekeeping in the post-Cold War world. As I explain below, it provided little guidance in dealing with the tumultuous circumstances in which peacekeepers would soon become embroiled.

[100] Multiple departments worked on the report, but Boutros-Ghali was significantly involved. Interview with DeSoto, New York, June 2011.
[101] For a critique see Adam Roberts. "The Crisis in UN Peacekeeping." *Survival* 36(3) (1994): 93-120.
[102] *Agenda for Peace,* para 20.
[103] *Agenda for Peace*: para 20.
[104] As Roberts notes, the Secretary-General subsequently compounded the confusion in his 1993 Annual Report by declaring that peace enforcement should be regarded as a peacekeeping activity that does 'not necessarily involve the consent of all the parties concerned.' Roberts 1994: 100.

3.2.2. The Nadir of UN Peacekeeping and the Crisis in Liberal Internationalism

The optimism pervasive in the early post-Cold War period–epitomised by Boutros-Ghali's *Agenda for Peace*–was quickly curtailed by a string of peacekeeping failures that lay bare the difficulties of realising a more ambitious liberal peace and the deficiencies of existing conceptual frameworks. If Security Council-authorised action in Iraq had been the harbinger of a 'new world order', the violence that engulfed the places in which peacekeepers were deployed in the mid-1990s suggested instead a world plagued by disorder. These conflicts were often a direct outgrowth of the Cold War–the breakup of empire, the withdrawal of proxy patronage and the jarring effects of decades of economic dependency and stagnant development.[105] Multiple competing factions vied for political and social authority in places often choked with weapons and landmines. The toll on civilians was dire.

In such contexts, UN personnel were not alone in the challenges they faced. Indeed, the morass in which UN peacekeeping became mired in the 1990s pointed to a deeper crisis in liberal internationalism.[106] Humanitarian organisations also grappled with uncertainty over their role as third parties in contexts of endemic violence and suffering. Impartiality and neutrality–core norms of humanitarian action which traditionally meant that aid workers abstained from passing judgment on the cause or conduct of war in order to safeguard access and liaise with local authorities–came under sustained attack in the mid-1990s.[107] Scholars and practitioners of humanitarian action warned of the dangers of 'supping with the devil' and media headlines shouted of 'militarised aid' and the 'well-fed dead' in places like eastern Zaire and Bosnia.[108]

At the crux of this crisis, as Anne Orford argues, was the issue of authority, giving rise to two sets of inter-related questions for humanitarians and peacekeepers alike.[109] The first set of questions concerned the authority of these actors as they engaged in contexts where consent was qualified. Without the consent of all parties and in the absence of a firm commitment to their objectives, on what basis could the decisions and actions of these actors be legitimate and impartial? From where and whom did their authority derive?

[105] Mary Kaldor. *New and Old Wars: Organized Violence in a Global Era* (Second edition). Cambridge: Polity Press, 2006.
[106] Stanley Hoffmann. "The Crisis of Liberal Internationalism." *Foreign Policy* 98 (1995): 159-177.
[107] Mary Anderson. *Do No Harm: How Aid can Support Peace – or War.* Boulder: Lynne Rienner, 1998; Fiona Terry. *Condemned to Repeat? The Paradox of Humanitarian Action.* Ithaca: Cornell University Press, 2002.
[108] Nicholas Leader. "Proliferating Principles, or How to Sup with the Devil Without Getting Eaten." *The International Journal of Human Rights* 2(4) (1998): 1-27; New York Times, "The Well-Fed Dead in Bosnia," 15 July 1992.
[109] Anne Orford. *International Authority and the Responsibility to Protect.* New York: Cambridge University Press, 2011: 10.

Moreover, why should UN officials, rather than domestic or local authorities, have the power to use force and temporarily govern societies?[110]

Inextricably linked to these concerns was a second set of questions concerning the relationship between international actors and local claimants to authority. How were international actors to decide with whom to coordinate and work in places where social divisions ran deep and authority was virulently contested? Whose acceptance, if any, was necessary for their presence? Could dialogue with all parties to a conflict, including those responsible for committing grievous suffering, be justified?

Without a clear conceptualisation of their own authority and background of valuation on which to base their decisions and actions, peacekeepers and aid workers had no coherent answers to these questions. Nor could they justify, as Orford explains, 'the political choices they were inevitably making, by treating genocidaires in the same way as insurgents, or by liaising with warlords as well as parliamentarians'.[111]

3.2.2.1. Somalia, Rwanda and the former Yugoslavia

These questions came most urgently to the fore during the UN's engagement in Somalia, Rwanda and the former Yugoslavia. Indeed, of all the missions authorised by the Council during the 1990s, these three cases brought peacekeeping closest to collapse. In each of these contexts, peace proved to be elusive and consent for the mission and its mandate was difficult, if not impossible, to obtain and maintain. Frequently lacking buy-in, ceasefire arrangements and peace agreements broke down and were suspended.[112]

The first UN Operation in Somalia (UNOSOM) was deployed in 1992 to 'provide protection for humanitarian operations' and monitor a shaky ceasefire arrangement.[113] Without a sovereign government to offer its consent, however, the mission's deployment had only the temporary acquiescence of the main two factions.[114] That same year, after failed attempts by the European Community (EC) to negotiate peace, the United Nations Protection Force (UNPROFOR) was authorised by the Council as an 'interim arrangement for the negotiation

[110] Orford 2011: 10.
[111] Ibid: 10.
[112] James Mayall. *The New Interventionism 1991-1994: United Nations Experience in Cambodia, Former Yugoslavia and Somalia.* Cambridge: Cambridge University Press, 1996.
[113] S/RES/751 (1992)
[114] UNOSOM was initially deployed with the consent of the two leading factions–the Somali National Alliance or "USC/SNA" under Aideed and the United Somali Congress under Mahdi.

of an overall settlement of the Yugoslav crisis'.[115] Whilst several groups agreed to the mission's deployment, others withheld their consent for UNPROFOR. In recommending the force, the Secretary-General gambled that the consequences of deployment without full consent were 'less grievous' than the danger of delay.[116] Finally, even the United Nations Mission for Rwanda (UNAMIR), which was based on the Arusha Peace Accords–an agreement that took years to negotiate and that was signed by all the main parties to the conflict–had dim prospects. Far from being a stable agreement, the multiparty transition outlined in the Accords raised the stakes of peace and exacerbated tensions by creating a framework for democratisation through which the Rwandan Patriotic Front (RPF), one of the leading parties, would come out as the strongest political force.[117]

The absence of a firm commitment to peace by the parties to the conflict, and the vagaries of consent in each of these contexts, meant that the decisions and actions of peacekeepers were invariably viewed as partial: activities regarded as legitimate by one faction were criticised by others as furthering the war effort of their enemies. Moreover, the expanded set of tasks that peacekeepers were authorised to carry out widened the scope for possible criticism and instrumentalisation by parties to the conflict. Tasked with disarming militia, protecting humanitarian assistance, and documenting violations of the laws of armed conflict, peacekeepers became either obstacles to the realisation of war aims or pawns with which to achieve them.

In addition to the challenges of being impartial in the absence of firm and comprehensive consent, the prior issue of a mission's composition was of consequence to the actual and perceived ability of peacekeepers to be impartial. With empire a seemingly distant memory, and fears of superpower meddling abated, the once delicate and contentious process of selecting troop contributions for particular missions became a perfunctory exercise of matching supply with ever increasing demand. The assumption, however, that most soldiers could now serve as impartial peacekeepers, and be accepted as such, was flawed in two respects.

First, it was assumed that history was of little consequence in shaping local perceptions of a mission, its forces and their ability to be impartial, as if the end of the Cold War had erased the imprint of external interference, domination and patronage. Reactions on the ground,

[115] United Nations, S/RES/713 (1991).
[116] Faced with this intransigence, the Secretary-General maintained that the danger that the UN force would fail due to lack of co-operation was 'less grievous than the danger that delay in its dispatch would lead to a breakdown of the cease-fire and to a new conflagration'. United Nations, UNPROFOR, http://www.un.org/Depts/dpko/dpko/co_mission/unprof_b.htm.
[117] Catherine Newbury. "Background to Genocide: Rwanda." *Issue: A Journal of Opinion* 23(2) (1995): 15.

however, suggested otherwise. In Rwanda, violent demonstrations took place when Belgium, the country's former colonial power, sent forces to join UNAMIR in 1994.[118] It was the system of colonial rule imposed by the Belgians that had entrenched ethnic divisionism in Rwanda and supported the Tutsi minority as the ruling class. Consequently, as Roméo Dallaire, Force Commander of UNAMIR, acerbically notes, it should have been of little surprise that Belgium's involvement in UNAMIR would deepen animosity towards the mission, particularly by radical Hutu factions.[119] On the first day of the genocide, ten Belgian troops assigned to guard the prime minister were killed and mutilated.[120] In response to the killings, Belgium withdrew its forces. A report by the Belgian Senate following the genocide was emphatic in criticising the decision to deploy forces to Rwanda, arguing that in such circumstances there could be no question—or very little—of 'impartiality, a condition essential to the success of a peacekeeping operation'.[121]

Second, the lack of attention to troop selection and the procedural requirements of impartiality disregarded the motivations compelling states to contribute forces to these more demanding missions. It discounted the possibility that peacekeeping in the name of a venerated international community could mask more nefarious and partial interests of particular states. The French Operation Turquoise, deployed in the wake of the Rwandan genocide to set up 'safe zones', an operation which the Council specified should be 'conducted in an *impartial* and *neutral* fashion', provided jarring evidence that this was not the case.[122] The French were longtime allies of the government of Hutu President Habyarimana and, up until the start of the genocide, had provided military support to the government, making its subsequent involvement highly questionable.[123] While the French managed to stem some of the violence by establishing a 'safe zone' in the Cyangugu-Kibuye-Gikongoro triangle, by refusing to detain the *genocidaires* and by staving off RPF advancement by their very presence, Operation Turquoise opened the way for members of the Rwandan Armed Forces (FAR) and leaders of the Interahamwe to flee to neighbouring countries, causing conflict in the region for years to come, as detailed in Part III.

In Somalia, it was not the involvement or the motivation of a particular troop-contributing country that called into question the mission's impartiality, but rather the perceived bias of

[118] Roméo Dallaire. *Shake Hands with the Devil. The Failure of Humanity in Rwanda.* New York: Carroll & Graff Publishers, 2003: 144.
[119] Ibid: 144.
[120] The Ghanaian and Togolese peacekeepers captured at the same time were spared.
[121] *Belgian Senate Report*: Commission of Inquiry by Mr. Mahoux and Mr. Verhofstadt, Brussels. 1997. Available at http://www.senate.be/english/rwanda.
[122] United Nations. S/1994/728 (1994). *Report of the Secretary-General on Rwanda.*
[123] Daniela Kroslak. *The role of France in the Rwandan genocide.* London: Hurst & Co., 2007.

Boutros-Ghali. As Egypt's foreign minister from 1977 to 1991, Boutros-Ghali had fostered close relations with former Somali President Siad Barre, the longtime foe of Mohammad Farah Aideed, leader of the Somali National Alliance (SNA), and a main faction leader with whom the UN had direct relations throughout its involvement in the country in the early 1990s.[124] When the Secretary-General visited the country in early January 1993 he was met with large and hostile demonstrations.[125] As I discuss below, tensions between the UN and Aideed's faction eventually escalated to the point of all-out battle.

3.2.2.2. The Delusion of Impartial Peacekeeping during War Time

The challenges of peacekeeping in contexts where consent was illusory and the partiality of UN forces was questioned bore down on the Secretariat and DPKO. Despite the odd veteran who remembered the tribulations of ONUC in Congo, the peacekeeping landscape that UN officials confronted in the mid-1990s was largely uncharted terrain. As Louise Fréchette, the Canadian Permanent Representative to the UN from 1992-1994 and later Deputy Secretary-General, recounts: 'In the 1990s, none of the member states nor the Secretariat really had any experience in what they were attempting to do… there was a lot of naiveté. They really thought that if you deployed lots of troops with a UN mandate that would do the trick… Well it didn't…There was improvisation everyday.'[126]

The Security Council lurched from crisis to crisis, displaying an acute lack of strategic foresight. As the security and political situation in a country would deteriorate, the Council was wont to issue new mandates and a slew of additional tasks; a piling up of purposes that critics argued was often a substitute for meaningful political engagement. Improvisation in New York led to chaotic operations on the ground, as field officials grappled with increasingly complex, and often contradictory, mandates that were grossly under-resourced. Resolutions frequently willed the humanitarian ends but not the military means.

Peacekeeper responses to parties on the ground that threatened civilians and compromised their ability to fulfill their mandate varied greatly both within and across mission contexts. As I describe below, in some instances, peacekeepers were passive in their reactions to obstructions by local parties; in other instances, peacekeepers used force both to target

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[124] John Hirsch and Robert Oakley. *Somalia and Operation Restore Hope. Reflections on Peacemaking and Peacekeeping*. Washington: United States Institute of Peace Press, 1995: 9.
[125] Interview with Ambassador John Hirsch, Senior Fellow, International Peace Institute; Former Political Advisor to the Commander of Unified Task Force (UNITAF), New York, March 2010.
[126] Interview with Louise Fréchette, former United Nations Deputy Secretary-General (1997-2006); Permanent Representative of Canada to the United Nations (1992-1994), Montreal, March 2011.

particular intransigent groups and, more indiscriminately, in an effort to maintain an image of impartiality. The perceived failures of one mission shaped approaches in the next, and confusion over the meaning of impartiality was rife.

In Somalia, in June 1993, following the killing of 24 Pakistani peacekeepers during the raid of an arms cache in Mogadishu, the UN mission abandoned all pretense of being passively impartial.[127] Resolution 837 authorised the mission to take 'all necessary measures' against those responsible for the attack, and explicitly named the party at fault–the SNA.[128] The change in mandate had a transformative effect on the mission and local perceptions of it.[129] Confrontations between UN forces and the SNA continued to escalate, culminating on 3 October 1993 in the attempted capture of Aideed's cabinet members in the Olympic Hotel and the shooting-down of three US Black Hawk helicopters which had been deployed to reinforce UN troops. Images of the dead US personnel, pulled from the wreckage and dragged through the streets of Mogadishu by a Somali mob, were broadcast around the world.

The harrowing experiences in Somalia cast a long shadow over peacekeeping. By crossing what became known as the 'Mogadishu line,' US-UN forces had, it was argued, taken peacekeeping into dangerous waters.[130] The loss of impartiality, combined with the total absence of consent, was understood as the determining factor in crossing that line. Senior UN officials emphasised that any action that would jeopardise a mission's impartiality, thereby dragging its forces into a potential conflict, was to be avoided at all costs.[131] However, as Michael Barnett remembers, the UN's adherence to 'the rules became ends in themselves.'[132]

The "lessons" of Somalia were felt most acutely in the context of Rwanda. That Kigali could become another Mogadishu was a pervasive concern in the Secretariat, DPKO and many Western capitals. For example, Dallaire's request for authorisation from UN headquarters to

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[127] UNOSOM II's mission in S/RES/814 (1993) was broader than UNITAF and encompassed many of those tasks which had been previously resisted by the US in the formulation of UNITAF's mandate.
[128] S/RES/837 (1993).
[129] Mohamed Sahnoun, the former UN Special Representative, reportedly remarked that Somalis came to perceive the mission as an 'occupation force'. Quoted in Ramesh Thakur. "From Peacekeeping to Peace Enforcement: The UN Operation in Somalia" in *The Journal of Modern African Studies,* 32(3)(1994): 399.
[130] Lieutenant-General Sir Michael Rose coined the expression 'crossing the Mogadishu line' in describing the key dilemma faced by his armed troops when he was commander of UNPROFOR in Bosnia. According to Rose, this dilemma entailed the choice of maintaining the appearance of neutrality and acting impartially in the midst of civil war, whilst simultaneously attempting to achieve the mission's political objectives. See Charles Fowler. *The UN Intervention in Somalia: Clausewitz at the Crossing of the Mogadishu Line.* Washington: National War College, 2000.
[131] Thakur 1994: 399.
[132] Michael Barnett and Martha Finnemore. *Rules for the World: International Organizations in Global Politics.* Ithaca: Cornell University Press, 2004: 123. See also Michael Barnett. *Eyewitness to a Genocide: The United Nations and Rwanda.* Ithaca: Cornell University Press, 2002.

raid a major weapons cache in Rwanda was denied for fear of losing the consent of the host government, thereby jeopardising UNAMIR's impartiality.[133] The cache went untouched, and when the killing began shortly after, UN forces were, as Colonel Marchal notes, left in the painful position of having to 'just stay and watch without reaction'.[134] Between April and July 1994, in what was arguably one of the UN's darkest hours, Hutu extremists, largely unopposed by peacekeepers, systematically murdered over 800,000 Tutsis and Hutu moderates.[135]

The issue of impartiality also figured prominently in developments in the former Yugoslavia, where, by the end of 1992 UNPROFOR's remit extended to Croatia, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia. More than just geographic expansion, through successive UN Resolutions, the mission was authorised to undertake a broad range of contradictory tasks.[136] In practice, these tasks amounted to a 'limited but impartial involvement' for the UN, but one that, as Richard Betts noted bitingly, 'abetted slow-motion savagery'.[137] Measures that helped one side were offset by actions that helped the other. This duplicity, Betts notes, 'alienated [parties] and enabled them to keep fighting the other.'[138] Impartial peacekeeping, critics asserted, undermined the very peace that blue helmets had been deployed to support.[139]

In Sarajevo where, amongst other tasks, UNPROFOR was in charge of maintaining the security of the 'neutral airport', the force's ostensible commitment to impartiality resulted in action that directly imperiled civilians. Placed between the besieged city and the Bosnian Serbs, the UN-controlled airport became an ever more dangerous barrier to those trying to flee Sarajevo. As Nedzad Brancovic, an engineer who designed a tunnel that was eventually dug underneath the airport, recalls:

> UNPROFOR troops patrolling the area were determined to upkeep UN impartiality, often at a terrible expense…as we ran across the airport the UN troops tried to stop us. They would chase us and shine big lights in our direction. The [Serb] snipers

[133] Raiding the cache was within Dallaire's remit to secure a weapons-secure area, but not authorised under a Chapter VII mandate.
[134] Quoted in interview for *Frontline: The Triumph of Evil.* PBS television broadcast, 1999. Transcript available at http://www.pbs.org/wgbh/pages/frontline/shows/evil/interviews/marchal.html.
[135] On 21 April, amid reports of widespread killing, the Council reduced the number of troops to 270. Whilst on 17 May the Council reversed this decision and authorised the deployment of 5,500 troops, member states were not forthcoming with personnel, and by June UNAMIR still comprised only 500 individuals.
[136] Between 1991 and 1995, more than 140 Council resolutions and presidential statements were authorised relating to the former Yugoslavia, many of which dealt with Bosnia. Mats Berdal. "The Security Council and Peacekeeping." In *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945*, (ed) Lowe, *et al.,* 2008: 194.
[137] Betts 1994: 24.
[138] Ibid: 24.
[139] Edward Luttwak. "Give war a chance." *Foreign Affairs* (1999): 36-44.

> would lie in wait and shoot many of those left defenseless in the glare of the spotlights...[140]

An estimated 250 people were killed trying to leave Sarajevo by fleeing across the UN-controlled airport, leading the local population to charge that UNPROFOR was, indeed, a misnomer for a force that provided little in the way of protection.

It was, however, the tragedies related to the UN 'safe areas' in Bosnia which were arguably most damning and had the greatest impact on the reinterpretation of impartiality. Peacekeepers deployed to protect the six designated enclaves had few means to enforce their mandate on the ground and, according to Security Council Resolution 836, were to rely on air power supplied by NATO forces to deter attacks committed predominantly by Bosnian Serbs.[141] This arrangement was even more problematic given the mission's mandate also to disarm the enclaves and enforce an arms embargo.[142] "Pinprick" air raids provoked Serb retaliation without deterring aggression or neutralising the threat to the safe areas, thereby making the populations inside the safe zones more vulnerable. When the safe area of Srebrenica was attacked in 1995, having been demilitarised by UNPROFOR, the Bosnians were largely unable to defend themselves, and UNPROFOR troops, themselves only lightly armed, merely fired warning shots over the attacking Serbs, lest aiming more directly engulf them in the fray. When two bombs were eventually dropped by NATO on the Bosnian Serbs' armory, General Mladic responded by threatening to kill UNPROFOR troops and, as predicted by Serbian forces, both the UN and NATO withdrew. UNPROFOR abandoned the city on foot and NATO ceased its bombing. With Srebrenica under their control, the Serbs moved in to ethnically cleanse the area, 'evacuating women and children to Tuzla, but drawing aside men' for mass execution.[143]

3.2.2.3. Operational Retrenchment and Conceptual Confusion

The harrowing experiences of peacekeeping in Somalia, Rwanda and the former Yugoslavia led the UN to retreat from peacekeeping activity. Many within DPKO and the Secretariat believed that peacekeeping should 'go back to the basics' and deployments were limited to

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[140] Archived website available at http://web.archive.org/web//http://www.hadzic.org/secret-tunnel/tunnel.htm. See also Adam Lebor. *"Complicity with Evil." The United Nations in the Age of Modern Genocide*. New Haven: Yale University Press, 2007: 37.

[141] United Nations. S/RES/836 (1993).

[142] Kofi Annan explains 'We believed that by using air power against the Serbs we would be perceived as having entered the war against them, something not authorized by the Security Council and potentially fatal for a peacekeeping operation.' United Nations. A/54/549 (1999). *Report of the Secretary-General pursuant to General Assembly Resolution 53/35*: *The Fall of Srebrenica*: para 482. (Henceforth '*Srebrenica Report*')

[143] Ibid: 79.

those contexts where it was believed that the traditional trinity could be upheld.[144] The boom was followed by resounding bust. In 1992 roughly 70,000 peacekeepers were deployed under the auspices of the UN. By 1996, the number had been reduced to fewer than 20,000 worldwide. From late 1993 to 1998, the organisation fielded only one new large mission, in Eastern Slovenia.[145]

In 1995, Secretary-General Boutros-Ghali issued a *Supplement to the Agenda for Peace*. More modest and cautious than his previous report, the supplement was an attempt to reflect on the tragedies experienced in the previous two years and take stock of what he labeled as the 'new kind of UN operation'.[146] However, similar to his initial agenda, the supplement provided little conceptual clarity. The Secretary-General simply reasserted that consent, impartiality and the non-use of force were 'essential' to a mission's success and very constitution.[147] Moreover, recalling the controversial Operation Turquoise in Rwanda, the supplement confusingly characterised the 'new kind' of operation as one in which forces, authorised under Chapter VII, should be 'neutral *and* impartial'.[148]

The inherent confusion in the Secretary-General's supplement over the meaning of impartiality and, by extension, the role of peacekeepers, was further compounded by the proliferation of national peacekeeping manuals and doctrines published in the mid-to-late 1990s.[149] These documents reflected the increasing reluctance of many Western states to participate in UN-led missions, the growing tendency of the Council to authorise peacekeeping missions under the auspices of regional organisations or lead-states, and an attempt by those participating in these alternative institutional arrangements to professionalise multilateral peace exercises. The resulting texts displayed an array of interpretations of the traditional trinity, leading Stephen Stedman to note in 1996 that 'when

[144] Shashi Tharoor. "Should UN Peacekeeping Go 'Back to the Basics?" *Survival,* 37(4)(Winter 1995-6): 60. Several "lessons-learned" reports were issued by the UN in the mid-1990s. These reports however barely grappled with the problems the UN missions in Somalia and Rwanda had confronted, and illustrated the conservative turn in peacekeeping in the mid-1990s, which called for a retreat to traditional missions. See bibliography.
[145] While several smaller operations were authorised, they lacked the scale, size or scope of previous missions, e.g., The United Nations Support Mission in Haiti (UNSMIH, 1996-1997); United Nations Transition Mission in Haiti (UNTMIH, 1997); and the UN Verification mission in Guatemala (MINUGUA, 1997).
[146] United Nations. A/50/60-S/1995/1 (1995). *Supplement to An Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations.*
[147] Ibid: para 32.
[148] Ibid., para 19 (emphasis added).
[149] *Nordic Tactical Manual* makes no distinction between peacekeeping and peace enforcement, specifying that peacekeepers should be 'neutral and impartial' and not 'take part in hostilities.' The American *Field Manual 100-23* differentiates between peacekeeping and peace enforcement: the former entails 'neutral and impartial' peacekeepers who keep the peace through 'persuasion and not intimidation.' Impartiality is not discussed with regards to peace enforcement. The *French doctrine*, presented at the 1995 UNIDIR Conference, differentiates between peacekeeping, peace-restoring and peace enforcement. Across all three categories, the French advocate 'active impartiality'–total impartiality towards the parties based on implementing the mandate, but without being 'totally neutral which could have the effect on the force's credibility.' See Stephen Stedman. "Consent, Neutrality, and Impartiality in the Tower of Babel and on the Frontlines: United Nations Peacekeeping in the 1990s." In *Managing Arms in Peace Process: The Issues, Disarmament and Conflict Resolution Project*, New York: UNIDIR, 1996: 35.

different armies speak of consent, neutrality, and impartiality, they now mean different things.'[150] Conceptual confusion persisted, and grew.

3.3. Peacekeeping in the New Millennium

The advent of several new conflicts in 1999 brought the crisis in liberal internationalism and its attendant questions about authority to a head, particularly for those involved in peacekeeping. After a five-year lull, the Security Council authorised the creation of four new peacekeeping missions within a period of six months (UNTAET in East Timor, MONUC in the Democratic Republic of Congo, UNAMSIL in Sierra Leone, and UNMIK in Kosovo), nearly doubling the number of peacekeepers deployed worldwide. These missions were followed shortly after by several other large missions–UNMIL in Liberia, UNOCI in Ivory Coast, ONUB in Burundi and MINUSTAH in Haiti–all unparalleled in their complexity and range of activities.[151]

As these new missions deployed, old tensions resurfaced. In late 1999, two lessons learned reports on the UN's experience in Rwanda and Srebrenica were released, which highlighted, in particular, the 'problem of impartiality'.[152] Sobering and unsparing reminders of the challenges confronted by peacekeepers, these reports reopened old wounds, not least in the Secretariat, where Kofi Annan, who had been in charge of peacekeeping from 1993 to 1995, now served as Secretary-General. 'There was a deep embarrassment with what happened' as Jean-Marie Guéhenno, the newly appointed head of DPKO, remembers; 'a sense of shame amongst the Secretariat and member states–amongst everybody really–and so you had to reconceptualise [peacekeeping].'[153] With the Security Council once again keen on deploying blue helmets, the time had come to forge a more coherent organisational identity and a clearer purpose for peacekeeping in the new millennium.

3.3.1. A New Understanding of Impartiality

In March 2000, Secretary-General Annan convened a high-level panel of experts, led by Algerian diplomat Lakhdar Brahimi, in order to review the organisation's activities in the area of peace and security. Published in August 2000, the *Brahimi Report* provided an in-depth

[150] Stedman 1996: 35.
[151] For a complete list of all UN peacekeeping missions see www.un.org/en/peacekeeping/documents/operationslist.pdf
[152] *Srebrenica Report*: para 129. United Nations. *Report of the independent inquiry into the actions of the United Nations during the 1994 genocide in Rwanda.* S/1999/1257.
[153] Interview with Jean-Marie Guéhenno, Former Under-Secretary-General of UN Peacekeeping, New York, June 2011.

critique of peacekeeping and identified areas for reform.

The *Brahimi Report* was the first to articulate what is now the prevailing understanding of impartiality as a norm of UN peacekeeping. According to Michael Doyle, who was closely involved with the panel and its implementation at the UN, the idea took hold quickly. By April 2001, he argues, it was 'fully absorbed.'[154] This conception was further institutionalised in several other seminal UN policy documents, including the 2003 *Peacekeeping Handbook* and the 2008 *Principles and Guidelines* (otherwise referred to as the '*Capstone Doctrine*').[155] The latter is notable in that it is the first and only attempt by the UN to develop a comprehensive peacekeeping doctrine. It continues to serve as a touchstone for contemporary practice.[156]

Rather than representing a novel departure, the understanding of impartiality that is institutionalised in the *Brahimi Report* 'expressed and codified a change that was already underway', as one official involved with the panel recounts.[157] Indeed, this new formulation of the norm reflected the evolving content of Security Council mandates at the end of the 1999s and was an integral part of the turn towards a more assertive liberal internationalism in the new millennium. Moreover, it represented a convergence with doctrines developed by western powers in the 1990s and, in particular, with the UK's *Peace Support Operations* JWP 3-50, France's *Principles for the Employment of the Armed Forces Under UN Auspices*, and *the NATO Doctrine for Peace Support Operations.*[158] As I discuss further below, the realisation, promotion and defense of human rights is at the core of this broader change and has translated into forms of engagement by international actors that are less consensual and more compulsory and coercive, premised on and motivated by the upholding of rights. Simply put, liberal internationalism packs a lot more punch.

The understanding of impartiality that has been institutionalised at the UN since 2000 differs from previous conceptions of what I have termed the composite norm. Under the new conception, the procedural requirements of impartiality remain the same–that is, the condition that peacekeepers be unbiased and informed, and implement their mandate without 'favour or prejudice to any party'.[159] Rather, the transformation is in the *basis for*

[154] Interview with Doyle, New York, June 2011.
[155] *Handbook on United Nations Multidimensional Peacekeeping Operations.* New York: United Nations, Department of Peacekeeping Operations, Best Practices Unit, 2003 (Henceforth '*Handbook*'); *Capstone Doctrine.*
[156] The doctrine is meant 'as a guide for all UN personnel serving in the field and at UN headquarters, as well as an introduction to those who are new to UN peacekeeping'. *Capstone Doctrine:* 9.
[157] Interview with diplomat, New York, October 2011.
[158] UK Ministry of Defence. *Peace Support Operations: Joint Warfare Publication 3-50Joint Warfare Publication*, London, 1997; French Ministry of Defence. *Principles for the Employment of the Armed Forces under UN Auspices*, Paper presented at UNIDIR conference, 'Differing National Perspectives on UN, 1995; NATO. *Bi-MNC Directive for Nato Doctrine for Peace Support Operations*, Brussels, 1998.
[159] *Capstone Doctrine* 2008: 32

decision-making, which is now significantly broader than those terms set by the parties to a particular dispute and agreed to by members of the Security Council. In other words, the background of valuation upon which actors are expected to make decisions and take action, and from which they derive much of their authority *as* impartial actors, has fundamentally changed. The content and objectives of mandates are radically different than those authorised previously by the Council. They represent a more expansive and normatively ambitious basis for judgment that extends beyond the peace agreement to which parties may or may not have consented.

The *Brahimi Report*, the *Peacekeeping Handbook* and the *Capstone Doctrine*, as well as the statements of various senior UN officials, citing international humanitarian law, human-rights law, the UN Charter, and international norms more generally, are somewhat inconsistent and vague in specifying the precise source of this more expansive background of valuation.[160] They are, however, unified by the idea that the impartial decisions and actions of peacekeepers should no longer be contingent upon, or constrained by, the necessity of securing the continual consent of *all* parties within a specific context in which peacekeepers are deployed, particularly when civilians are in peril. As the background report for the *Capstone Doctrine* asserts:

> Impartiality…is about ensuring that what is supposed to happen does happen. It is about ensuring that international laws and norms are respected, that UN mandates are fulfilled, and that agreements concluded between contending parties and endorsed by the UN are honoured both in spirit and in practice… It is about ensuring that this all happens regardless of what some might have preferred or some might now prefer.[161]

Impartiality, as the *Brahimi Report* asserts, means 'adherence to the principles of the Charter and to the objectives of a mandate that is rooted in those Charter principles.'[162] In contrast to the passive conception of the norm that was inscribed in the master texts during the Cold War, peacekeepers, according to the *Handbook*, must now 'actively pursue the implementation of their mandate even if doing so goes against the interests of one or more of the parties.'[163] Missions, as the *Capstone Doctrine* emphasises, should not 'condone actions

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[160] See United Nations Press Release DSG/SM/96 (2000), "United Nations Peacekeeping–a changing landscape", *Address of DSG Louise Fréchette to the Canadian Institute of International Affairs and the United Nations Association of Canada*, Ottawa; United Nations, Press Release SG/SM/6901 (1999), *Speech by the Secretary-General* at Georgetown University, Washington; United Nations, Press Release SG/SM/6870 (1999), *Speech by the Secretary-General* at the National University of Ireland, Galway.
[161] "Background Note", *Workshop on Fundamental Principles of UN Peacekeeping. Stockholm, 26-28 September 2006,* United Nations, Department of Peacekeeping Operations, Department of Policy, Evaluation and Training, 2006.
[162] *Brahimi Report*: para 50.
[163] *Handbook*: 56.

by the parties that violate the undertakings of the peace process or the international norms and principles that a United Nations peacekeeping operation upholds.'[164]

By expanding the basis for judgment to encompass conditions that may not be agreed to by all parties to a dispute, the new conception of impartiality calls into question the very notion of consent. While the condition of consent has not been completely abandoned and is in theory, as I discuss below, required at the strategic level, its significance has been dramatically reduced, transformed into a pale shadow of its former self. That most missions since 1999 have been authorised through invocation of Chapter VII and thus do not formally require consent as a legal prerequisite for deployment or to undertake particular actions, is a testament to the established dominance of the new understanding of the norm and, relatedly, a new role for UN peacekeepers.

3.3.1.1. From Peacekeeping as Mediation to Peacekeeping as Policing

Under these stipulations, the role of the peacekeeper is no longer commensurate with that of the impartial mediator whose judgments are based on terms set by those parties consenting to mediation. Rather, the blue helmets of today are akin to police officers who enforce the law and 'penalize infractions'.[165] This change must be understood as part of a larger shift towards a "crime" mentality, which, as I discuss below, has manifest in several liberal advances, notably including developments in international criminal prosecution. As Michael Doyle remembers from his experience advising the Brahimi panel:

> The analogy we often used was the cop on the beat who is impartial in the enforcement of the law–who stops the criminal activity–who shoots and/or arrests the criminal… Impartiality, the right doctrine, means that without fear or favour–whoever is the victim will be supported to stop victimisation more widely.[166]

As I described in the introduction, the characterisation of peacekeeping as policing which finds expression in the *Brahimi Report* and the *Capstone Doctrine*, resonates with the scholarship of Mary Kaldor and others who in the late 1990s called for a new genre of peacekeeping as 'cosmopolitan law enforcement'.[167] While not framed explicitly as such, peacekeeping in the new millennium hews closely to this law-enforcement vision, perceivable in the increasing number of police forces, gendarmerie and rule-of-law experts that are regularly deployed in

[164] *Capstone Doctrine*: 33.
[165] Ibid: 33.
[166] Interview with Doyle, New York, June 2011.
[167] Kaldor 2006.

contemporary UN missions.[168]

This shift in thinking about the role of peacekeepers is premised to a large extent on a particular understanding of violence as illegitimate and criminal–a notion that captured headlines in the West and was promulgated by scholars and practitioners in the late 1990s.[169] As Kaldor asserts: 'these wars are not football matches; the various parties do not accept the rules. On the contrary, the nature of these wars is rule-breaking. The point is rather to persuade ordinary people of the advantages of rules so as to isolate and marginalise those who break them'.[170]

According to this view, conflict in the post-Cold War era is less about politics and ideology than about profit and plunder, or about atavistic and ancient enmities. A distinction is drawn between the 'old' civil wars, which are considered 'ideological, political, collective, even noble' and the 'new' civil wars, characterised principally as 'criminal, depoliticized, private and predatory'.[171] For some, the utter 'barbarism' of conflict in the post-Cold War era even signaled that it is 'about *nothing at all*'.[172]

With violence now understood as a form of moral collapse, the new understanding of impartiality is an attempt to address the conceptual morass of the 1990s, disputes over the position and posture of peacekeepers, and their relations with local actors. As police forces uphold order in general, so too do peacekeeping forces now claim an impartial authority over parties within the context of deployment, without bias or commitment to any side. Contemporary peacekeepers, vested with the authority of the 'law', are tasked with deciding what constitutes 'right' and 'wrong', and distinguishing 'victim' from 'aggressor' or 'perpetrator'. Concomitantly, from acting impartially *between* or among parties, the authority of peacekeeping missions has decisively shifted into claiming authority *over* parties based on a more expansive background of valuation that, as I explain below, concerns itself first and foremost with human rights. This change cements peacekeeping into a seemingly more virtuous activity, albeit one that is significantly militarised.

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[168] The number of police deployed globally increased from 5,840 in 1995 to 17,500 in 2010. Details available on United Nations, UN Policing Website http://www.un.org/en/peacekeeping/sites/police/policing.shtml

[169] Mainstream accounts of violence in the 1990s include: Hans Magnus Enzensberger. *Civil Wars: From LA To Bosnia*. New York: The New Press, 1994; Robert Kaplan. *Balkan Ghosts: A Journey Through History*. New York: Vintage, 1994; Michael Ignatieff. *The Warrior's Honor. Ethnic War and the Modern Conscience*. New York: Henry Holt & Co., 1998. For scholarly analysis see: Kalevi Holsti. *The State, War, and the State of War*. Cambridge: Cambridge University Press, 1996; Mats Berdal and David Malone. *Greed and Grievance: Economic Agendas in Civil Wars*. Boulder: Lynne Rienner, 2000.

[170] Kaldor 2006: 128.

[171] Stathis Kalyvas. "'New' and 'Old' Civil Wars: A Valid Distinction?." *World Politics* 54 (October 2001): 100.

[172] Enzensberger 1994: 22.

3.3.1.2. "Robust" Peace Operations

Inextricably linked to this transformation in the role of peacekeepers is the issue of the use of force. In marked contrast to the strong aversion to the use of force during the Cold War and the vicissitudes of peacekeepers during the 1990s in responding to violence for fear of being perceived as partial, the *Brahimi Report* is unequivocal in countenancing that peacekeepers be given authority to use force. Blue helmets must be prepared to 'confront lingering forces of war and violence with the ability and determination to defeat them.'[173] 'In certain cases', the *Report* affirms, peacekeepers are not only 'operationally justified in using force but morally compelled to do so.'[174] Peacekeepers must at times 'oppose obvious evil'.[175]

In this way, the reformulation of impartiality has been closely tied to the development of 'robust' peacekeeping – a concept that first figured prominently in the *Brahimi Report* and has since taken hold.[176] Over the last decade, the Security Council has developed what scholars have described as a 'vocabulary of robustness' in authorising resolutions, and missions have frequently been buttressed with unambiguously muscular 'rules of engagement' (ROE) that include provisions for the pre-emptive and pro-active use of force against likely attackers.[177] 'My ROE', as one British military advisor deployed in the Congo offered, 'is not very different from the one I had in Afghanistan.'[178] A recent study comparing the *Capstone Doctrine* and the *US Army Counterinsurgency Field Manual* found much convergence in the concepts and operational modalities of both documents.[179]

This more robust and militarised approach to peacekeeping has emphasised two related purposes to which peacekeepers should impartially use force: to protect civilians and to confront 'spoilers' of the peace. I discuss each of these in turn below, before concluding my analysis by considering how the change in the understanding of impartiality as a norm of peacekeeping is embedded in the emergence of a more assertive liberal internationalism.

173 *Brahimi Report*: viii.
174 Ibid: 9.
175 Ibid: 9.
176 Thierry Tardy. "A Critique of Robust Peacekeeping in Contemporary Peace Operations." *International Peacekeeping* 18(2) (2011): 152-167.
177 GCSP. "Annual Report 2010", *Conflict and Peacebuilding Program (COPE)*: 5. See also See James Sloan. *The Militarisation of Peacekeeping in the 21st Century*. Portland, Oregon: Hart, 2011.
178 Interview with Senior MONUC official, Goma, January 2009.
179 Karsten Friis. "Peacekeeping and Counter-insurgency–Two of a Kind?." *International Peacekeeping* 17(1) (2010): 49-66.

3.3.1.2 a) The Protection of Civilians

At the core of the new understanding of impartiality and robust peacekeeping is the assertion that peacekeepers have a responsibility to protect civilians.[180] This emphasis on protection is a direct response to the failures of peacekeepers in the preceding decade to shield civilians from slaughter, including mass atrocities and genocide. Echoing the Rwanda study, the *Brahimi Report* is forthright in arguing that peacekeepers 'who witness violence against civilians should be presumed to be authorized to stop it, within their means, in support of basic United Nations principles.'[181] Similarly, the *Capstone Doctrine* elevates the protection of civilians to one of four 'cross cutting responsibilities' that peacekeepers are expected to fulfill, even when it is not explicitly in their mandate.[182] As a joint DPKO and OCHA study on protection, published the following year, asserts:

> There is no more compelling or credible stance for a mission than to advocate for the most vulnerable… That role is the basis of the UN's moral authority, and a powerful tool… [T]his apolitical but firm stance will help deliver credence to the mission's authority and determination to use its impartiality against those who challenge its efforts.[183]

Whilst many peacekeeping missions of the 1990s were involved in human-rights monitoring, the safeguarding of assistance corridors and the escort of humanitarian convoys, the explicit authorisation to protect civilians under Chapter VII was first mandated in 1999 by the Council with respect to the situation in Sierra Leone.[184] According to Resolution 1270, the United Nations Mission in Sierra Leone (UNAMSIL) was 'to afford protection to civilians under imminent threat of physical violence'.[185] UNAMSIL's landmark mandate was authorised on the heels of Resolution 1265–the first of many thematic resolutions passed by the Council on the protection of civilians in armed conflict.[186]

Since 1999 the protection of civilians (POC) has become a central and persistent issue on the Council's agenda, a critical component of most peacekeeping mandates and, arguably, the

[180] For an overview see Siobhán Wills. *Protecting Civilians: The Obligations of Peacekeepers*. Oxford: Oxford University Press, 2009.
[181] *Brahimi Report*: x.
[182] *Capstone Doctrine*: 16.
[183] Victoria Holt and Glyn Taylor with Max Kelly. "Protecting Civilians in the context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges" (Independent study jointly commissioned by DPKO and OCHA, November 2009): New York, 2009: 12.
[184] ONUSAL was the first mission to have human-rights section. For human-rights activities during the Cold War see Katarina Mansson. "The Forgotten Agenda: Human Rights Protection and Promotion in Cold War Peacekeeping." *Journal of Conflict and Security Law* 10(3) (2005): 379-403.
[185] United Nations. S/RES/1270 (1999).
[186] United Nations. S/RES/1265 (1999). *On the Protection of Civilians in Armed Conflict.*

most important determinant of mission success.[187] As of February 2013, 88% of all UN forces deployed under the aegis of the Department of Peacekeeping Operations (DPKO) are explicitly mandated under Chapter VII to use 'all necessary means' to protect civilians at risk of imminent harm.[188] Moreover, MONUSCO, UNOCI, UNMISS, and the hybrid UNAMID mission have all adopted specific protection strategies.[189] In addition, the Council has also delegated authority to regional peacekeeping arrangements to protect civilians in contexts such as Somalia and the Congo.

Whilst Security Council resolutions have defined a narrow conception of protection that focuses on the immediate and physical protection of civilians by UN or regional forces, protection is increasingly thought of an "umbrella" concept, under which, as I discuss below, all UN agencies and humanitarian actors within a particular mission context cooperate to address the more systemic causes of vulnerability that civilians confront as a result of conflict.[190]

These developments are part of a broader trend in which protection of civilians has risen to the forefront of international concern and has become a consistent aim of responses to the worst of today's crises by a range of actors that claim to act impartially on behalf of victims.[191] Within the UN system, POC as a priority issue in peacekeeping has developed alongside, and become closely associated with, the development of the principle of the Responsibility to Protect (RtoP). Pioneered by the work of the International Commission on Intervention and State Sovereignty (ICISS) in 2001 and adopted by the General Assembly in the 2005, RtoP maintains: that states have a responsibility to protect their populations; that the international community has a duty to assist states to fulfill this responsibility; and that, should a state 'manifestly fail' to protect its populations, the international community should take 'timely and decisive' action to safeguard civilians.[192] In Secretary-General Ban Ki-

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[187] The Security Council has adopted multiple thematic resolutions on POC, holds biannual open debates the POC, and regularly consults the Council Expert Group on POC. See United Nations. Protection of Civilians, http://www.un.org/en/peacekeeping/issues/civilian.shtml

[188] Calculation based on United Nations. *Peacekeeping Factsheet – February 2013,* Department of Peacekeeping Operations, New York: Availabile at http://www.un.org/en/peacekeeping/resources/statistics/factsheet.shtml

[189] See Holt and Taylor 2009.

[190] United Nations. *Protection of Civilians in Armed Conflict.* OCHA, 2007.

[191] Ban Ki-Moon. "Human protection and the 21st century United Nations." Cyril Foster Lecture, Oxford University, 2011. This has led to the development of national and regional doctrine that addresses POC. E.g., African Union Guidelines for the Protection of Civilians in AU Peace Operations (at: www.africa-union.org); Council of Europe, 'Guidelines on the Protection of Civilians in CSDP Missions and Operations', Brussels: Council of Europe, 2010.

[192] International Commission on Intervention and State Sovereignty. *The Responsibility to Protect: Research, Bibliography, Background. Supplementary Volume.* Ottawa: International Development Research Council, 2001; United Nations. A/60/2005. *2005 World Summit Outcome:* paras 138–39.

Moon's efforts to operationalise RtoP, he has often referred to peacekeeping as a core area in which the responsibility to protect must be 'mainstreamed' as a goal.[193]

Despite sharing similar legal and normative underpinnings, POC and RtoP differ in several respects that, as the following chapter examines, are politically salient.[194] While RtoP addresses a specific set of extreme situations in which any of four crimes have been committed (i.e., genocide, war crimes, ethnic cleansing, and crimes against humanity), POC tackles a broader set of threats and is concerned with violence that is directed at civilians in conflict and post-conflict settings more generally. In addition to differences in scope, the central assertion of RtoP that a state's right to non-intervention is conditional on meeting minimal standards of behaviour is controversial in that it allows for the possibility of the use of force *against* a state by the international community. In this respect, NATO's campaign against the Libyan Armed Forces of President Qaddafi in 2011, which was authorised by the Council with the explicit aim of protecting civilians, signaled to many a deep commitment to RtoP and humanitarian intervention's 'coming of age'.[195]

In contrast, peacekeeping missions still require, in theory, consent at the strategic level, including, critically, that of the host state. Moreover, to allay concerns over possible infringements to sovereignty and to manage expectations both locally and globally, peacekeeping resolutions have at times included requirements that peacekeepers protect civilians 'within their capabilities and areas of deployment' and with 'respect to the responsibilities' of the host state.[196] These caveats notwithstanding, the distinction between the two norms is at times exceptionally fine, revealing, as I explain below, ambiguities inherent in the new understanding of the norm and, specifically, what it means for peacekeepers to 'impartially' protect civilians.

3.3.1.2 b) Dealing with 'Spoilers' of Peace

Closely related to the protection of civilians is the assertion that peacekeepers should take action against so-called 'spoilers' of the peace.[197]According to Stedman, this expansive

[193] United Nations. A/63/677 (2009). *Report of the Secretary General on Implementing the responsibility to protect*. The link between RtoP and POC was made explicit in Resolution 1706 (2006) which established a peacekeeping operation in Darfur.
[194] On relationship between the two norms see Thierry Tardy. "The Dangerous Liaisons of the Responsibility to Protect and the Protection of Civilians in Peacekeeping Operations." *Global Responsibility to Protect* 4(4) (2012): 424-448.
[195] Jon Western and Joshua Goldstein. "Humanitarian Intervention Comes of Age-Lessons from Somalia to Libya." *Foreign Affairs* 90 (2011): 48.
[196] In some cases, such as in the Congo, protection has been designated a priority in relation to other mandated tasks and, in particular, with respect to decisions about the use of available capacity and resources.
[197] For a general overview see Edward Newman and Oliver Richmond. *Challenges to peacebuilding: managing spoilers during conflict resolution*. New York: United Nations University Press, 2006.

category of actor encompasses those individuals and groups who derail peace agreements or obstruct law and order more generally, including those who imperil civilians.[198] Stedman maintains that with a nuanced understanding of these individuals and groups, 'custodians of the peace', such as peacekeepers, can be more effective in developing strategies to remove, reduce or contain spoiler threats.[199]

While the term was first introduced in the late 1990s, confronting spoilers *per se* is not new to UN missions. As the previous section described, in the early post-Cold War period peacekeepers in Somalia and Bosnia were authorised to use force against recalcitrant actors. Of critical importance, however, is the fact that such action was cast as a departure from impartial peacekeeping. Conversely, according to the new understanding of the norm, peacekeepers are allowed to take forcible action against spoilers without siding with a party to the conflict; indeed, it suggests that peacekeepers have a moral obligation to do so. As the *Brahimi Report* states in no uncertain terms: 'where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the United Nations can in the best case result in ineffectiveness and in the worst may amount to complicity with evil.'[200]

In addition to the moral imperative, dealing with the threat of spoilers is regarded as necessary for the mission's effectiveness and long-term success, not least because it is seen to set a precedent that the UN 'means business.'[201] In this respect, Brahimi and other officials involved with drafting the *Report* highlighted, in particular, how their reconceptualisation of impartiality was influenced by what was perceived as the successful expansion of UNAMSIL's mandate in early 2000.[202] Following attacks on and the hostage-taking of UN personnel by the Revolutionary United Front (RUF) in May, the Council called for enforcement action by peacekeepers against the RUF and authorised the deployment of British rapid reaction forces.[203] The change in UNAMSIL's mandate was predicated on the recognition that the actions of the RUF, a main signatory to the Lome Peace Agreement,

[198] They are classified according to three ideal types. First, they can be *limited*, in their desire for 'recognition and redress of grievance [and]…a share of power'. Second, they can be *greedy,* insofar as their goals are shaped by a weighing of costs and benefits. Third, they can be *total,* spoilers with an unwavering commitment to goals in 'all-or-nothing terms'. Stephen Stedman. "Spoiler Problems in Peace Processes." *International Security* 22(2) (1997): 5-53. For a critique see Kelly Greenhill and Solomon Major. "The Perils of Profiling: Civil War Spoilers and the Collapse of Intrastate Peace Accords." *International Security* 31(3) (2007): 7-40.
[199] Ibid 1997: 53.
[200] *Brahimi Report*: ix.
[201] Interview with DPKO official, New York, June 2011.
[202] Interview with Lakhdar Brahimi, Algerian United Nations Envoy and Advisor; former Chairperson of the Independent Panel on United Nations Peace Operations, Paris, July 2011; Interview with Doyle, New York, June 2011. Several interviewees also noted the importance of *Operation Deliberate Force*–a two-week NATO air-strike campaign against Bosnian Serb military targets that was approved by the Security Council and launched in the wake of the Srebrenica massacre in the summer of 1995.
[203] United Nations, S/RES/1313 (2000).

were in breach of the agreement and constituted 'a breakdown of the prior, generally permissive environment based on the Agreement'.[204] The release of the hostages and the forced submission of the RUF was an example that, by dealing with spoilers, peacekeepers could bring about peace. As Louise Fréchette, who served as Deputy Secretary-General at the time, explained: 'it was a critical indication that robust peacekeeping could work.'[205]

Since 2000, the Council has continued to authorise resolutions that allow peacekeepers to use force to confront spoilers. However, in contrast to UNAMSIL, operations conducted against spoilers have not been confined to those who signed, but subsequently reneged on, a peace agreement; or similarly those who consented to the deployment of a peacekeeping mission and its mandate. In contexts such as the Congo and Haiti, the use of force has been authorised against groups deemed to pose a more general threat to peace and order.[206] Moreover, resolutions that include specifications to take action against spoilers have often been passed in conjunction with economic and commodity sanctions intended to restrict their access to resources. This broadening of the definition of what constitutes spoiling activity to include, for example, domestic and transnational organised crime, further substantiates the parallel between contemporary peacekeeping and law enforcement.[207] Moreover, as I explain below, it must be seen as an integral part of what scholars describe as the increasing 'legalization of the international sphere' and the criminalisation of certain behaviors within conflict and post-conflict settings.[208]

3.3.2. Assertive Liberal Internationalism

It is a core contention of this thesis that the robust peacekeeping that derives from the new understanding of impartiality is indicative more widely of an assertive liberal internationalism that took shape at the end of the 1990s. In what follows, I highlight two areas of international engagement in which this change has been particularly pronounced and where impartiality figures as a core norm: humanitarianism and international criminal justice. Understanding the changing role of actors in these two domains is crucial not only to grasp the broader context of the change in peacekeeping, but also because a defining feature of the more assertive liberal internationalism has been an emphasis on strengthening and deepening co-operation and integration between these actors and peacekeeping missions. This has

[204] United Nations, S/RES/1313 (2000): para 2.
[205] Interview with Fréchette, Montreal, March 2011.
[206] Eg., MINUSTAH's target operations against members of Fanmi Lavalas. Operations by peacekeepers against the LRA, FDLR and others are discussed in Chapter Five.
[207] Mark Shaw and Walter Kemp. "Spotting the Spoilers: A Guide to Analyzing Organized Crime." *International Peace Institute, Policy Papers,* New York: 2012.
[208] Heather Schoenfeld, Ron Levi, and John Hagan. "Crises extremes et institutionnalisation du droit penal international." *Critique Internationale* 33(3). 2007.

prompted significant bureaucratic, conceptual and operational restructuring both internal and external to the UN system. These reforms reflect the predominant view that the humanitarian, developmental, governance, security- and justice-related problems in conflict and post-conflict settings are inextricably linked, creating a vicious cycle that demands comprehensive and co-ordinated solutions.[209]

3.3.2.1. Humanitarianism and the Rights-Based Approach

In the humanitarian sphere, this turn towards a more assertive liberal internationalism has become manifest in the transition that many humanitarian organisations, and in particular UN humanitarian agencies, made in the late 1990s from a 'needs-based' approach to assistance delivery, to one which more explicitly encompasses a concern for human rights.[210]

The 'rights-based approach' (RBA), as it is widely called, is premised on the notion that humanitarian needs arise to a large extent from violations of rights, and that consequently actors must address the underlying structural causes of vulnerability in addition to and in support of meeting basic needs.[211] As such, 'rather than having the saving of life as its over-riding and prophetic concern', the 'new humanitarianism', as Hugo Slim explains, 'bases actions (or inaction) on the assumed good or bad consequences of a given intervention'.[212] In other words, decisions about who should receive assistance and when are now partly based on whether they help or hinder the realisation of human rights. This consequentialist logic has introduced new parameters around and conditionality for aid. For example, assistance that is likely to fuel conflict or legitimise certain factions may be withheld; in other instances, delivery may be contingent on respect for human rights. Critics maintain that these forms of conditionality have created a hierarchy of 'deserving' aid recipients in which those in greatest need are sometimes deprived of relief because of their direct or indirect affiliation with parties accused of human-rights abuses.[213]

In addition to influencing who receives assistance and when, the ascendance of the RBA has altered the forms of assistance delivered by humanitarians. Beginning in the late 1990s, numerous humanitarian organisations became multi-mandated institutions that work along a relief-development continuum. Along this continuum, the realisation and promotion of

[209] E.g., United Nations. A/59/2005 (2005). *In Larger Freedom: Towards Development, Security and Human Rights for All.*
[210] See Macrae 2000; Barnett and Weiss 2008.
[211] This emphasis on rights has largely been framed in terms of protection, which numerous humanitarian organisations now seek to "mainstream" through their expanded areas of programming.
[212] Hugo Slim. *Positioning Humanitarianism in War.* Oxford: Mimeo Oxford Brookes University, 1997: 20.
[213] Fiona Fox. "New Humanitarianism: Does it Provide a Moral Banner for the 21st Century?." *Disasters* 25(4) (2001): 275.

rights has been framed in terms of 'protection'.[214] Indeed 'protection', no longer the sole purview of ICRC and UNHCR, has become an overarching priority for many humanitarian organisations across their expanded remit of programming.[215] This is a notable departure. Whereas humanitarians of the past restricted their activities to the delivery of emergency assistance and were reluctant to pass judgment on warring parties to ensure access, today many humanitarians aim to protect civilians by speaking out against abuse, and by actively seeking to reform political and social structures that impinge on human rights.

As the role of humanitarians has evolved, so too has their relationship with peacekeepers. During the 1990s, humanitarians and peacekeepers frequently operated in the same context and in several instances co-ordinated activities, including the safeguarding of humanitarian access to vulnerable populations by peacekeeping forces. In the last decade, these partnerships have deepened and intensified, particularly within the UN system. The integration of 'all activities aimed at consolidating peace' has become a formal UN policy that is applicable to all conflict and post-conflict settings where the organisation has a country team and a multi-dimensional peacekeeping operation or country-specific political mission.[216]

In peacekeeping, this has prompted numerous reforms including the development of integrated planning mechanisms and the creation of the post of the deputy special representative of the Secretary-General (DSRSG/RC/HC)–a 'triple-hat role' that encompasses the humanitarian coordinator (HC) and the resident coordinator (RC) of the development agencies within a particular country. In addition to facilitating integration across the UN family, in many contexts the office of the DSRSG and OCHA serve as a focal point for co-ordination with the wider humanitarian community. They work closely with the United Nations Department for Safety and Security (UNDSS), which was established in January 2005 following the bombing of the UN's compound in Baghdad, to monitor, assess and ensure security as part of the integrated UN presence. Consequently, decisions about who is to receive assistance, where and how, are more closely aligned with broader peacekeeping policy.

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[214] ICRC, *Professional standards for Protection Work: carried out by humanitarian and human rights actors in armed conflict and other situations of violence*. Geneva, 2009. Available at www.ICRC.org

[215] Moreover, how these organisations understand protection has also changed. For example, UNHCR has expanded the remit of protection to include, for example, IDPs. See Elizabeth Ferris. *The politics of protection: The limits of humanitarian action.* Washington, Brookings Institution Press, 2011.

[216] Victoria Metcalfe, Alison Giffen, and Samir Elhawary. *UN integration and humanitarian space: An independent study commissioned by the UN Integration Steering Group.* London: Humanitarian Policy Group, Overseas Development Institute, 2011: 14.

3.3.2.2. International Justice and Crimes of International Concern

The turn towards a more assertive liberal internationalism also figures prominently in the area of international justice in which impartiality has long figured as a core norm.[217] It manifest in what scholars contend is a shift from a consent-based paradigm to a more compulsory paradigm of international adjudication.[218] Consent, they argue, is seemingly more circumscribed and 'formulaic' either because 'it is implicit in the ratification of treaties creating certain international organizations endowed with adjudicative bodies or because it is jurisprudentially bypassed and litigation is often undertaken unilaterally.'[219]

While this shift manifests in other areas of international law, it has arguably been most pronounced in international criminal justice which has developed rapidly in the last two decades, building in large part on the international legal framework for human rights developed following the Second World War.[220] For example, during the 1990s, the ICTR and ICTY were created to prosecute war crimes committed in Rwanda and the former Yugoslavia respectively.[221] Established by the Security Council under Chapter VII, both ad hoc tribunals had primacy over national domestic agents and did not require explicit consent for their operation from the states concerned.

These temporary international tribunals, as well as the establishment of several hybrid courts, laid the groundwork for the opening of the ICC in 2002–what many regarded as a watershed moment in the global fight against impunity. Founded by the 1998 Rome Statue, to which over 120 states are now signatories, the ICC is unprecedented in that it is the first *permanent* international judicial body mandated to investigate impartially international crimes and to try alleged perpetrators.[222] While the ICC's treaty would suggest to some a more consensual model of adjudication than that of the tribunals, the Court's reach extends beyond those states that have given their consent to the organisation by ratifying the Statute. The Court may, for instance, prosecute nationals of states not party to the Statute if they have committed international crimes on the territory or against nationals of states party to the Statute.[223] In addition, the Security Council may, acting under Chapter VII, refer a situation

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[217] J.G. Merrills. *International Dispute Settlement* (5th edition), Cambridge: Cambridge University Press, 2011.
[218] Cesare Romano. "Shift from the Consensual to the Compulsory Paradigm in International Adjudication: Elements for a Theory of Consent." *New York University Journal of International L aw and Politics.* 39(2006): 791.
[219] Ibid: 794.
[220] Judith Goldstein *et al.* "Introduction: Legalization and world politics." *International Organization.* 54(3)(2000): 385-399.
[221] The jurisdictions of both the ICTY and ICTR were limited geographically to crimes committed within those respective states and to specific time periods.
[222] Rome Statute of the International Criminal Court, 1998. Available at http://untreaty.un.org/cod/icc/statute/99_corr/cstatute.htm.
[223] For an overview of the Court see William Schabas. *An introduction to the international criminal court.* Cambridge: Cambridge University Press, 2011.

in which crimes appear to have been committed to the ICC prosecutor. To date, the Council has referred two situations–Sudan (2005) and Libya (2011)–to the office of the prosecutor. In both instances, the states under investigation were not party to the Statute.

To carry out its functions, the ICC relies heavily on co-operation with signatory states. However, since the ICC's inception, various organisations have rendered assistance to the court through the provision of documentation and expert testimony. It is perhaps testament to the significance of the case of Congo that the first witness to appear before the Court was a child protection advisor from MONUC.[224] Part 9 of the Rome Statute provides the legal basis for such assistance by allowing the Court to invite co-operation from international organisations and non-state parties. In addition to providing information, peacekeeping missions have provided logistical support to investigation teams, and assisted with the security of suspects and witnesses.[225] These arrangements fall outside the legal parameters of Part 9 and have required, according to Article 54, that the Prosecutor enter into separate agreements. On 4 October 2004, the ICC-UN Relationship Agreement was signed, committing the UN to a general 'obligation of cooperation and coordination' with the Court.[226] The Office of the Prosecutor also signed separate memoranda of understanding (MOU) with specific peacekeeping missions such as that deployed in Congo.[227] The Court has increasingly emphasised the necessity of such cooperative arrangements, not least because access is precarious in many of the situations under investigation.[228] In such contexts, but also more widely, humanitarian organisations and peacekeeping missions are esteemed by the Office of the Prosecutor as 'crucial partners' in the fight against impunity.[229]

In this way, cooperation and integration figure as important features of assertive liberal internationalism. No longer distinct or completely separate areas of engagement, robust peacekeeping, humanitarianism and international criminal justice are regarded as complementary tools in what practitioners and scholars describe as the 'growing tool kit of conflict management strategies' that seek to realise common ends.[230] According to Ruti Teitel, these forms of engagement now fall under what she describes as a 'new law of

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[224] Olivia Swaak-Goldman (Office of the Prosecutor, ICC), Peacekeeping Operations and the International Criminal Court–Presentation at the International Institute for International Law, September 2008. *http://tableronde08.blogspot.co.uk/2008/03/peacekeeping-operations-and.html*

[225] Part 9 of the Rome Statute provides the legal basis for such assistance by allowing the Court to invite co-operation from international organisations and non-state parties. Moreover, Article 54 stipulates that the prosecutor may enter into specific agreements with international organisations and others to facilitate such collaboration.

[226] United Nations. A/58/874 (2004) *Relationship Agreement Between the United Nations and the International Criminal Court.*

[227] United Nations. S/RES/1565 (2004)

[228] It was a priority during the Review Conference on the Rome Statute of the ICC, Kampala, 2010. Documents available at http://www.iccnow.org/?mod=review

[229] Swaak-Goldman 2008 *http://tableronde08.blogspot.co.uk/2008/03/peacekeeping-operations-and.html.*

[230] Western and Goldstein 2011: 49.

humanity', which spans the laws of war, international human rights, and international criminal justice.[231]

3.4. Impartiality and Norm Ambiguity

Yet despite its appearance of coherence, the new dominant conception of impartiality–institutionalised at the UN and situated in a broader turn towards assertive liberal internationalism–remains ambiguous. In what follows, I highlight three ways in which the norm continues to be imprecise in the context of peacekeeping. The first two forms of ambiguity concern the substantive *basis for* decision-making and content of decisions that peacekeepers now claim to be impartial. The third form of ambiguity pertains to the procedural requirements of the norm: namely, that peacekeepers be unbiased and informed when making decisions or taking action. This discussion sets the stage for the following chapter, which calls into question the purported consensus over the meaning of impartiality in peacekeeping (particularly the *basis for* impartial decision-making). It elucidates the ways in which this ambiguity reflects contestation over the new understanding of impartiality and in doing so sheds light on the politics of contemporary peacekeeping and assertive liberal internationalism at the organisational level.

3.4.1. Whither Consent? Whose Consent?

The first area of ambiguity concerns the *basis for* and limits to the authority of peacekeepers, specifically as to when and in relation to whom peacekeepers should impartially implement their mandate. The documents institutionalising the new understanding of impartiality recognise that consent for a mission is no longer absolute or fixed, and that it will frequently be 'manipulated',[232] 'uncertain and unreliable'.[233] Nonetheless, the requirement of consent has not been abandoned, as consent for a mission and more broadly some form of commitment to a political process continues to be a prerequisite for the deployment of most missions.[234]

A 'fundamental premise' of the *Brahimi Report* is that peacekeepers have authority to respond to deteriorating consent or challenges to the mission by impartially 'carry[ing] out their

[231] Teitel 2011.
[232] *Brahimi Report* 2000: ix.
[233] *Capstone Doctrine* 2008: 32.
[234] See discussion of MINURCAT in Chapter Four.

mandate' and by 'adhering to the principles of the charter'.[235] Thus, according to the *Report*, it would seem that consent is to be obtained as a 'one off' either through the initial consent given for a mission's deployment or by accession to the UN through the adoption of the Charter, and that subsequent to this initial offering, action may be taken without concern that parties will retract their consent.[236] The basis for such action is, however, somewhat opaquely defined. Reference to the Charter, which under Article 2 includes the norms of sovereign equality and non-interference, complicates the scope of loyalty for peacekeepers and introduces ambiguity over whether they may take action against *all* parties to a particular dispute, including state actors. This ambiguity is further compounded by the authorisation of most missions in part or full under Chapter VII.

Published eight years after the *Brahimi Report*, the *Capstone Doctrine* presents a more nuanced treatment of consent. It differentiates between consent at the strategic level (obtained from the main parties, including the host state) and the tactical level (obtained from non-state actors, including local groups or factions on the fringe of a peace or political process). The former is stated as a requirement of any peacekeeping mission and must not be jeopardised, while the latter is no longer deemed necessary–forceful action should be carried out at the tactical level against recalcitrant behaviour and against those who pose a challenge to the mandate. This distinction, according to the *Doctrine*, is what separates peace*keeping* from peace *enforcement*.[237]

The *Capstone Doctrine*'s differentiation between levels is, however, mired in confusion and contradiction. The selectivity of response inherent in drawing such a distinction is fundamentally at odds with the *Doctrine*'s stipulation that impartiality requires that peacekeepers 'must implement their mandate without favour or prejudice to *any* party', particularly when civilians are imperiled. Moreover, it is incongruent with the Chapter VII authorisation under which most missions operate. Furthermore, even if such contradictions are left aside, the distinction is far from clear, as the *Doctrine* leaves ill-defined the actors and groups associated with each level. No additional information on what constitutes a "main party" is provided, other than the specification that it includes the host state. By this account, it is not clear whether the assertive action undertaken by peacekeepers against the RUF in

[235] *Brahimi Report* 2000: ix.
[236] This point was emphasised during the drafting of the *Capstone Doctrine*. As one official stated during a preparatory workshop for *Capstone*: 'The true strength of impartiality, it seems to me, arises from the fact that, at some prior point, the parties involved gave their consent, either explicitly or implicitly. This was accomplished when: 1) States became members of the UN and agreed to uphold the principles of the Charter; 2) They also agreed to be bound by the decisions of the UN Security Council, as reflected in Security Council resolutions; 3) They may even have signed a peace agreement or other settlement promising to behave in a certain way; and 4) In some cases, non-state parties may also have been accorded standing, participated in negotiations, and agreed to abide by certain understandings'. *Background Paper*, 2006: 4.
[237] *Capstone Doctrine* 2008: 34. See ICISS 2001 for similar distinction.

Sierra Leone, which, for many, was an indication that robust peacekeeping could work, would have been allowed; the RUF was a "main party", a signatory to the Lomé Agreement. Moreover, the possibility that actors may be internally fragmented, operate simultaneously at both the strategic and tactical level, or use proxy forces receives little consideration.

Lastly, the assertion that strategic consent must be safeguarded raises a separate but related issue concerning impartiality as a norm of peacekeeping. The doctrine's unequivocal inclusion of host state consent in the otherwise vague category of 'main party' attests to the privileged role enjoyed by the sovereign state in most contemporary peacekeeping. This privileging is illustrated, as the doctrine notes, by the proliferation of activities that peacekeepers undertake to 're-build the foundations of a functioning State'.[238] These activities are not new in any sense. Statebuilding tasks such as the demobilisation, disarmament and reintegration (DDR) of combatants, security sector reform (SSR) and the establishment of the rule of law were standard practices in the peacekeeping missions of the 1990s. However, a mission's obligation to support and participate in such activities depended on the implementation of the peace agreement in which they were laid out. In contrast, as many contemporary missions have extended their deployments over longer periods—during which peace agreements have frequently fallen apart leading to renewed violence and necessitating further agreements—there has been a shift in focus from state-building as a function of peace-agreement implementation to the more overt tasks of strengthening and extending and/or restoring the authority of the state, even in the absence of such an agreement, or in cases when the state has been weak or lacking in legitimacy.[239]

In this way, state-building and POC are often closely linked; assistance to domestic institutions aims to develop the ability of the state to tackle a spectrum of civilian protection needs over the long-term.[240] Crucially, however, peacekeepers have in a number of cases also engaged in military and policing action in direct support of states to address more immediate internal and external security threats. Such support marks a double broadening of the use of force: robust action is taken to reign in those who seek to 'spoil' an established peace agreement and against those actors who pose a threat to the state. The privileged role enjoyed by the state is hardly surprising given that the UN remains an *inter-state* institution. However, as I discuss below, it nonetheless raises a number of issues for impartiality,

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[238] Ibid 2008: 38.
[239]Bruce Jones. "Peacekeeping in Crisis?" *The RUSI Journal* 154(5) (2009): 79.
[240] Richard Gowan and Ian Johnstone. "The Challenges for Peacekeeping: Protection, Peacebuilding and the War on Terror." *Coping with Crisis Working Paper Series*, International Peace Academy, 2007: 6-7.

particularly in contexts such as Congo and Lebanon where state institutions pose a threat to civilians or in Ivory Coast where election results were disputed.

3.4.2. What Decision? What Action?

In addition to ambiguities related to when and to whom peacekeepers can implement their mandate impartially, it is unclear what specific forms of action are required of peacekeepers, including, critically, the degree to which force should be used during the process of mandate implementation.

Similar to the apparent contradiction between the requirement of consent and the expanded *basis for* decision-making, the robust form of peacekeeping developed in the *Brahimi Report* and the *Capstone Doctrine* is confounded by the assertion in both documents that the non-use of force (except in self-defense and defense of the mandate) remains a core principle of peacekeeping. This disjuncture stems from the qualifications on the non-use of force, which serve as a gateway to robust peacekeeping and the new more assertive role for peacekeepers. It is, however, a source of considerable ambiguity. As Guéhenno notes:

> *Brahimi* and *Capstone* allow for use of force in self-defence and in defense of the mandate–which is linked to this notion of impartiality... Now if you think through that sentence, it's a meaningless sentence…You could have a mandate that allows [peacekeepers] to crush a country…I mean, depending on how you write the mandate, 'defence of the mandate' can open [a mission] up to anything.[241]

Confusion may also arise over the degree of force that peacekeepers can and should use to 'defend' their mandate either pre-emptively or when provoked. Moreover, this confusion may be exacerbated by the profusion of potentially contradictory tasks that are often contained in mission mandates. As Security Council resolutions have come to encompass a broader set of tasks both related to overseeing a peace agreement as well as other activities separate to an agreement such as POC, the possibility that tensions will arise between mandated tasks has increased, and a lack of clarity persists over which tasks warrant the use of force. Simultaneously, peacekeepers may be expected to build and back the state, protect civilians, confront spoilers (that may or may not include the state or proxy forces of the state), as well as a number of other activities including DDR and the safe passage of humanitarian assistance. The involvement of a mission in peacebuilding activities–actions to negotiate, consolidate and steer peace processes when they have been derailed– has only

[241] Interview with Guéhenno, New York, March 2010.

further complicated mandate implementation. Can UN officials shoot at parties one day and be accepted as impartial brokers of peace the next?

Last, the litany of mandated tasks now expected of peacekeepers raises the issue of adequacy of resources. Looking back to the 1990s, the various reports institutionalising the new understanding of impartiality are emphatic in underscoring the necessity of matching mandates with the necessary means.[242] However, little guidance is provided on what UN peacekeepers should do in the event that resources *are* scarce–what action, if any, should be pursued and which tasks should be prioritised. Moreover, as I discuss further below, partnerships that may be developed to bolster mission capacities may also impinge on the UN's acceptance as an unbiased actor.

3.4.3. Decision and Action By Whom? And With What Information?

Finally, ambiguity persists over the procedural requirements of impartiality–namely, that peacekeepers be unbiased and informed when making decisions and taking action. During the Cold War, the master texts called for the mitigation of potential biases by outlining which states were precluded from contributing forces and by advising that TCCs be selected cautiously and in a consultative process. In addition, the texts emphasised the importance of access to information and freedom of movement for mission staff. By contrast, the documents institutionalising the new conception of the norm pay little heed to the issues surrounding mission composition or to the information requirements for decision-making in contemporary peacekeeping missions.

These omissions may be of particular consequence given that the expanded background of valuation, and the attendant tasks which peacekeepers are now expected to carry out, may call into question their ability to meet the procedural requirements of the norm. For example, can peacekeepers support state institutions and still be accepted as unbiased? Similarly, does the UN's involvement or the involvement of particular troop-contributing countries in peacebuilding impede the mission's ability to be unbiased, particularly when an agreement is regarded by some parties as illegitimate or unfair? Moreover, what constitutes an informed decision or action, and how might this vary across the expanded remit of activities? How might an absence of consent, at the tactical level or otherwise, affect the information that is

[242] *Brahimi Report* 2000: para 62; *Capstone Doctrine* 2008: 33.

available to peacekeepers? And what degree of information must be obtained before undertaking forceful action that may result in casualties?

Peacekeeping partnerships are a further source of ambiguity over the procedural requirements of impartiality. That the UN should pursue regional and sub-regional partnerships was a core recommendation of the *Brahimi Report.* Over the last decade, in contexts such as Sierra Leone, East Timor, Haiti, DRC and Ivory Coast, the Council has authorised missions through regional or sub-regional organisations, security alliances and ad hoc member-state coalitions. These missions have displayed 'variable geometry' with UN-led forces, including sequential deployment; parallel or co-deployment; hybrid or full integration; and standalone missions.[243]

These alternative institutional arrangements are sought for a variety of reasons. In some situations, regional partners may be well placed to be quick and early responders, given both their physical proximity to the conflict and the incentive for them to bear much of the cost of containing a conflict that might destabilise their own area.[244] In addition, they may have greater knowledge of local conditions, and heightened awareness of cultural sensitivities, engendering greater acceptance of a mission by local parties. Similarly, security alliances or 'coalitions of the willing' may be in a position to provide force-generation capacity that UN-led missions lack.[245] However, whether peacekeeping partners are expected to, or indeed are able to fulfil the procedural requirements of impartiality is unclear.[246] Simply put, the very characteristics that render certain actors suited to rapid and robust response may make their lack of bias–real or perceived–all the more questionable.[247] As such, through its association with such actors, partnerships may also jeopardise the UN's ability to act and be accepted as an unbiased actor.

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243 Based on A. Sarjoh Bah and Bruce Jones. "Peace Operations Partnerships: Lessons and Issues from Coordination to Hybrid Arrangements." New York: *Center on International Cooperation*, New York University, May 2008. See also, Bruce Jones and Feryal Cherif. "Evolving Models of Peacekeeping: Policy Implications and Responses." New York: *Center on International Cooperation*, New York University, 2004. 'Sequential Operations' involve the deployment of various forces sequentially, as in Somalia, Kosovo and Haiti in the 1990s, and with the Economic Community of West African States (ECOWAS) in Liberia in 2003. 'Parallel or co-deployment operations' occur when UN and other regional or ad hoc coalitions operate in the same mission area, usually under different command, but to the same broad goals. As Bah and Jones observe there have been several variants of this genre of operation: short-term military support from one organisation to another (e.g., Operation *Artemis* and EUFOR in the Congo, and the UK deployment to Sierra Leone in 1999); military/observer operations (e.g., UNMOT and UNOMIG), parallel civilian and military operations (KFOR and UNMIK, ISAF and UNAMA). Integrated or Joint Operations take place when two organisations share command or where one organisation subordinates its command to another. There have only been three such operations thus far: MCIVIH, UNMIK and UNAMID. 'Standalone or sole missions' occur when the UN Security Council cannot agree or has declined to authorise a UN mission, or conditions will not allow for a UN operation (e.g., AMISOM in Somalia).

244 Emily Paddon. "Partnering for Peace: Implications and Dilemmas." *International Peacekeeping* 18(5) (2011): 523.

245 Such was the case with the United Kingdom in Sierra Leone in 1999, France and Italy in Lebanon in 2006, and the EU in the Congo both with *Operation Artemis* in 2003 and EUFOR in the lead up to the elections in 2006.

246 This issue has engendered significant contestation as discussed in Chapter Four

247 Paddon 2011.

Last, a similar form of ambiguity stems from co-operation and integration with humanitarian actors and international criminal bodies. Whilst these actors all claim to act impartially, their activities and short-term objectives may be markedly different, as may be the degree of consent with which they operate. These dissimilarities may, in the context of partnership, compromise an actor's acceptance. Co-operation, for example, between the ICC and a peacekeeping mission in a context of on-going violence where peacekeepers are deployed may jeopardise the mission's ability to be perceived as unbiased. Similarly, for humanitarian actors integration with particular peacekeeping missions may be problematic and, as the *Capstone Doctrine* notes, weaken acceptance and access, leading to a contraction in 'humanitarian space'. In such circumstances, where the 'intensity of cooperation is limited', the *Doctrine* nonetheless advises that actors be 'proactive [in] sharing' information.[248] However, it is conceivable that even information sharing, which potentially raises issues of source confidentiality and security, could impinge on an actor's ability to be accepted as unbiased. Ambiguity persists over whether peacekeepers may enter into co-operative and integrated partnerships arrangements and still claim to be impartial.

Taken together, these three areas of ambiguity challenge what I highlighted in Chapter Two as constructivism's tendency to see institutionalisation as a process that leads to clarification and greater norm precision. The dominant understanding of impartiality now embedded within the UN is far from precise. Instead, beneath the veneer of clarity, ambiguity persists over the procedural and substantive components of impartiality, and their relationship with other norms, such as sovereignty. Moreover, this ambiguity persists despite the fact that conceptual confusion was precisely what prompted impartiality's reformulation in the new millennium. As Guéhenno, looking back on reform efforts in the 1990s and more recently, argues: 'To be honest, I don't think we can say there was a period of confusion and then came clarity… I don't think there is any clarity over impartiality.'[249]

3.5. Conclusion

This chapter has analysed the change in the understanding of impartiality in UN peacekeeping from a passive conception during the Cold War to a more assertive conception in recent years, to the present day. Claims to impartial authority, as I have demonstrated, are no longer based solely on terms consented to by all parties to a dispute. Rather, the *basis for*

[248] *Capstone Doctrine* 2008: 73.
[249] Interview with Guéhenno, New York, March 2010.

impartial decision-making–the underlying background of valuation–has expanded to encompass a more ambitious set of norms, such as the protection of civilians and action against spoilers, and has implied, as a result, more coercive and exacting practices. Hitherto deployed primarily to address intra-state conflict, contemporary peacekeeping missions now frequently aspire to nothing short of the total social transformation of the host country. They have become, in the process, unparalleled in their organisational complexity and the sheer extent of their ambition.

This change in peacekeeping, as I have argued, must be understood as an integral part of a wider shift in liberal internationalism, engendering new partnerships within and outside the UN system. This co-operation and integration across areas of international engagement is premised on the belief that despite differences in focus, actors are guided by similar broad objectives, and, crucially, that wider agreement exists over these objectives. In other words, the legitimacy of assertive liberal internationalism and claims by actors that their more coercive and intrusive actions *are* impartial rests largely on what is heralded as a newfound unity of purpose–the culmination of the 'internationalization of human rights' over several decades, and the disassociation of rights from a particular political or partial agenda.[250] Proponents contend that this 'internationalization of human rights' has allowed for an acceptable transformation in the foundation of certain legal norms that now have authority not because they are based on individual states' consent, but rather because they are seen to reflect a collective international consensus–Teitel's 'new law of humanity'.[251] The Security Council, by this account, plays the role of 'arbiter of what constitutes a universal legal norm'.[252] And by extension, through the mandates Council members authorise, peacekeepers are endowed, individually and collectively, with an authority to protect and promote that which is pre-political and universal. An authority which, recalling the earnest characterisation of the UN's purpose by Conor Cruise O'Brien, might well be construed as "sacred".

[250] David Forsythe. *The Internationalization of Human Rights*. Lexington: Lexington Books, 1991; Forsythe 2011.
[251] Teitel 2011.
[252] Cronin 2008: 71.

4. *Institutionalisation and the Global Politics of Peacekeeping*

Having demonstrated the change in the dominant understanding of impartiality, I now turn to examine critically the purported consensus over the composite norm. The analysis centers specifically on dynamics related to impartiality's institutionalisation at the macro-organisational level of the UN.

This chapter presents peacekeeping in the new millennium as a politically fragmented practice that has descended into a state of renewed crisis. Deep political fissures over the nature and purposes of contemporary UN peacekeeping exist. Although most member states readily use the same vocabulary and largely agree that impartiality must remain a bedrock norm, this chapter reveals significant differences and divergent understandings at the macro-level over what "keeping" peace "impartially" should mean.

The fact that conflicting conceptions of impartial peacekeeping exist, and yet a robust role for peacekeepers has nonetheless regularly been stipulated in mission mandates since 2000, evinces that particular states and individuals have more influence than others in determining the content of peacekeeping policy. Critically, however, the power of these actors is not unfettered. Rather, the institutionalisation of assertive impartiality has, I argue, also been accompanied by instances of 'norm entrapment' in which the policy choices of certain actors have been constrained because of their prior rhetorical affirmation of the norm.[1] This has implications for the process of implementation, which is examined in Part III of the dissertation.

The chapter proceeds in five sections. In the first section, I introduce those actors who contest the norm at the macro-level. Sections two, three and four illuminate the specific content of contestation over the new conception of impartiality, and explicate respectively the *procedural, substantive* and *consequential* objections of actors at the organisational level. Whilst mandates vary across deployment contexts and may be contested individually, the focus in this chapter is on broader policy developments such as the increasing prominence of the protection of civilians as a core task of peacekeeping. Specific mandates and missions are discussed insofar as they shed light on and have been of consequence to the wider conceptual and doctrinal development. Section five analyses how this contestation has unfolded at the macro-level and revisits the propositions advanced in Chapter Two concerning the process of institutionalisation.

[1] Loren Cass. "Norm Entrapment and Preference Change: the Evolution of the European Union position on International Emissions Trading." *Global Environmental Politics* 5(2) (2005): 38-60.

4.1. 'Macro-level' Contestation

Objections to the new understanding of impartiality and the robust action now expected of peacekeepers emanate from two broad groups of actors. I examine each in turn below.

4.1.1. The Global "South"

States from the global "South", many of which include large troop- and police-contributing countries (TCCs/PCCs), comprise the first group of actors that contest the more assertive interpretation of the norm. The criticisms of these states tend to be aired in the General Assembly and in the Special Committee on Peacekeeping Operations (otherwise known as the C-34), which is the main forum in which TCCs/PCCs consider issues related to peacekeeping.[2] Within the C-34, most TCCs/PCCs are affiliated with the non-aligned movement (NAM). A relic of Third World solidarity during the Cold War, the NAM has maintained a certain degree of institutional coherence and continues to be formally represented in UN debates on peacekeeping. Whilst differences exist amongst its 120 members, it functions as an 'intergovernmental caucus group' that, as Mats Berdal observes, broadly 'articulat[es] the views of the "global South"'.[3] States within this group tend to subscribe to the traditional, passive conception of impartiality–what Thierry Tardy describes as a 'strict' definition of the holy trinity–as opposed to what he terms the 'expansive' understanding favoured by the West–that was institutionalised in the new millennium.[4]

Many of the issues underlying the objections raised by the global South are far from new; as I describe below, they are deeply rooted in history. However, the more assertive definition of the trinity described in the *Brahimi Report* and manifested in Council practice, gave members of the global South greater cause for concern.

In contrast to the Council, which enthusiastically 'welcomed' the *Brahimi Report* in early September 2000,[5] the *Millennium Declaration* issued by the GA later that same month merely 'took note'[6] of the report–what analysts at the time described as 'a polite but noncommittal acknowledgment' of the

[2] The C-34 reports to the GA on its work through the Fourth Committee (Special Political and Decolonization) and is comprised of 144 Member States, mostly past or current contributors of peacekeeping operations. Thirteen other Member States, intergovernmental organisations and entities, including the European Community, the International Committee of the Red Cross (ICRC) and the International Criminal Police Organization (Interpol), participate as observers.
[3] Berdal 2009: 150.
[4] Thierry Tardy. "Emerging Powers and Peacekeeping: an Unlikely Normative Clash." GCSP Policy Paper, Geneva, 2012/13: 2.
[5] The US, France and UK were particularly positive and issued separate statements in support. See for eg., US Department of State, Factsheet, 23 August 2000, <http://www.state.gov/www/issues/fs-peacekp_reform_000823.html> and Foreign Commonwealth Office, "Intervention and State Sovereignty: Breaking New Ground" (2000) <http//www.fco.gov.uk/news/ newstext.asp?4108>.
<http//www.fco.gov.uk/news/ newstext.asp?4108>.
[6] A/RES/55/2 (2000). *United Nations Millennium Declaration.*

panel's work.[7] Moreover, subsequent discussions within the C-34 and deliberations amongst member states regarding various follow-on reform initiatives brought to light numerous differences. In particular, several states from the global South criticised the report's call for 'robust' capabilities and mandates, and adamantly opposed the Council's request for further development of peacekeeping 'doctrine'.[8] In a debate following the *Brahimi Report*, India decried the more assertive role for peacekeepers and charged that the Council was being invited back into the 'misty evangelism' of the early 1990s.[9]

Similarly, debate in the C-34 following the *Capstone Doctrine's* release clearly reflected the dissatisfaction of many member states. While for some, such as Britain, the doctrine was not robust enough, for many NAM countries, the language on impartiality, the use of force and the protection of civilians was *too* assertive.[10] According to one senior NAM official, the movement's 'official position is that peacekeeping should adhere to the three core principles and by the three core principles I do not mean the Capstone…the NAM never agreed to it'.'[11]

Indeed, contestation was such that even the title, *Capstone Doctrine*, which had been used to refer to the document throughout its development and which is still widely in use today, was formally revised. "Doctrine", it was argued, had connotations of being 'binding' and 'immutable'– characteristics that the NAM and the TCCs/PCCs in particular rejected.[12] Instead, the document was formally entitled *UN Peacekeeping Operations: Principles and Guidelines* and, at the request of the NAM, it was specified that the document be an internal 'paper' of the Secretariat and thus have no legal standing.[13]

The objections raised by states of the global South were influenced by numerous factors which are difficult to disentangle, and often overlap with policy issues other than peacekeeping. Contestation is in some instances both ideological and interest-based. In some instances it reflects the experiences of certain countries as peacekeeping contributors or as host states. These differences are highlighted in the subsequent three sections.

[7] William Durch *et al.,* "The Brahimi Report and the Future of UN Peace Operations." *The Henry L Stimson Center,* Washington: 2003: 7.
[8] United Nations. A/C.4/55/6 (2000): 45.
[9] United Nations. 'No Exit without Strategies' Statement by Mr. Kamalesh Sharma, 15 November 2000. http://www.un.int/india/ind420.htm. See also United Nations. A/54/670 (2000). *Report of the Secretary-General on the implementation of the recommendations of the Special Committee on Peacekeeping Operations;* United Nations. A/RES/55/2 (2000). *United Nations Millennium Declaration*; United Nations. A/RES/55/135 (2000). *Comprehensive review of the whole question of peacekeeping operations in all their aspects.*
[10] Interviews with DPKO officials and government officials, New York, March 2010.
[11] Interview with government official, New York, March 2010.
[12] Interview with DPKO official, New York, March 2010.
[13] Interview with government official, New York, March 2010.

4.1.2. The Secretariat

The second group that contested the more assertive role prescribed for peacekeepers consists of current and former officials in the Secretariat. My characterization of the Secretariat as a critic of assertive peacekeeping may seem at odds with the body's active involvement in the very initiatives that further institutionalised the new conception of the norm. Members of the Secretariat and, in particular, Deputy Secretary-General Louise Fréchette and Iqbal Riza, Kofi Annan's chief of staff, were closely involved in the *Brahimi Report*'s research.[14] Similarly, the two-year consultative process that culminated in the *Capstone Doctrine* was managed by DPKO with high-level oversight.[15]

However, the Secretariat's involvement in the process of institutionalisation was motivated precisely by its members' concerns about the new conception of the norm and the expanded *basis for* decision-making; specifically, as I discuss below, the potential consequences for the 'instrument' of peacekeeping and the institution of the UN more broadly. Institutionalisation was, in this respect, partly an attempt by the Secretariat to foster greater consensus between the institution's mandating body and the general membership, particularly with respect to those tasked with implementation of the more assertive conception of the norm.

Unlike the states of the global South, which were often vocal in expressing their discontent, members of the Secretariat tended to communicate their grievances behind closed doors and through more informal channels. Moreover, when concerns were raised by members of the Secretariat, they tended to be framed in practical terms, such as the availability of necessary resources or the timetable for deployment. As Louise Fréchette, former Deputy Secretary-General, explains:

> The approach taken by the Secretariat–by [Jean-Marie] Guéhenno and his people–was a very technical one… They discussed the details to try and ensure that Council mandates would be as realistic as possible and from there they would build their demands for resources. It is extremely difficult for the Secretary-General to make this a public issue–to champion non-intervention on the grounds that he doesn't have sufficient resources; it's just not feasible. So he has to keep calling for sufficient resources and to maintain a sufficiently productive relationship with members of the Council to find the best possible answer...[16]

Moreover, while the objections of many states from the global South hardened overtime as it became standard Council practice to authorise robust missions, members of the Secretariat became, on the whole, less critical of Council practice. Kofi Annan, as section three explains, had strong reservations

[14] *Brahimi Report*: x.
[15] Interviews with DPKO official, New York, March 2010.
[16] Interview with Fréchette.

about the Council's initial authorisation to protect civilians in Sierra Leone in 1999. During the early 2000s, these concerns were shared more widely amongst members of the Secretariat and with respect to other missions.[17]

The Secretariat's position has however changed over the last decade. The Secretariat's reticence to embrace a more assertive role for peacekeeping during the early part of the new Millennium has shifted towards a more supportive stance of robust peacekeeping. This has particularly been the case under the leadership of Annan's successor, Ban Ki-Moon. The evolution of the Secretariat's position is the result of several factors. The tribulations of peacekeeping in the mid-1990s left an indelible mark on Annan who, at the time, served as Under-Secretary-General of Peacekeeping. Driven by great personal conviction, Annan played a formative role in drawing attention to the issue of civilian protection and was something of a "norm entrepreneur" with regard to Responsibility to Protect (RtoP).[18] Annan's principled activism was balanced, however, by a good deal of pragmatism, and the hard-learnt recognition that the Council's stated ambitions do not always translate into tangible commitments in practice.[19]

Ban Ki-Moon, in contrast, had had little exposure to peacekeeping prior to assuming his post.[20] Moreover, the concern of setting a precedent was no longer a relevant issue. By 2007 the Council had been authorising robust mandates for nearly eight years. This accumulated practice may also have engendered a certain degree of confidence that the institution could weather criticisms over such missions. In addition, the development of both the POC agenda and an implementation plan for RtoP (the 2005 Summit Declaration and the subsequent appointment of a Special Advisor to the Secretary-General) may have led Ban Ki-Moon and others to believe–however inaccurately–that greater consensus existed amongst the membership for more coercive forms of engagement to protect civilians.[21]

In the three sections that follow I present the objections and concerns of both sets of actors, classified according to whether they critique the *procedural*, *substantiv*e or *consequential* dimensions of the assertive conception of impartiality.

[17] In Part III, I describe a similar reticence from the Secretariat over MONUC's initial mandate.
[18] S/1999/957 (1999). *Report of the Secretary-General on the Protection of Civilians in Armed Conflict*. For his own reflections on these issues see Kofi Annan and Nader Mousavizadeh. *Interventions–A Life in War and Peace*. New York: Penguin Press, 2012.
[19] See discussion in Section IV.
[20] Richard Gowan. "Floating Down the River of History: Ban Ki-Moon and Peacekeeping, 2007-2011." *Global Governance* 17(4) (2011): 399-416.
[21] United Nations, A/63/677 (2009). *Report of the Secretary-General on Implementing the responsibility to protect.*

4.2. Procedural Objections

The first type of objection to assertive impartiality is *procedural*. It concerns the process by which the new understanding of impartiality and the associated norms which inform peacekeeping mandates have ‘come into being’, and raises questions about whether they derive from a ‘rightful source of authority’.[22] These criticisms are rooted in the inequalities of power that have emerged due to the new ‘division of labour’ characteristic of contemporary peacekeeping.[23] As Ban Ki-Moon opines: ‘[among] those who mandate [UN] missions, those who contribute uniformed personnel and those who are major funders are separate groups… tensions and divisions are inevitable…’[24]

The crux of this issue is the fact that the Security Council’s resurgent activism with regard to peacekeeping has not been matched by an increased deployment of its members’ personnel. In other words, even though the Council was driving the process of norm development and mission mandating, its constituent states were peripheral to the process of implementation and execution.[25] This is particularly true of the P3 (France, the United Kingdom, and the United States), which spearheaded the more assertive approach.[26] But it also true of the so-called ‘middle powers’ like Canada and Australia, which at the end of the 1990s championed the issue of civilian protection and robust peacekeeping, while dramatically reducing their ground presence.[27]Apart from a few ‘token forces’, these Western powers have been entirely absent from UN peacekeeping in the new millennium.[28] Moreover, the contraction in personnel contributions has been accompanied by a curtailment in the financial support given by Western states to UN peacekeeping.[29]

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[22] Arthur Isak Applbaum. “Culture, Identity, and Legitimacy”, in Joseph Nye and John Donohue (eds), *Governance in a Gobalizing World*, Washington, DC: 2000: 326. See also Hurd 2002.
[23] Jane Boulden. “Double Standards, Distance and Disengagement: Collective Legitimization in the Post-Cold War Security Council.” *Security Dialogue* 37 (2006): 409. See Cunliffe (forthcoming 2013).
[24] Ban Ki-Moon. “Remarks at Security Council debate on peacekeeping” Security Council, 26 August 2011. Available at <http://www.un.org/apps/news/infocus/sgspeeches/statments_full.asp?statID=1275#.UVq1xEL3DBM>
[25] As I discuss below, the public rationale given for their reduced support is often over-commitment in other operational contexts. However, behind close doors, many of the diplomats I interviewed concede that the real reason for their lack of involvement is a deep distrust of the UN’s command capabilities. As one diplomat asserted: ‘[n]o first-world nation wants to devote forces to a UN mission. The UN doesn’t match up to their training and they don’t respect DPKO like [a defence department].’ Interview with senior government official, December 2011.
[26] US contributions, for example, which peaked at 28,000 uniformed personnel under UNITAF, ceased entirely after the losses incurred in Somalia. Presidential Decision Directive 25, issued by the Clinton administration, constrained Washington's participation in UN peace operations and until the late 1990s its approval for such operations by others. For a comprehensive discussion of the US opposition to intervention in the mid-1990s, see Samantha Power. *A Problem from Hell: America and the Age of Genocide*. New York: Basic Books, 2002: Chapter 10. Similarly, Britain and France, which, respectively, had roughly 9,000 and 8,000 forces deployed in 1995, pulled back their field presence. By the end of 2000, both countries had only a few hundred personnel deployed globally. Alex Bellamy and Paul Williams. “The West and Contemporary Peace Operations.” *Journal of Peace Research* 46(1) (2009): 39-57.
[27] Sweden, Norway, Denmark, Finland and Ireland–countries that combined contributed more than 25% of the troops deployed during the Cold War–limited their total global commitment to 1.6% by the end of 2001. Bellamy and William 2009.
[28] Katharina Coleman. “Norms and Modern Military Coalitions: the Significance of Token Forces” Presentation at the Institute for Ethics, Law and Armed Conflict, University of Oxford, 02 November 2010.
[29] Whilst Western nations are still the largest backers of peacekeeping, reforms to the apportionment scheme since 2000 have meant that Western funding has also gradually decreased (notable exceptions include the UK, Canada and South Korea). Under the new system, P5 states were relieved of approximately 2% of their allotted dues to UN peacekeeping. The greatest offset in costs has been in the United States’ portion of the budget, which has been reduced by nearly 5% from nearly 31% to roughly 26.5%. In addition, during this period Western states carried over significant arrears on past contributions. Bellamy and Williams 2009: 46. For an overview of peacekeeping finance see Ross Fetterly. “A Review of Peacekeeping Financing Methods.” *Defence and Peace Economics* 17(5) (2006).

In the absence of Western involvement, developing countries and emerging powers have contributed the majority of uniformed personnel fielded globally over the last decade.[30] Driven by a diversity of motivations, relative newcomers like Kenya and Rwanda have joined veteran peacekeepers such as India and Ghana in filling out the ranks of ever-growing deployments.[31]

4.2.1. An Absent and Selective West

Given this dramatic reduction in Western deployments to and financial support of UN peacekeeping, TCCs/PCCs argue that the Security Council 'shouldn't be allowed to make the rules if they won't play the game.'[32] There is animosity, as one diplomat recounts, that the West 'talks the talk, but won't walk the walk.'[33] The West's absence is all the more incomprehensible and objectionable to many developing countries when it is noted that Western states overwhelmingly possess the specialised military capacities and infrastructure enabling assets necessary for many contemporary missions and the assertive action they require.[34]

Procedural contestation emerged as early as 2000 when, in Sierra Leone, two of the largest TCCs/PCCs 'announced their intention to withdraw their personnel from the mission, threatening its complete collapse.'[35] This was partly motivated, Guéhenno explains, by their contention that it was 'untenable that they would have to pay in blood while members of the Security Council and Western nations were only willing to pay in dollars at best, or through lip-service at worst.'[36] As the mandates of missions authorised by the Council have become more ambitious and exacting, criticisms of the West's absence in the field have escalated.

Attempts by some Western governments to justify their decreased support to UN-led peacekeeping missions by citing other military commitments, particularly in Afghanistan and Iraq, have not passed muster with the TCCs/PCCs; if anything, they have worsened relations. The missions in Afghanistan and Iraq, which are characteristic of the new assertive liberal internationalism, have entailed many of

[30] See Alex Bellamy and Paul Williams, (eds.), *Providing Peacekeepers: The Politics, Challenges, and Future of United Nations Peacekeeping Contributions*. Oxford: OUP (Forthcoming 2013); Cunliffe (forthcoming 2013); Tardy 2012/13.
[31] Contributions from the global South and emerging powers are explained by myriad motivations. Indeed, the typical assumption that developing states and emerging powers are driven by profit and prestige is a gross oversimplification that obfuscates the complexity of motives that compel states to contribute personnel. A state, for example, may see peacekeeping as a profile enhancement tool, as a way to spread democracy and promote liberal norms, as a form of espionage, personnel training or even as a means to keep the military distracted and engaged so as to avoid their meddling in the state's domestic affairs. Moreover, as Bellamy and Williams aptly note, the 'general *predisposition'* of a particular state towards the UN and peacekeeping, may vary over time and be distinct from 'specific *decisions'* taken by its government with regards to particular missions. See Alex Bellamy and Paul Williams, "Broadening the Base of United Nations Troop- and Police Contributing Countries", International Peace Institute, Project–Providing for Peacekeeping No.1, August 2012: 3.
[32] Interview with senior military officer, United Kingdom, November 2009.
[33] Phone interview with senior military officer, United States, November 2009.
[34] Bellamy and Williams 2012.
[35] Jean-Marie Guéhenno. "On the Challenges and Achievements of Reforming the UN Peace Operations." *International Peacekeeping* 9(2) (2002): 76.
[36] Ibid: 76.

the same tasks and objectives as contemporary peacekeeping operations, including civilian protection, electoral support and stabilisation.[37] Some of the more conservative and dogmatic critics within the NAM have even tended to see the "war on terror" and robust peacekeeping prescribed by the Council (and advocated strongly by the US) as ideologically one and the same.[38] Tensions in this respect were exacerbated by the fact that states such as Germany and Canada, who were concerned about maintaining domestic legitimacy for their involvement in Afghanistan as part of the International Security Assistance Force (ISAF), at times glossed over the distinction between mission types to claim, controversially, that their participation in ISAF made them one of the largest contributors to peacekeeping.[39]

In addition to military commitments related to the "war on terror", Western contributions to hybrid missions such Operation Artemis or Operation Licorne are regarded by TCCs/PCCs with a certain skepticism. In these missions, Western forces operate in the same context as blue helmets and/or a UN peacebuilding mission, but are not fully a part of UN political and command structures.[40] Western forces operating in hybrid missions are often constrained geographically, and deployments tend to be limited and of fixed duration. Partly because of this, Western hybridisation is seen by some TCCs/PCCs to exemplify what Martin Shaw refers to as 'risk transfer'; outside the designated area of operation or following withdrawal, the risk shifts from Western forces onto UN elements of the mission, which are often comparatively less well equipped.[41]

Concerns that hybridisation leads to burden-shirking rather than burden-sharing have also been reiterated by members of the Secretariat, who caution against the emergence of 'peacekeeping apartheid' or 'à la carte' engagement'.[42] In such a scenario, Western member states engage selectively when it is in their strategic interest, and developing countries are left to deal with areas deemed less important, shouldering Sisyphean tasks whilst remaining woefully under-resourced. As Guéhenno argued in 2005: 'We cannot support what has been called peacekeeping apartheid–the logic that keeps a larger force of the world's best troops in tiny Kosovo than is kept in Congo, where millions have died.'[43]

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[37] Friis 2010.
[38] Interview with DPKO official, March 2010.
[39] German Mission to the UN, "German Contribution to Peace Operations", www.germany-un.org/peace/keeping/keeping.html; David Kilgour. "Canada's Peacekeeping Role: Then and Now", speech at the University of Alberta, 26 January 2004.
[40] See the classification of various hybrid configurations discussed in previous chapter. Bellamy and Willams also distinguish between 'tightly-coupled' and 'loosely-coupled' hybrid missions. In 'tightly-coupled' hybrid missions, such as KFOR/UNMIK in Kosovo, the UN and non-UN components are jointly mandated and share some common command or political decision-making structure. 'Loosely-coupled' hybrids, in contrast, are *ad hoc* and the different components do not share formal legal or institutional structures, though the UN and non-UN components may cooperate very closely, as in the British operation in Sierra Leone (2000-05) which ran parallel to UNAMSIL.
[41] Martin Shaw. *The New Western Way of War: Risk-transfer war and its crisis in Iraq*. Cambridge: Polity Press, 2005.
[42] Interview with senior government official, December 2011.
[43] Jean-Marie Guéhenno, Address to the Challenges Project, London, 2 Mar. 2005. Available at www.un. org/en/peacekeeping/articles/article020305.htm)

4.2.2. Lack of Consultation

Criticisms by TCCs/PCCs of the West's selective engagement and its absence from UN-led peacekeeping has, in turn, led to demands for a seat at the table and a greater say in the development of peacekeeping policy. Many TCCs/PCCs condemn what they see as the Council's failure to consult them adequately and allow for their participation during the process of mandate formulation and renewal.

The issue of TCC/PCC involvement figured prominently in the *Brahimi Report,* which called for a new three-way relationship between the Security Council, the Secretariat and TCCs/PCCs.[44] More than a record of mere consultation, the report suggested the establishment of an ad hoc subsidiary organ of the Council, under Article 29, to formalise interactions and institutionalise experience gleaned from TCCs/PCCs.[45] The C-34 greeted the *Brahimi Report*'s suggestions enthusiastically, while the Council's response was more tepid.[46] Singapore, which took a keen interest in the issue, identified a clear division among the 36 TCCs that supported a formal subsidiary body, China, which was neutral on the issue, and the four other permanent members who sought more conservative changes.[47] While agreeing to strengthen consultation processes, these states were unwilling to consider formal mechanisms, stressing that the power of the Council was not to be undermined.[48]

Since the *Brahimi Report*'s publication in 2000, consultations with TCCs/PCCs have gradually increased. However, they are still regarded by many as woefully inadequate.[49] In 2009, during a high-level workshop organised by DPKO on robust peacekeeping, the top five TCCs threw down the gauntlet, 'pseudo-threatening to pull out the game', as one attendee described, if the Council did not strengthen consultations on the 'drafting, timing and resourcing' of mandates'.[50] As a result, in 2010–ten years after release of the *Brahimi Report*–the *New Horizons* reform agenda once again called for member states to prioritise triangular consultations on peacekeeping. The issue was also a central point of the 2011 Security Council Open debate during India's presidency.[51]

However, even if technical consultations were to proceed meaningfully, it is not certain that they would bring about the consensus to which *New Horizons* aspires, as the tensions among member

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[44] *Brahimi Report* 2000: 11.
[45] *Ibid:* 11.
[46] United Nations. A/54/839. The Council considered the issue on two occasions, including during an open debate organised by Singapore on the issue [See Resolution 1327 2000; and S/2001/21; S/PV/4257. See also Gray 2006.
[47] United Nations. S/PRST/2001/3.
[48] United Nations. S/PRST/2001/3.
[49] A/60/2005 (2005). *2005 World Summit Outcome:* para 154; See Jennifer Welsh and Dominik Zaum, "Legitimation and the United Nations Security Council." In *Legitimating International Organizations*, edited by Zaum. Oxford: Oxford University Press, forthcoming 2013.
[50] Interview with senior government official, New York, March 2010.
[51] United Nations. S/ Res/2086 (2013).

states over the purposes of contemporary peacekeeping also reflect deep-seated normative divides and conflicts of interests which might not be easily resolved through discussion and deliberation. In other words, increased consensus simply on the *procedures* of peacekeeping might not translate into substantive and abiding agreement.

4.3 Substantive Objections

The second set of objections concerns the *substantive* content of the new conception of impartiality: that is, the actions peacekeepers are expected to undertake as part of the mandate. Substantive objections manifest in two areas of critique: the implications of assertive peacekeeping for state sovereignty and self-determination; and the potential marginalisation of political engagement in favour of a more technical approach to peacekeeping. The former figures as a core concern for the NAM and for what I describe as the more conservative TCCs/PCCs; the latter is an issue raised by moderate TCCs/PCCs and members of the Secretariat. Both areas of critique are closely related to the *consequential* objections discussed further below.

4.3.1. Sovereignty and Self-determination

The lack of shared understanding on the scope and function of contemporary peacekeeping reflects in part an uneasiness many states have with the encroachment of human rights on the principles of state sovereignty, non-intervention, and self-determination. According to this perspective, defended most vocally by members of the NAM, contemporary peacekeeping represents an abrogation of these sacred principles. It is an intrusive activity that imposes a particular normative order reminiscent of the 'standard of civilisation' to which many in the global South were subject under colonial and international administration and which, by extension, interfered with their right as a people to determine their 'collective self'.[52] That foreign administrators almost invariably also claimed to be "impartial, above politics"–guided by an 'ameliorative and protective' agenda–has only deepened such skepticisms.[53]

Contention over peacekeeping practices that are perceived to undermine state sovereignty and self-determination is far from new, and the concerns of the global South must be seen in historical context. The NAM was founded upon the sanctity of these principles. By continually affirming them during the Cold War, the movement sought to limit external scrutiny of, and interference in, state-

[52] Antonio Cassese. "Self-Determination" in *The Oxford Companion to Politics of the World*, edited by Joel Krieger. New York: Oxford University Press, 1993: 822-3.
[53] E.g., International administrators for League of Nations were expected to be "impartial" in adjudicating colonial claims. See Howard Ellis, *The Origin Structure & Working of the League of Nations*, George Allen & Unwin, London 1928.

society relations within the developing world.[54] As I described in Chapter Three, peacekeeping during this period was permissible, even desirable, so long as it respected these principles and provided space for the creation of viable political communities on terms decided by those directly concerned. Consequently, transgressions of this model, such as the assertive action undertaken by peacekeepers in the Congo during the 1960s, were vehemently denounced by the NAM, and several countries withdrew their troops from the mission.

In the post-Cold War era, the NAM has continued its effort to safeguard these principles. In particular, it has viewed with great trepidation the placement of qualifications on the requirement of consent and the use of force by peacekeepers. In the General Assembly, members of the global South expressed grave concern over Boutros-Ghali's *Agenda for Peace* and many criticised it as a downgrading of sovereignty.[55] The new understanding of impartiality and the more coercive mandates authorised for robust peacekeeping missions since 2000 have exacerbated these tensions. Moreover, the development of the RtoP, and the Council's reference to this emerging norm in the context of the peacekeeping mission in Darfur, has only deepened these anxieties. Members of the NAM asserted that these developments were indicative of a growing trend towards Western interventionism.[56]

Whilst this first set of substantive objections can be considered the general view of the NAM, it is important to note that the group is far from homogenous, and countries' positions vary.[57] Member states and Secretariat officials assert that over the last 10 years a spectrum of positions has emerged within the C-34. Venezuela and Cuba, firmly situated at the conservative end of the spectrum, are described as 'dogmatic',[58] 'intractable'[59] and 'uncompromising'.[60] 'They refuse to even have a conversation about POC for fear of legitimising the Council. It is all about Western imperialism and U.S. hegemony,' laments one more moderate member of the NAM.[61]

In the middle of the spectrum are TCCs/PCCs such as Uruguay, India and Pakistan. Whilst skeptical of POC and robust peacekeeping, they are less hostile in their approach and increasingly more amenable to discussing developments in Council practice. They tend to emphasise that POC is the

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[54] United Nations. A/RES/2131 (1966). *The Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty*.
[55] United Nations. A/47/120A (1992) and 47/120 B, 8 October 1993.
[56] United Nations. S/RES/1706 (2006); United Nations, S/2007/643 (2007) *Report of the Secretary-General*: paras. 11-12 also implicitly made the link between POC and RtoP.
[57] In addition to variation within the group, several interviewees noted that the leadership played a critical role in determining how productive the C-34 is. Several officials remarked that under Jordan's leadership by Prince Zeid there was less bickering amongst its members than in more recent years as the group has been headed by Morocco, Pakistan and Egypt.
[58] Interview with DPKO official, New York, March 2010.
[59] Interview with government official, New York June 2011.
[60] Interview with Senior DPKO official, New York, March 2010.
[61] Interview with government official, New York, April 2010. See remarks of Cuba and Venezuela in S/PV.6531 (2011).

primary responsibility of the state, to affirm the importance of consent, and to underscore the political necessity of self-determination.[62] By implication, India and Pakistan, one official notes, 'don't think robust peacekeeping and protection will work. They are painfully aware of what it takes to 'state-build'… They know that sometimes it has to be, and usually is, a violent process.'[63] China, which as I describe below has emerged as a significant TCC but one that has been relatively reticent to engage within the C-34, is described as falling into line with this middle position.

Finally, at the other end of the spectrum are the moderate critics, states such as Indonesia and Costa Rica. It is with these states that the P3 and countries like Canada and Australia frequently engage, as they appear more amenable to having discussions about POC and robust peacekeeping in the first place.[64] As one moves away from the conservative end of this spectrum, objections by the more moderate TCCs/PCCs about the new norms of peacekeeping are less focused on sovereignty and self-determination. Rather, their concerns are about resourcing and which tasks are prioritised, at what cost and to whose benefit. These objections, as I explain below, have also been cause for concern within the Secretariat.

4.3.2. Peacekeeping, Protection and the Politics of the Council's Priorities

A second substantive concern is that the moral discourse around robust peacekeeping and the new conception of impartiality–particularly the focus on protecting civilians and action against spoilers–obscures the political nature of violence and the tough compromises that are often required when peace agreements are torn asunder.

In other words, the objection is not that sovereignty or self-determination are jeopardised by the more assertive approach, but rather that the purposes which peacekeepers now serve, such as civilian protection, are conceived of as apolitical and may be pursued at the expense of meaningful political engagement with the various parties to address the causes of conflict. As a representative from a large TCC state explained, '[m]any of the NAM states are not against POC *per se*. Our problem is that POC is predominately defined in military terms and not really as a political problem–which it is. The fear is that by making POC the focus of the conversation it will dominate at the expense of other core peacekeeping issues.'[65] In other words, reduced to a military strategy, POC risks becoming a technical response to a deeply political problem. As the Indian representative noted in 2011, 'the

[62] See remarks of India SP/6917(2013) and Uruguay S/PV.6513 (2013).
[63] Interview with research analyst, New York, September 2010
[64] Interviews with three government officials, New York, March 2010.
[65] Interview with government official, New York, March 2010.

intense focus on [POC] has, in some situations of conflict, shifted attention from the tried and tested methods of mediation and negotiation that are the staples of conflict resolution.'[66]

Similar concerns have been raised by members of the Secretariat and, in particular, by DPKO officials under the leadership of Jean-Marie Guéhenno. As protection became a mandate priority for the Council, Guéhenno emerged as a self-proclaimed 'skeptic' and 'conservative' on the issue of POC.[67] Indeed, some assert that the Council's increasing prioritisation of POC in peacekeeping was part of his motivation for leaving the department in 2008.[68] Like some members of the NAM, Guéhenno does not deny the intrinsic value of protection or that the norm should assume a place of prominence within the UN. As he remarks, 'being against POC is like being against Mama and her apple pie… Protection is at the core of the Charter. If it's not about protecting the 'people' then what is it about?' Instead, his concern is that 'the POC discussion forgets that peacekeeping is about politics'. 'Peacekeeping', he maintains, 'is not the SWAT team of the world sent in to clean up the bad neighborhoods of the world'.[69]

Underlying the criticisms of both sets of actors is the contention that violence is profoundly political and not a simple moral wrong that peacekeepers–either as SWAT teams or 'cops on the beat', as Doyle described–can make right. These actors' concern is that robust peacekeeping and the prioritisation of protection will render peacekeeping reactive and palliative, and that resolution of the more intractable, deeply political sources of insecurity will become peripheral to peacekeeping's core purposes. In other words, there is a risk of forgetting the old adage that peacekeeping operations can never be a substitute for an effective political process–a point that the *Brahimi Report* was at pains to remind the Security Council of.[70]

The deployment of the United Nations Mission in the Central Africa Republic and Chad (MINURCAT) in 2007 gave credence to these concerns. Tasked with protecting refugees from Sudan's Darfur region and Chadian civilians displaced by violence within the country, MINURCAT was unprecedented in that its mandate did not include any provisions to support a parallel peace or political reform process.[71] Indeed, Chadian President Deby's consent for the mission was contingent

[66] S.PV.6531 (2011).
[67] Interview with Guéhenno, New York, March 2010; June 2011.
[68] Interview with senior analyst, New York, March 2010; DPKO official, New York, June 2011.
[69] Interview with Guéhenno, New York, March 2010.
[70] Brahimi Report: 1.
[71] MINURCAT, which replaced Eufor, assisted in protecting refugees from Sudan's Darfur region and Chadian civilians displaced by violence, but at President Deby's insistence had no mandate to support a broader political process of reform. The mission made numerous concessions to Deby, including the building of an airport, which led several analysts to charge that the mission had become partial to the government and 'impotent'. The mission was asked by the government to withdraw in 2010. Interview with DPKO official, New York, March 2010; See also John Karlsrud and Randi Solhjell. "An Honourable Exit for MINURCAT?." *NUPI Policy Brief* 3 (2010); Chrysantus Ayangafac, *Resolving the Chadian Political Epilepsy: An Assessment of Intervention Efforts, Situation Report*, ISS, South Africa: June 2009.

on these very limitations, lest such a process involve the opposition groups who threatened to topple his presidency.

Whilst no other mission to date has so blatantly marginalised political engagement, to many critics MINURCAT was merely the clearest instantiation of what they regard as a worrying trend whereby political dialogue is sidelined.[72] In this context, robust peacekeeping becomes a strategy of political expediency–a way for actors both local and global to be seen to do something without meaningful political engagement. In other words, it is a 'strategic' use of the norm, a form of what scholars have described as 'cheap talk'[73] and 'rhetorical action'.[74] As one UN official admonishes: '[POC] is like the refugee issue–it's easier to have warehouses of refugees in Kenya and Palestine for decades than to actually address the politics behind their being there… No one wants to deal with the *real* issues'.[75] Guéhenno makes a similar point about the POC agenda, and in doing so problematises the analogy of the contemporary peacekeeper as a cop on the international beat.

> You can say you have to protect the people of New York, but New York is a solid state… In the case of the United Nations… there is no such thing as a world government. There is no such thing as a world police force. And so POC is a trap… it is a diversion from what is the real issue: that is, how to create accountable governments that people can trust, so that they will feel protected in a real way, because they own it…This is precisely the reason why people focus on protection of civilians; because it transforms what is a highly political and divisive issue–'what kind of government do you want'–where there is no substantive agreement, into a kind of technical issue.[76]

As the mandating body for peacekeeping, the Security Council is the main target of this substantive criticism. Skeptics charge that international grandstanding by the P5 is a means of papering over political apathy. The resolutions authorised by the Council become a reflection of and alibi for its lack of engagement, political or otherwise. During interviews, numerous Secretariat officials spoke of the Council's 'preoccupation', indeed, 'obsession' with 'the microphone'–that is, with conveying to outsiders an image of activism and engagement.[77] These characterisations are not wholly unwarranted, and are given credence by members of the Council who acknowledge the pressures exerted on the decision-making body to respond to crises. As a former representative to the Council concedes:

> POC and ambitious mandates are about giving the Security Council something to walk out to the microphone with. We spent hours and hours to produce something for that microphone. It was all about the microphone. It was all about being seen to do something.

[72] Interviews with DPKO officials and government officials, New York, March 2010.
[73] Risse 2000: 22
[74] Schimmelfenning 2001:63.
[75] Interview with UN official, New York, March 2010.
[76] Interview June 2011.
[77] E.g., Interview with Fréchette. Interview with Robert Fowler, former Permanent Representative of Canada to the United Nations (1995-2000); former personal representative for Africa for Prime Ministers Jean Chrétien, Paul Martin and Stephen Harper; former Canadian Deputy Minister of National Defence, Ottawa, May 2011.

> At the end of the day, it is for 'show' and not really about 'reality'. It is about staving off real political engagement in places of minor strategic importance... It is so the Human Rights Watches of the world don't finger point.[78]

Similarly, another Council representative states:

> The Council tries very hard to deal with the demands in the area of peace and security with words. The Council can't say a crisis is not relevant. Its members can never say that they don't trust the UN to deal with the problem or that they only deal with an issue on a smaller scale… There is a ceiling [on the resources needed for and complexity of] on each particular context–however, the Council can't publicly acknowledge that ceiling.[79]

Moreover, member states and Secretariat officials lament that robust mandates serve as a substitute not only for the Council's political engagement, but also for more forceful military action. In this way, POC is seen to 'top the agenda' because RtoP, and in particular its third pillar, are, as one official chides, 'too demanding'.[80] The assertion implicit in this comparison is that because peacekeeping still requires, in theory, a degree of consent, it limits the possible coercive uses of force and is thus less exacting and arguably less controversial than RtoP. By this account, even though Western states no longer contribute blue helmets, the authorisation of a peacekeeping mission creates an illusion "of their doing something", including in those cases that some may charge warrant a more coercive intervention, without having "to do" anything. Looking back, former Secretary-General Annan highlighted this as a core concern of the *Brahimi Report* and cautioned against the deployment of peacekeeping forces that serve as a 'fig leaf… designed to conceal [the Council's] unwillingness to intervene with the true commitment necessary, as a means of appeasing demands for forceful humanitarian intervention.'[81]

In the absence of "real" political commitment or willingness to meet the demands of more forceful engagement, critics charge that the Council–'distant and disengaged' at the field level–has little incentive to insure the feasibility of mandates it authorises and the viability of the missions it deploys.[82] In leveling such complaints, TCCs/PCCs highlight the paltry resourcing of contemporary peacekeeping missions as evidence–the absence of military technology, equipment and training–as well as the inappropriately low troop numbers relative to mandated tasks.[83] In the words of one TCC representative: 'The Council doesn't think about "how"–they just authorise mandates. Newsflash: 100 civilians are killed. The Council thinks, "right, we need to protect civilians". You only have to

[78] Interview with Fowler 2011.
[79] Interview with senior government official, December 2011.
[80] Interview with government official, June 2011.
[81] Annan 2012: 77.
[82] Boulden 2006; Cunliffe 2009.
[83] See for e.g., the remarks of India and Uruguay S/PV.6917 (2013).

look at our equipment and numbers to see that very little attention is paid to "how", whether it's possible or the potential consequences.'[84]

4.4. Consequential Objections

The substantive concerns of TCCs/PCCs and the Secretariat give rise to a final and closely related area of contention: namely, objections regarding the *consequences* of the new understanding of impartiality and the robust role proscribed for peacekeepers. The first set of concerns, related to expectations occasioned by assertive impartiality are raised primarily by members of the Secretariat; the TCCs/PCCs focus on the second set of objections, related to issues of liability. I examine each in turn below.

4.4.1. Expectations: Blunting the Instrument and the Perils of False Hope

As prescriptions for action that have a deontic element, norms invariably engender expectations. It is thus of little surprise that the normative shift which altered the nature and purposes of peacekeeping over the last decade would engender new and higher expectations both locally, where missions are deployed, and globally among a variety of governmental and non-governmental actors.[85] As the complexity and multidimensionality of UN missions have expanded over the last decade, peacekeepers have been expected to undertake a plethora of tasks including protection, the maintenance of law and order, and assistance in the pursuit of justice.

Critics assert that expectations, when unmet, may diminish the effectiveness of peacekeeping as a tool, sully the reputation of the UN more broadly and, crucially, have dire consequences for those on the ground. These concerns are particularly acute within the Secretariat, which has long resisted the Council's authorisation of impossible mandates.[86] As Louise Fréchette explains:

> The UN is not an NGO, [the Secretariat] cannot call for a dream world, because it knows that it will get stuck with an impossible mandate and insufficient resources. So the Secretariat tends not to separate the aspiration and the vision from the practicalities; otherwise it is suicide. It cannot afford just to be an advocate – an advocate of a rigorous response because it will be the one who is going to have to do the job. It must be clear that whatever is crafted is possible.[87]

[84] Interview with Secretariat official, New York, March 2010.
[85] *Capstone Doctrine*: 38.
[86] Interview with Fréchette. These concerns are also echoed by member states. For example, Uruguay notes that 'the UN has valuable capital' which it doesn't have the 'luxury of squandering', noting that it is 'easier to destroy' the trust necessary for political mediation than it is 'to build'. S/PV.6531 (2011).
[87] Interview with Fréchette.

Moreover, the Secretariat's relative incapacity to defend itself against its critics when handed impossible mandates deepens these concerns. As Fréchette continues:

> The UN cannot defend itself. You cannot defend yourself without attacking your member states. If you want the UN to defend itself as an institution, it would have to point the finger precisely at the failure of member states and not just on the resource issue but also the ways in which [member states] at times undermine security... The UN and the Secretariat have to be diplomatic. We are the servant of the member states.[88]

Given these concerns and limitations, Secretariat officials were initially more reticent to endorse the more assertive conception of peacekeeping than is often acknowledged. Kofi Annan was, for reasons discussed above, particularly wary. However, the Secretary-General was constrained in the way he could voice these concerns. As former UN Ambassador Robert Fowler, who was instrumental in advancing the POC agenda during Canada's tenure on the Council, explains: 'Kofi was in a tough position. He couldn't come out publicly and say "don't include provisions in mandates to protect civilians" when certain key members were calling for such specifications. Instead, he did it through negatives–"if you don't give us the tools to be able to carry out such mandates then you can't criticise us when we can't implement them"'.[89]

Behind closed doors, Annan was more forthright in expressing his 'grave concern' about the inclusion of an injunction to protect civilians. As a result, 'stern words' were exchanged between Annan and Fowler during the drafting of Resolution 1265 for the mission in Sierra Leone.[90] The Secretary-General's disquiet extended downward through the Secretariat, which gave significant 'kickback' to the Council. The resounding message from the Secretariat was, as Fowler explains:

> Don't design to fail. Just because you have a nice idea, just because it is informed by goodness doesn't mean it will work. If you set up a mandate like this and we fail, it will be catastrophic for the institution. The UN will be besmirched; we will look flaccid and weak… We risk that the instrument will become ever more blunt.[91]

These appeals did not fall on deaf ears. The Council responded to these concerns and inserted caveats with what Fowler describes as 'weasel words'.[92] UNAMSIL, for example, was authorised '*within its capabilities and areas of deployment*, to afford protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone'.[93] These specifications were intended to moderate expectations and have persisted in various forms

[88] Ibid.
[89] Interview with Fowler.
[90] Ibid.
[91] Ibid.
[92] Ibid.
[93] S/RES/1270 (1999).

over the last decade, albeit with some notable exceptions, as discussed in Chapter Five with respect to MONUC.[94]

Yet, despite the inclusion of such 'weasel words', members of the Secretariat nonetheless questioned and continue to question the extent to which expectations for protection and assertive action against spoilers really can be moderated. Further, they draw attention to the potential of all too human consequences when they are not. 'Civilians', Jean-Marie Guéhenno states acerbically, 'don't read the fine print of Council mandates'.[95] Beyond providing a nebulous sense of hope, the very presence of UN forces may, as the *Brahimi Report* cautioned, instil expectations of material assistance and physical safety for people on the ground and particularly for those in peril. Critics assert that this holds even truer when the mandate explicitly entrusts a mission with specific protection tasks.[96]

Faced with these hard dilemmas, some Secretariat officials argue for an approach that more assiduously 'protects the instrument' of peacekeeping and, by extension, the UN's organisational reputation in general. Furthermore, they advocate that the UN must be more pragmatic and realistic. As a senior advisor in the Secretariat argues powerfully:

> We need to be honest about the institution's weakness and capabilities. There is a certain power in weakness, which we seem to have forgotten. We need people who say "we can't do it"–people who are realistic about what is achievable. The worst thing at the end of the day is to make empty promises and create false hope. If people are going to need to run, then let them run. Let them run fast.[97]

4.4.2. Guarding the Guardians: Peacekeepers 'on the hook'

Concerns over the potential repercussions of raising expectations and dashing hopes give rise to a final set of *consequential* objections. Tabled largely by the TCCs/PCCs, these concerns pertain to questions about the potential liability of peacekeepers for their actions (or lack thereof). This issue has taken on greater significance as peacekeepers have been held to higher moral and legal standards given their more overt and visible role in human rights-related activities such as POC. Scholars note, for example, how the issue of sexual exploitation and abuse (SEA) by peacekeepers, which has sullied operations in the past, 'came to a head in the early 2000s' and was explicitly linked to the new understanding of impartiality.[98] Such sentiments have also been reflected in training and guidance

[94] In addition to inserting caveats, the Council also invited NGOs and UN agencies to come and speak before the Council about the reality on the ground and the situation that peacekeepers thus face.
[95] Interview with Guéhenno, June 2011.
[96] Interview with senior military officer, New York, October 2011. See also *Brahimi Report*: paras 62–3.
[97] Interview with senior UN official, New York, March 2010.
[98] Kate Grady. "Sexual Exploitation and Abuse by UN Peacekeepers: A Threat to Impartiality." *International Peacekeeping* 17(2) (2010): 215-228.

material produced as a response to the more intense scrutiny of peacekeeper conduct. As one official notes,'[i]f impartiality implies adherence to human rights, reports of sexual abuses or illegal activity by UN peacekeepers will compromise its core principles and legitimacy'.[99]

Whilst such reprehensible behavior by peacekeepers is in no way new, the deployment of missions over the last two decades into states where functioning institutions of governance are lacking is such that the potential for abuse by members of national contingents of the UN is 'enormous'.[100] In this context, 'Who guards the guardians?' as the title of a recent book asks plainly.[101] This question has also been raised by member states from the global South.[102] Various attempts to clarify the legal obligations of peacekeepers have been made over the last two decades, but ambiguities remain.[103] The issue is further problematised by the diversity of command and control structures that characterise contemporary peacekeeping missions.

By contrast, the concerns of TCCs/PCCs tend to be focused on issues of liability related to impartiality's expanded scope for the use of force. Their concerns are twofold. First, they fear the legal implications for uses of force that may, at the time, have been regarded as acting in accordance with the mandate, but which post facto may be deemed excessive and may lead to collateral damage. This issue was raised in 2005 when Brazilian peacekeepers, using automatic weapons, conducted operations in Cité-Soleil, Haiti. Formal complaints were made by several human-rights organisations and an investigation was conducted by the UN Commission of Human Rights' Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.[104] Similar investigations have been conducted in eastern Congo and Ivory Coast.[105]

Second, the concerns of TCCs/PCCs work in precisely the opposite direction. Just as they worry about the potential legal implications of action, they fear possible prosecution in instances of inaction–that is, their potential liability for failing to protect civilians. Once again, legal precedent

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[99] Interview with senior Secretariat official, New York, October 2011. For example, training guidance states that peacekeepers should 'never become involved in sexual liaisons which could affect [their] impartiality'. This point was also reiterated by Prince Raad bin Zeid in United Nations. A/59/710 (2005). *A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations* (Zeid Report): para.6. See also, UN DPKO Training Unit, 'We Are United Nations Peacekeepers' (at: www.un.org/Depts/dpko/ dpko/Conduct/un_in.pdf). On peacekeeper enmeshment in illicit activity, see Peter Andreas. *Blue helmets and black markets: The business of survival in the siege of Sarajevo.* Ithaca: Cornell University Press, 2008.

[100] Guglielmo Verdirame. *The UN and Human Rights: Who Guards the Guardians?* Cambridge: Cambridge University Press, 2011: 229.

[101] Verdirame 2011.

[102] 'Quis custodiet ipsos custodies? Who guards the guardians?' Asked the Indian representative during Council debate on protection of civilians. S/PV 6531 (2011).

[103] See the "Peacekeeping Law Reform Project" at the University of Essex.< http://www.essex.ac.uk/plrp/documents/default.aspx>; and Kjetil Mujezinovi Larsen. *The Human Rights Treaty Obligations of Peacekeepers.* Cambridge: Cambridge University Press, 2012.

[104] The Special Rapporteur described MINUSTAH's response as 'broadly satisfactory'. See 'Report of the Special Rapporteur, Commission on Human Rights', UN doc., E/CN.4/2006/53/Add.1, 27 March 2006; 'Report of the Secretary-General on the UN Stabilization Mission in Haiti', UN doc., S/2006/592, 28 July 2006. A complaint against Brazil was submitted to the Inter-American Commission on Human Rights by human-rights activists, but was eventually rejected by the Commission.

[105] E.g., an internal review was conducted into MONUC's operations against the LRA in Garambe National Park, and similarly following UNOCI's operations in Ivory Coast in May 2011.

fuels these concerns.[106] In 2011, the Dutch Court of Appeal in The Hague decided that Dutch peacekeepers acted unlawfully in failing to protect the Bosnian population that sought refuge in the Srebrenica 'safe area,' and specifically in evicting several men who later were killed.[107] Scholars also note that the International Court of Justice (ICJ)'s 2007 judgment on Serbia's failure to prevent genocide set a legal precedent that could be applied to peacekeeping missions. Under such a scenario, as legal scholar Guglielmo Verdirame explains, a mission would incur responsibility if, according to the ICJ judgment, it 'manifestly failed to take all measures to prevent genocide which were within its powers'.[108]

This potential source of liability, scholars argue, is new. Traditional peacekeeping missions would likely be exempt from liability given the legal limit on their uses of force. Robust peacekeeping, however, is 'different' as Verdirame notes, in that it is given both Chapter VII authorisation and ROE, that unequivocally permits the use of force.[109] This potential source of liability is particularly worrisome given that, in addressing the issue of capacity, the ICJ concluded that the obligation is one of conduct rather than result and thus the scope of duty is to 'employ all means reasonably available… so as to prevent genocide so far as possible'.[110] Simply put, peacekeepers may be "on the hook" regardless of whether or not they are adequately resourced.

This final point is particularly salient for TCCs/PCCs, given the procedural and substantive objections discussed above. If peacekeepers have little involvement in the process of mandate formulation, and if the P5 are unwilling to shoulder the burdens of implementation or furnish the necessary hardware, why should TCCs/PCCs take the blame? Indeed, TCCs/PCCs have recently raised the issue of the Council's own accountability in relation to the mandates it authorises. In 2013, a representative of India at the UN charged, '[The Council] should be held accountable if unachievable mandates have been generated for political expediency or inadequate resources are not made available'.[111] These objections partly explain the reluctance of TCCs/PCCs to deliberate on and develop guidelines for POC, and their notable aversion to the term 'doctrine' during the process of institutionalisation. As the dynamics of troop contribution took shape and, through Council practice, the implications of the new conception of the norm became clearer, criticisms amongst the global South hardened.

[106] The UN's impunity was also challenged in relation to Srebrenica when a case was brought against both the UN and the Dutch state by the Mothers of Srebrenica on behalf of 6,000 Bosnian Muslim men and boys. However, the court's ruling determined that UN immunity prevailed and an appeals court ruling stated that the court did not have the jurisdiction to hear the case against the UN. On treating the UN as a moral agent, see Toni Erskine. "'Blood on the UN's Hands'? Assigning Duties and Apportioning Blame to an Intergovernmental Organisation." *Global Society* 18(1) (2004): 21-42.
[107] Verdirame 2011: 222.
[108] Verdirame 2011: 222.
[109] Verdirame 2011: 223.
[110] Cited in Verdirame 2011: 223.
[111] S/PV.6917 (2013).

4.5. Gulliver and the Lilliputians

The objections raised by the UN's broader membership did not prevent the institutionalisation of the new conception of impartiality; nor did they impede the Council's authorisation of ever more robust peacekeeping operations. Instead, as the previous chapter explained, the new understanding of the norm of impartiality and the advent of a more robust role for peacekeepers coincided with a dramatic surge in blue-helmet activity. Following the nadir of peacekeeping in the mid-to-late 1990s, the first decade of the new millennium saw a near five-fold increase in the number of UN peacekeepers and police deployed globally.[112]

To explain this development, we must examine dynamics within the Security Council during the period, as well as its relations with other deliberative bodies within the UN.

4.5.1. Restraint in the Council

In contrast to the era of peacekeeping's inception, peacekeeping in the post-Cold War period has not been driven by division or paralysis in the Council.[113] Largely unencumbered by the prospect of the veto, the Council has in the post-Cold War period amassed an unprecedented ability to determine peacekeeping policy and hold the Security Council on 'a very different course' from that of the general membership.[114] Particular crises have certainly engendered discord between members of the Council, as evinced most recently by the clamour over actions taken by peacekeepers in Ivory Coast.[115] Nonetheless, the general pattern with respect to peacekeeping has overwhelmingly been one of restraint and limited co-operation.

This is not to diminish or downplay the competing interests at play in the Council.[116] As my analysis in Part III attests, bitter divisions amongst P5 states over Great Lakes policy had a profound effect on the Council's approach towards the region and MONUC's mandate, particularly during the first phase of its deployment (1999-2002). And Congo is not an anomaly in this respect. The point, rather, is that since 2000, such differences have not stopped the Council from consistently authorising robust mandates in line with the new conception of impartiality.

To explain this activism on and co-operation over peacekeeping, scholars observe that missions authorised by the Council tend to be deployed to countries and regions that, following the end of the

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[112] *Capstone Doctrine*: 4.
[113] See Susan Hulton. "Council Working Methods and Procedure," In *UN Security Council: From the Cold War to the 21st Century*, edited by David Malone, Boulder: Lynne Rienner Publishers, 2004; Wallensteen and Johansson 2004: 30.
[114] Soo Yeo Kim and Bruce Russett. "The New Politics of Voting Alignments in the United Nations General Assembly." *International Organization* 50(4) (1996): 651.
[115] In particular see Russia's remarks S/PV.6531 (2011).
[116] On selectivity of engagement see Boulden 2006.

Cold War, are of comparatively less strategic importance, or where competing interests are not sufficient to thwart engagement.[117] In addition, they emphasise that acrimonious relations over areas *of* great strategic relevance have not dimmed the Council's enthusiasm for peacekeeping. As Mats Berdal observed prior to the invasion of Iraq:

> Notwithstanding the deep divisions among member states that emerged over Iraq in 2003, and which many predicted would have a lasting and paralysing effect on the Security Council, new [peacekeeping] missions have been authorised and existing ones substantially expanded … at an unprecedented rate.[118]

Moreover, there is even evidence to suggest that the rancor over the Iraq War produced diplomatic dividends for Congo. As I discuss in Part III, permanent members looked to reconcile their differences and deepen cooperation where and when they could. Congo *appeared* to provide such an opportunity.

Lastly, contestation within the Council on peacekeeping has been limited by the reluctant compliance of both Russia and China, the two states most likely to be skeptical of robust peacekeeping, given their deep attachment to the principles of sovereignty and non-intervention. Since attempting to undertake regional peacekeeping in places like Georgia, Moldavia and Tajikistan in the mid-1990s–operations derided by critics as mere cover ups for Russia's own aggressive ambitions, Moscow has taken a back seat on peacekeeping.[119] This lack of engagement may be partly explained by the fact that Russia has few political and economic stakes in Africa where, as of January 2013, 72% of all peacekeepers are currently deployed.[120] As one official stated, 'Russia picks and chooses its battles, and peacekeeping isn't usually seen as an issue worth fighting for'.[121]

Lack of Russian strategic interest in Africa, and disengagement from the continent is in marked contrast to that of China. However, Beijing's massive investment in the continent and burgeoning partnerships with African regimes has not translated into a more critical stance on peacekeeping. Quite the opposite, in fact. Over the last decade China has visibly strengthened its commitment to peacekeeping, and regularly tops the list as either the first or second largest contributor of personnel to peacekeeping missions amongst the P5.[122] Chinese engineering battalions, field hospitals and police personnel have been active in Liberia, Sudan and Congo–all contexts in which China also has

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[117] Boulden 2006; MacQueen 2006: 158.
[118] Mats Berdal. "The UN after Iraq."*Survival* 46(3)(2004): 88.
[119] Roy Allison. "Russia resurgent? Moscow's campaign to 'coerce Georgia to peace'." *International Affairs* 84(6)(2008): 1145-1171.
[120] Indeed, this was what many analysts found most vexing about Russia's ardent opposition to the actions taken by UNOCI in Ivory Coast (2011). Interviews with government officials and analysts, New York, June 2011.
[121] Interview with government official, New York, June 2011.
[122] See special issue of *International Peacekeeping*. Miwa Hirono and Marc Lanteigne. "Introduction: China and UN Peacekeeping." *International Peacekeeping* 18(3) (2011): 243-256.

significant investments.[123] Similarly, China has considered deployments in the Middle East with the expressed desire to boost its profile in the region.[124] Whilst Beijing has refused to deploy military units for combat–a sign of its reticence actively to condone and engage in more assertive action–Chinese personnel regularly operate within Chapter VII missions and alongside forces with robust mandates and ROE. Nevertheless, analysts in New York remark that Chinese officials rarely engage on peacekeeping issues in the Council and are 'reluctant to speak up in the C-34'.[125]

4.5.2. Access and Representation

The P5's newfound cooperation has diminished the non-permanent membership's ability to influence peacekeeping policy. The profusion of peacekeepers from the global South has not translated individually or collectively to greater influence. In contrast to the 1950s and 1960s, when the global South wielded considerable clout and the superpowers, intent on currying favour with them, were more receptive and amenable to their demands, the non-permanent membership's room to maneuver in the Council and the political relevance of the General Assembly has diminished over the last two decades. Apart from China, no other state ranked within the top twenty contributors holds permanent membership on the Council.

In addition, the need to ensure an equitable geographic representation across non-permanent seats results in a disadvantage for the majority of TCCs/PCCs which, drawn from Africa and Asia, count as one region each during biennial council elections. From 2000 to 2010, states from the top ten TCCs/PCCs held a total of 15% of the non-permanent seats available in the Council.[126]

Moreover, even when they are represented on the Council, the influence of non-permanent members has been circumscribed by changes to the Council's working procedures. As Ian Hurd notes:

> Increasingly the real work of the Council takes place among the Permanent Five in "informal sessions" (which, because they are not official Council meetings, do not need to be open to the non-permanent members or to the public). Almost every formal Council meeting now is a pro forma affair, scripted in these advance informal consultations. The President of the Council almost invariably notes in opening an official meeting that "the Security Council is meeting in accordance with the understanding reached in its prior consultations."[127]

With little sway over the P5, member states and Secretariat officials lament variously that the C–34

[123] Cunliffe (Forthcoming 2013).
[124] Ibid.
[125] Interview with DPKO official, New York, June 2011.
[126] Calculation based on source data available at Global Policy Forum. http://www.globalpolicy.org/security-council.html
[127] Hurd 2002: 42-43.

has become 'a silly exercise',[128] or an 'irrelevant body'[129] that figures more as an 'echo chamber'[130] for Council policy than as a locus of constructive and meaningful dialogue on peacekeeping. As one Senior official puts it: 'The C–34 has become a forum in which member states try and chase after a train which has already left the station'.[131] As another frustrated TCC/PCC representative explains, the C–34 has become 'the only outlet for certain members to vent against the P5 and many NAM want to use the C–34 to limit Council policy, but this is pointless. It is a case of the Lilliputians trying to tie up Gulliver when Gulliver can always do what he wants'.[132]

The disconnection between what the Security Council mandates and what is debated in the C–34 is perhaps the clearest indication of the latter body's marginalisation. Despite the prevalence of mandates to protect civilians since 1999, the issue of POC first featured on the C–34 agenda only in 2008, to much consternation, and appeared in the text of the committee's annual report only in 2009.[133] Those involved in the C–34 negotiations contend that the inclusion of POC, for which criteria and guidelines could not be agreed upon, reflected an *ex post facto* recognition of and resignation over what the Security Council had already been authorising.[134]

The TCCs/PCCs' decision to engage in the *Capstone Doctrine* drafting process starting in 2005 was underpinned by a similar rationale. Despite a longstanding aversion to discussing doctrine, the TCCs/PCCs called for deliberations on doctrine and the clarification of key concepts. This was motivated by the fact that by 2005 it had become clear that the Council was going to continue to authorise the deployment of robust missions.[135] This reversal was significant. It reflected both the challenges they faced in the field as well as the increasing prevalence of TCCs without national peacekeeping doctrines that were expected to be assertive and impartial in keeping peace.[136] However, as I discuss below, the widespread desire for conceptual clarity was not realised.

[128] Interview with DPKO official, New York, March 2010.
[129] Interview with government official, New York, March 2010.
[130] Interview with military official, New York, March 2010.
[131] Interview with senior Secretariat official, New York, March 2010.
[132] Phone interview with government official, April 2010.
[133] A/61/19/Rev. 1 (2008). *Report of the Special Committee on Peacekeeping Operations and its Working Group;* A/63/19 (2009). *Report of the Special Committee on Peacekeeping Operations and its Working Group at the 2009 Substantive Session.*
[134] Similarly, the C-34 first discussed robust peacekeeping in 2010 – a decade following the Brahimi report's introduction of the concept. Moreover, since a significant dispute in the C-34 in 2007 over an American move to remove mention of consent as a principle of peacekeeping from the document, all annual reports have contained a caveat that 'nothing in the document undermines the Council authority'.
[135] The C-34 initiated the discussion, noting in its 2005 report that 'many delegations called for the Special Committee to consider seriously the diverse terminology employed by the United Nations Secretariat and Member States to refer to peacekeeping operations in order to reach a common understanding on the matter'. A/59/19 (2005). *Report of the Special Committee on Peacekeeping Operations and its Working Group at the 2005 Substantive Session.*
[136] In previous yearly reports the Committee had only gone so far as to reaffirm the continuing salience of the trinity, without any elaboration of its definition or commentary on the expanded conception offered in the *Brahimi Report.* A/58/19 (2004). *Report of the Special Committee on Peacekeeping Operations and its Working Group at the 2004 Substantive Session.*

4.5.3. Norm Ambiguity and the Consultative Process

The *Brahimi Report* and the *Capstone Doctrine* were both the outcome of consultative processes. Key stakeholders, including TCCs/PCCs, were consulted extensively throughout the drafting and, in the case of the *Capstone Doctrine*, the C-34 was granted an opportunity to comment on a draft prior to its release. The consultative framework did not, however, lead to consensus. Instead, it generated ever-greater contestation and disagreement over the norm of impartiality and the broader purposes of contemporary peacekeeping. This demonstrates that the process of institutionalisation of a norm–particularly in the form of a codified text–does not necessarily effect consensus. The two texts often cited as representing the UN's 'view' on peacekeeping are thus compromised by deep disagreement over the form and content of UN peacekeeping.

Deliberations among member states revealed a number of divisive issues. However, the Secretariat's aim of formulating a report that would be acceptable to most member states meant that objections that were raised during consultations were subsequently omitted or couched in ways that sought to minimise controversy and dissent. For example, the Brahimi panel deliberately left to one side the issues of Security Council reform, the remuneration of peacekeepers, the use of *gratis* military officers and, more broadly, the distinction between peacekeeping and humanitarian intervention.[137] Furthermore, the issue of defining a doctrine, which was particularly contentious and which, when raised during the research phase, prompted 'several delegations to question the intent and appropriateness of the [panel's] exercise', was left purposely vague.[138] The report's treatment of the core norms of peacekeeping, including the reformulation of impartiality, was seen to be 'pushing the edge of the envelope' such that any additional detail or specification risked provoking even greater consternation.[139]

Similarly, differences over the substance of assertive peacekeeping became apparent during the research and consultation phase of the *Capstone Doctrine's* development. As a result, particular issue areas were avoided or left opaque in the document for fear of derailing the entire process, were they included. Officials involved with the drafting concede, for example, that this was the reason that specific language on 'robust peacekeeping' did not figure prominently in the report. Similarly, the formulation surrounding the use of force and the impartial implementation of mission mandates reflected disagreement aired during the process and, in particular, at a session held in Jordan. During this particular workshop, the five largest TCCs in attendance were vocal in their reluctance to

[137] Grady 2001.
[138] Salman Ahmed, Paul Keating and Ugo Solinas. "Shaping the Future of UN Peace Operations: is there a Doctrine in the House?." *Cambridge Review of International Affairs* 20(1)(2007): 18.
[139] Ibid: 18. Interview with Brahimi.

endorse the language of protecting civilians and the use of force.[140] Given these disagreements, the final decision to sanction 'non-use of force except in self-defense and in defense of the mandate' was, as one interviewee described, a last-ditch effort to strengthen covertly the robustness of the doctrine under the guise of a seemingly benign and passive principle: 'We pulled the wool over their eyes as mandates include almost everything under the sun, including most importantly the protection of civilians.'[141]

Criticism rained down on the Secretariat following the document's publication. As one official charged, '[DPKO] said it consulted with the NAM as a way of legitimating the doctrine, but the NAM never agreed to it'.[142] Consequently, unlike the *Brahimi Report*, the doctrine was never brought before the General Assembly. 'It stays in the C-34' as one official opined 'because it would be shredded in the GA'.[143] However, the fact that the *Capstone Doctrine* was not brought before the Assembly or formally adopted by resolution has not diminished the document's influence. Indeed, it is widely regarded as 'the highest-level document' in UN guidance material on peacekeeping, figures prominently on the organisation's website, and is a staple of field training.[144]

Similar to the guidance set out in the *Brahimi Report* and the *Capstone Doctrine*, an attempt was also made to minimise dissent over POC, which, as the previous chapter noted, has become a priority issue for the Council. In 2008, DPKO undertook a 'deliberate effort' to disentangle and differentiate POC from RtoP.[145] POC, the seemingly less controversial norm, maintained its place of prominence in UN peacekeeping, whereas RtoP was expunged from official peacekeeping discourse because of the political sensitivities surrounding the norm. Ambiguity over the relationship between the two norms nonetheless persists, and they are regularly discussed as one and the same in Council debates.[146] Consequently, despite the official changes in vernacular, suspicion amongst the states of the global South persists, with some states fearing that 'POC is the sugar coating around the RtoP pill'.[147] Contestation remains the norm, as it were.

4.6. Conclusion

The analysis presented in this chapter affirms both propositions advanced in Chapter Two: that ambiguity surrounding the dominant assertive conception of impartiality reflects contestation over

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140 Phone interview with government official, October 2009.
141 Phone interview with government official, October 2009.
142 Interview with government official, New York, March 2010.
143 Phone interview with government official, October 2009.
144 http://www.un.org/en/peacekeeping/operations/reform.shtml
145 Interview with senior DPKO official, March 2010.
146 Eg., S/PV.6916 (2013). Similarly, in 2009, Ban Ki-Moon's call to mainstream RtoP's goals in peacekeeping and peacebuilding operations served to only reinforce such suspicions.
147 Interview with senior DPKO official, March 2010.

the norm; and, relatedly, that institutionalisation of the norm has not brought about greater consensus, but rather has led to further contestation.

The discussion of contestation has also brought to the fore the privileged role played by the Council during the process of institutionalisation. Contestation by many member states has not prevented the Council from authorising robust resolutions in line with the new assertive conception of impartiality. Whilst this failure to hold the Council back may be the case, it would, however, be an over-simplification to see the Council as a body of unfettered power, for it too operates under particular constraints. Early proponents of the more assertive approach to impartiality may not have fully appreciated the extent and nature of the transformation they brought about, or the power of the various pressures, which would make returning to a more passive approach next to impossible. As Brahimi somewhat exasperatedly states: 'we didn't express enough caution around protection in the report. We didn't see what it would become in the 2000s. On this issue, sometimes the Council acts like a student union–meting out resolutions, bold sweeping statements…. You know, when you say that UN is to protect people in Darfur–what the hell do you mean?? It has become ridiculous… totally ridiculous'.[148] Or as Ambassador Fowler laments: 'Once humanitarian INGOs got a taste of these mandates and their ambitious aims, there was no going back… The Permanent Five believed that they could be on the side of [the] angels and do nothing and contribute just money. They thought they could manage the spin when it all goes wrong'.[149]

In sum, once members of the Council proclaimed that peacekeepers should protect civilians in places like Congo, it was difficult, no matter what the circumstances or prospects for success, to go back on their word.

[148] Interview with Brahimi.
[149] Interview with Fowler.

5. Implementation and the Local Politics of Peacekeeping in the Congo

Part III of this dissertation analyses implementation of the dominant assertive conception of impartiality and its effects in the specific case of the UN peacekeeping mission in the Democratic Republic of Congo (MONUC). As I argued in Chapter Two, consideration of implementation is crucial because it sheds light on what norms actually do: that is, how they function and shape behaviour. Given the social nature of norms, we cannot assume that the institutionalisation of a norm such as impartiality will translate automatically into practice or that it will hold similar meaning for actors across and within peacekeeping contexts such as Congo. Whilst this is true of all norms, it is particularly the case with impartiality given that the *basis for* decision-making–peacekeeping mandates–frequently change.

This chapter analyses the implementation of the assertive conception of impartiality over the course of MONUC's decade-long deployment. It demonstrates how actors within the mission and the Council vehemently contested the very meaning and appropriateness of the norm itself. Judgments about who was a "spoiler" and what constituted "spoiling activity" were subjective, fluid and points of deep disagreement that reflected political dynamics at both the macro-and micro-levels. Violence was no longer considered to be an unquestionable wrong that peacekeepers, as pseudo-law enforcers, could right. Rather, like its opposite, peace, violence in the Congo could be seen as deeply political. As one Congolese official said to me when I asked him whether the UN was impartially keeping peace in Congo: 'impartial about *whose* peace?... Peace is political. Peace is always somebody's peace… peace is very controversial and that's why it often doesn't happen in Congo.'[1]

That the ethical and the political are not easily disentangled runs counter to the epistemology implied in the assertive conception of impartiality presented in Part II; the belief that the Security Council and the peacekeeping missions it authorises can be and in fact are above particular political interests, that "impartial" judgments are beyond reproach because they are in the interest of "every individual" regardless of whether he or she is Congolese, Rwandan or Canadian. Examination of peacekeeping practice in Congo reveals that this has never been the case—that it has never been possible *not* to "take sides" in some fashion or other.

The chapter proceeds in four substantive sections that take the form of a historical analysis. Each section covers a core phase of the mission, delineated by significant political developments that altered the mandate and *basis for* decision-making: 1) the Lusaka Ceasefire Agreement (1999-2002); 2)

[1] Interview with government official, Goma, February 2010.

the Transitional Government (2003-2006); 3) National Elections (2007-2008); and 4) Regional Rapprochement (2009-2010).

For each phase, I begin by reviewing the roles proscribed for MONUC by the Security Council, and provide background on the peace agreement or political process that the mission was tasked with overseeing. I then explain how local actors obstructed the mission and transgressed its mandate, and how the mission responded to these local actions. I focus specifically on instances in which local "spoilers" were in contravention of the peace agreement or political process, and where civilians faced imminent protection threats or were harmed: in other words, situations that according to an assertive conception of the norm of impartiality would warrant the use of force and robust intervention. Finally, I recount how the posture assumed by the mission and its responses to specific instances of miscreant and violent behaviour were, in a kind of vicious circle, both produced by and further contributed to contestation over assertive impartiality. The conclusion summarises the various sites of contestation across all four phases, discusses the linkages between the macro- and micro-levels, and considers the various ways in which certain actors had greater influence during the process of implementation in realising their preferred conception of the norm.

First, however, I begin by introducing the Congo case. The Congo has a long and tragic history of conflict, plunder and predation, first under Belgian colonial rule and then under President Mobutu. Whilst a comprehensive study of this complex history is beyond the scope of this thesis, the following section builds on Chapter Three's discussion of ONUC and UNAMIR to provide a sketch of Congo's more recent history of violence.[2] It begins in the aftermath of the Rwanda genocide–an event that most seasoned analysts contend acted as the 'trigger' for the Congo Wars (1996-1997; 1998-2003) and which continues to be a critical factor in the region's instability. In this way, as this chapter demonstrates, the very case of peacekeeping inaction that did most to prompt impartiality's reconceptualisation at the end of the 1990s figured prominently throughout MONUC's deployment. An account of this history is therefore crucial to understanding the content of and contestation over the various roles assumed by the mission, and claims by peacekeepers that its actions and decisions *were* impartial.

5.1. A Short History of a Continental War

During the Rwandan genocide, roughly two million Hutus fled their country for fear of retaliation when the largely Tutsi Rwandan Patriotic Front (RPF) took power and ended the slaughter. More than a million settled in the east of what was then Zaire, becoming what Sarah Lischer has termed

[2] See Filip Reyntjens. *The Great African War–Congo and Regional Geopolitics, 1996-2006*. New York: Cambridge University Press, 2009; Jason Stearns. *Dancing in the Glory of Monsters–The Collapse of the Congo and the Great War of Africa.* New York: Public Affairs, 2011. See bibliography for additional sources.

'state-in-exile refugees'[3] These refugees congregated in sprawling camps based around the cities of Goma and Bukavu, where they were mixed with members of former Rwandan President Habyarimana's government, ex-FAR (the Armed Forces of Rwanda) and others who had perpetrated the genocide.

Between 1994 and 1996, international donors spent $1.3 billion on humanitarian assistance to address the refugee crisis in eastern Zaire. Beyond providing sustenance, this aid was a critical 'building block' in the remilitarisation of the ex-FAR who were shielded by the protection of the camps.[4] After the camps were dispersed and abandoned in 1996, documents, including the contents of a filing cabinet belonging to Major-General Augustin Bizimungu, chief of staff of the ex-FAR, revealed how humanitarian aid was integral to the military strategy and planning of the genocidal government in exile.[5] Moreover, NGOs recounted how the aid they delivered was used against actual refugees, increasing their vulnerability.[6] This massive misuse of assistance prompted several international NGOs to withdraw and, as detailed in Chapter Three, spurred a flurry of criticisms on the harmful consequences of aid.[7] UN agencies working in the area made numerous appeals to member states to demilitarise the camp, but carried on working in the camps though the appeals went unanswered.[8]

5.1.1. First Congo War (1996-1997)

The presence of both genuine refugees and militia exacerbated existing inter-ethnic tensions over citizenship and land. In the face of mounting domestic opposition, Zairean President Mobutu supported the Hutu extremists in the camps, supplying arms and military training in a bid to shore up his own power. The proximate cause for the First Congo War–which led the Rwandan leadership to attack Zaire–was the threatening presence of these large militarised camps on its border. In the fall of 1996, Rwanda intervened and forcibly closed the camps. Within days, approximately 500,000 refugees returned to Rwanda, while an estimated 200,000 people fled further westward into the dense Congolese forest. During the invasion, several thousand Hutu refugees and local Hutu civilians were killed in a series of massacres.[9]

[3] Sarah Kenyon Lischer. "Collateral Damage: Humanitarian assistance as a cause of conflict." *International Security* 28(1)(2003): 92. While the majority settled in then Eastern Zaire, others sought asylum in Tanzania and Burundi.
[4] Ibid: 101.
[5] Terry 2002: 156.
[6] Terry 2002: 196.
[7] Anderson 1999; Terry 2002.
[8] Lischer 2003: 79. Following an escalation of violence in the east, the Security Council passed Resolution 1078 on 9 November 1996, authorising the deployment of a Canadian-led multinational force under Chapter VII. The MNF was to use all necessary means to ensure the 'effective provision' of aid to civilians, and the 'voluntary and orderly repatriation' of the refugees. However, plans for the force were aborted when Rwanda attacked the camps.
[9] Rene Lemarchan and Filip Reyntjens. "Mass Murder in Eastern Congo 1996-1997." In *Forgotten Genocides: Oblivion, Denial, and Memory*, edited by Rene Lemarchand. Philadelphia: University of Pennsylvania Press, 2011. United Nations, *Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003*, United Nations High Commission for Human Rights. 2010 (Henceforth, '*Mapping Report*')

Rwanda's security concerns were, however, only part of the rationale for invading and only go so far in explaining what ensued after the camps were attacked and many of the refugees returned home. Years of President Mobutu's inequitable "Zairianisation" campaign, buttressed by successive Western governments willing to fill his coffers during the Cold War, meant that by the late 1980s the Congolese state was in decay, teetering on the edge of total economic collapse. By 1996 Gerard Prunier writes, 'the Zairean core of the continent had become a hologram flickering on the brink of its own destruction'.[10]

For those regional statesmen at the helm of what they hoped would be an African Renaissance, Mobutu's kleptocratic rule personified the worst of the continent's Cold War leadership, and his overthrow was increasingly seen as Africa's *Kulembeka* ('our duty, our task').[11] To that end, Rwanda and Uganda played an instrumental role in creating the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), an alliance of Zairian rebel groups that–supported by the Angolan, Rwandan and Ugandan armies–marched on Kinshasa, ousting the government of President Mobutu in May 1997.[12]

5.1.2. Second Congo War (1998-2003)

The installation of Laurent Kabila as President by the AFDL was lauded as the harbinger of a new era, of a new *Democratic* Republic of Congo, as it was now named. Kabila, however, fearful of losing favour as people across the country became alarmed by the number of Rwandan strongmen around him, and by what they saw as their neighbour's potentially expansionist aims, in July 1998 made the fateful move of expelling the Rwandans from the country, thereby turning the 'kingmakers', as Rene Lemarchand notes, against their newly crowned king.[13] Days later, in an event which marked the start of the second, more lengthy and brutal Congo war, the Rwandan army re-entered the country, hijacked a plane to the Western city of Kitona, aligned themselves with local forces and began encroaching on the capital and on what was viewed as Kabila's unworthy regime. Shortly thereafter, this newly formed Rwandan and Ugandan-backed Congolese rebel group was named the Rassemblement Congolais pour la Democratie (RCD).[14]

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[10] Gerard Prunier. *Africa's World War–Congo, the Rwandan Genocide, and the Making of a Continental Catastrophe.* New York: Oxford University Press, 2009: 359.
[11] See Jean-François Bayart, Stephen Ellis and Béatrice Hibou. *The Criminalization of the State in Africa.* Oxford: James Currey, 1999.
[12] The AFDL was also backed to a lesser extent by the governments of Ethiopia, Eritrea, Tanzania and Zimbabwe.
[13] Rene Lemarchand. *The Dynamics of Violence in Central Africa.* Philadelphia: University of Pennsylvania Press, 2009.
[14] In early 1999, a rift between a pro-Kigali and a pro-Kampala wing *within* the RCD emerged, eventually leading to its split into RCD-Goma (RCD-G) and RCD–Mouvement de Libération (RCD-ML, initially known as RCD-Kisangani, or RCD-K). In addition, Uganda supported the creation of Mouvement de Libération du Congo (MLC) by Jean-Pierre Bemba to offset to the Rwandan-dominated RCD. See Reyntjens 2009: 243; Prunier 2009: 221.

The RCD's attack on Kinshasa was foiled by Angola and Zimbabwe, who entered the war on the side of Kabila. The war quickly escalated, drawing in no fewer than ten African states in gradations of conflict (*Core conflict:* DRC, Rwanda and Uganda; *second layer:* Angola, Zimbabwe and Namibia; *third layer:* Libya, Chad and Sudan; and *fourth layer*: Burundi and the Central African Republic).[15] The largest war in modern African history, the conflict continued for five years and, in the making and unmaking of alliances, eventually even pitted Rwanda against Uganda, as these erstwhile allies fought, in part, over control of minerals in the East.[16] Although not a primary motivation, Congo's vast resources became a factor in sustaining and prolonging conflict, as documented in three reports by the UN Panel of Experts.[17] By the time Joseph Kabila took over after his father's assassination in 2001, the country-wide war, which had by then claimed some three million lives, had begun to run out of steam, formally ending in 2003 not with a bang, as Prunier describes, but with a whimper. In effect, the war wound down because no one could win it.

It was into this cauldron of conflicts that MONUC was first deployed as an observer mission in 1999, three years before the formal end of hostilities. Whilst the trappings of a sovereign state became visible with the establishment of a Transitional Government in 2003 and national elections in 2006 and 2011, as I explain below, Congolese political space continued, and still continues, to be defined by those who bear arms and have money, and conflict plagues much of the country's eastern region.

Rather than being a 'simple binary conflict neatly arrayed along a single issue dimension', persistent violence in the Congo is the result of 'welters of complex struggles' that have local, national, and regional dimensions, giving rise to conflicts within conflicts.[18] Factors contributing to the country's endemic instability and on-going suffering include, in particular, the prevalence of weak and corrupt state institutions; tensions over land and citizenship, which are inextricably bound to issues of identity and belonging; and interference by Congo's neighbours, particularly Rwanda.[19] In what follows, I analyse MONUC's contested role in the four phases of its deployment, each delineated by political advents in the Congo.

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[15] Prunier 2009: 201-202.
[16] Rwandan and Uganda forces also clashed in August 1999, May and June 2000.
[17] Rwanda's continual involvement has been documented in successive UN report as well NGO reports. See bibliography and in particular: *Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo*. (2001-2003) and *Group of Experts on the Democratic Republic of the Congo* (2008-2012).
[18] Kalyvas 2003: 479.
[19] Emily Paddon and Guillaume Lacaille. "Stabilizing the Congo". *Refugee Studies Centre Policy Brief,* No. 8, Refugee Studies Center: University of Oxford, 2011.

5.2. Lusaka to Sun City (1999 – 2002)

The first phase of MONUC began in the wake of the Lusaka Ceasefire Agreement, and ended with the signing of the Global and Inclusive Agreement (Accord Global et Inclusive) in Sun City, which led to formation of the Transitional Government (TG) of national unity in late 2002.

5.2.1. The Lusaka Ceasefire Agreement and the Creation of MONUC

Signed on 10 July 1999, the Lusaka Ceasefire Agreement was the culmination of multiple international peace initiatives, brokered under the auspices of the Southern African Development Community (SADC) and the Organization of African Unity (OAU).[20] Angola, Namibia, Uganda, Rwanda, the Congo and Zimbabwe were initially parties to the agreement with the RCD and MLC rebel groups signing later in August 1999.[21]

The ceasefire called for the respect of international humanitarian law by all parties, the definitive withdrawal of all foreign forces from Congo, and the establishment of an "all inclusive" National Dialogue.[22] To oversee the agreement and safeguard the peace process, the signatories requested the deployment of an 'appropriate UN force', outlined mandates for both a peacekeeping and peace-enforcement operation, and drafted a calendar for their deployment.[23] The latter, more robust mission was to be a 15,000-strong force designated to 'track down', disarm and rehabilitate members of the various 'negative' militia that were not signatories to the agreement.[24] Moreover, the withdrawal of foreign forces from the Congo was to be premised on the successful 'neutralisation' of these forces.[25] Critically, this included ex-FAR and *interahamwe* militia who had participated in the Rwandan genocide and were still at large in the Congo. Until 2001, the militia operated under the rubric of the Alliance for the Liberation of Rwanda (ALiR), it later rebranded as the Democratic Forces for the Liberation of Rwanda (FDLR).

The Security Council welcomed the Lusaka Agreement, extolling it as a 'viable basis' for ending the conflict in Congo.[26] On 6 August, the Council passed Resolution 1258 authorising the deployment of 90 military personnel to liaise with the signatories and lay the groundwork for the larger mission

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[20] Lusaka Agreement, 1999. Available at www.iss.co.za/af/profiles/drcongo/cdreader/bin/2lusaka.pdf.
[21] The MLC signed in early August and the RCD in late August 1999.
[22] Philip Winter. *A Sacred Cause: The Inter-Congolese Dialogue 2000–2003*. Edinburgh: Librario, 2012; ICG 2001 and 2002.
[23] International Crisis Group (ICG). *Scramble for the Congo: Anatomy of an Ugly War*. Nairobi/Brussels: 2000.
[24] Ibid: 72 To monitor the ceasefire prior to the UN deployment, Lusaka created the Joint Military Commission (JMC), composed of representatives of the various armed groups under a 'neutral' command, appointed by the OAU Chairman. The mandate of the JMC was to establish the location of units at the time of the ceasefire, verify their disengagement and eventual withdrawal.
[25] The Lusaka Agreement referred to nine 'negative forces', namely the ex-FAR, ADF, LRA, UNRFN, Interahamwe, FUNA, FDD, WNBF and UNITA.
[26] United Nations. S/RES/1258 (1999). *The Situation Concerning the Democratic Republic of the Congo.*

specified in the agreement.[27] In November, the mission was formally named MONUC[28] and in February 2000 the Council adopted Resolution 1291 which expanded the UN's presence to include 500 observers and a protection force of 5,037 soldiers.[29] Authored by the US delegation, Resolution 1291 detailed a three-phase concept of operations: MONUC was to deploy UN liaison officers, verify the ceasefire and ascertain troop positions, and then facilitate the demobilisation, disarmament and reintegration (DDR) of all armed groups whilst overseeing the withdrawal of foreign forces.[30] Phase III was made conditional on adequate security guarantees and on co-operation by the parties. In addition, the mission was instructed to support humanitarian operations, and co-operate with the Facilitator of the National Dialogue. Moreover, based on the IHL provisions of Lusaka and drawing on the precedent of Sierra Leone, the Council also authorised the force, acting under Chapter VII, to 'take the necessary action, in the areas of deployment… and as it deems it within its capabilities… to protect civilians under imminent threat of physical violence.'[31]

5.2.2. Passive Peacekeeping as the War Continues

That the Lusaka Agreement was signed under intense international pressure meant that most of the belligerents had little intention of fulfilling the commitments detailed therein.[32] For Rwanda and Uganda, which at the time controlled roughly two-thirds of Congo, Lusaka provided recognition of their territorial gains and legitimated their proxies as parties with which to be negotiated. For Kabila, who faced the prospect of defeat, the ceasefire provided a convenient respite to mitigate further territorial losses.[33] Consequently, the agreement did not hold and the Second Congo War continued unabated on every front, as the signatories 'held out for a return on their investment' in the conflict.[34] Serious violations of human rights and IHL were committed by all parties.[35]

Given this background of often hidden and conflicting agendas, the consent for MONUC that was formally given both in Kinshasa's initial request for the mission and by the parties in their adoption of the Lusaka Agreement proved to be a chimera in practice. Throughout this phase, hostility towards the mission was visceral and widespread. All of the signatories at one time or another impeded the force from carrying out its mandate. While on the face of it this intransigence reflected the

[27] United Nations. S/RES/1258 (1999). *The Situation Concerning the Democratic Republic of the Congo*
[28] United Nations. S/RES/1279 (1999). *The Situation Concerning the Democratic Republic of the Congo*
[29] United Nations. S/RES/1291 (2000). *The Situation Concerning the Democratic Republic of the Congo*
[30] ICG 2000:75.
[31] S/RES/1291 (2000); See United Nations. S/PV 4092.2 (1999): 11.
[32] Stearns argues that Museveni was under greatest pressure. In May, the IMF had refused to disburse a previously agreed upon $18 million loan because of the skyrocketing defense budget, which had gone up 130 percent between 1997 and 1998.
[33] For an overview of frontline positions see ICG 2000.
[34] ICG 2000: 66.
[35] *Mapping Report* 2010: 307-391.

unwillingness of the signatories to abide by the terms of the Lusaka agreement, it also demonstrated a deeper and more pervasive anti-UN sentiment, tied to the institution's history in the region.

Indeed, the role prescribed for the UN in the ceasefire agreement was both duplicitous and impracticable; the signatories knew that the Council would be reluctant to meet their demands (for reasons I discuss further below). Brokered primarily by African leaders, Lusaka was seen by many of those involved with the negotiations as a testament to an emerging 'renaissance' of leadership on the continent–a leadership that was quick to highlight the West's meddling during the Cold War, the failed interventions of the 1990s and the comparatively meager attention paid to the Congo wars, in contrast to those in the Balkans. According to the International Crisis Group, the signatories' request for a Chapter VII force had been a way to 'set up Western powers', to expose their reluctance to commit to the troubled region, and to reveal 'double standards when it came to the African continent'.[36] At the signing of Lusaka, Rwandan Vice President Paul Kagame, whose lieutenants had authored much of the agreement, publicly derided the UN's capabilities. Citing both the genocide in Rwanda and the subsequent arming of Hutu refugees in eastern Zaire 'under the eyes of UN observers', Kagame noted: 'I know how to fight insurgents. Does the UN also know?'[37]

Such animus towards and deep distrust of the UN meant that the signatories were *a priori* unlikely to accept the UN as an unbiased and legitimate actor, regardless of the contents of the agreement or of the mandate. In Kinshasa, President Laurent Kabila, who had been a staunch supporter of Lumumba during ONUC's deployment in the 1960s, was outwardly hostile toward the UN.[38] Kabila initially refused to meet Kamel Morjane, the mission's first SRSG, placed severe restrictions on MONUC's freedom of movement, and did little to quell demonstrations against the mission or stop the circulation of inflammatory anti-UN propaganda in the capital.[39] The government's obstruction of the mission continued until Kabila's death in January 2001.[40]

In other parts of the country, the mission encountered similar issues with the various parties to the conflict.[41] Of these, MONUC's relationship with the Rwandan-backed RCD was particularly acrimonious. The RCD held deep-seated grievances against the UN, in particular, for UNAMIR's

[36] Interview with Fabienne Hara, Vice-President (Multilateral Affairs), Crisis Group; former Co-Director of Africa Program, International Crisis Group (2000-2003), New York, October 2011.
[37] ICG 2000: 70.
[38] Indeed, the President was said to have been so 'suspicious of the intentions of MONUC'–believing that UN peacekeepers had been deployed to assassinate him–that he initially refused to meet him. Nicholas Stockton. *Humanitarianism Bound: Coherence and Catastrophe in the Congo 1998-2002*. Unpublished study for the Centre for Humanitarian Dialogue, 2003: 67.
[39] United Nations. S/2000/888 (2000). *Fourth Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*.
[40] Unlike his father, Joseph Kabila cultivated ties with the diplomatic community and treated it as 'his powerbase', as one analyst noted. Quoted in Stearns 2011: 313.
[41] E.g., UN helicopters were attacked by the MLC in Equateur and access to areas controlled by the UPDF was also impeded. IRIN, "UN condemns MLC threat against MONUC", Nairobi (21 July 2000). Press release; available at: http://www.irinnews.org/Report/3479/DRC-UN-condemns-MLC-threat-against-MONUC

failure to halt the genocide and for the organisation's support to the militarised camps in eastern Zaire. The irony was not lost on many that the refugee crisis, which the international community failed to contain, had instigated the very conflict that peacekeepers were now deployed to address. As one former officer recounts, 'The UN fed, clothed and housed the killers, and [then] returned to "get them". *C'est la folie!*'[42] In addition to historical enmities, the RCD charged that the UN was inherently biased towards a unified Congo with a capital in Kinshasa–this despite RCD's control of roughly two thirds of the country.[43] The RCD's resentment and profound distrust of the UN meant that for much of the Second War, access to areas they held was blocked or frustrated.

Amid this hostility, peacekeepers overwhelmingly adopted a passive posture in relation to the belligerents, including when confronted with aggression that threatened civilians. Throughout this phase, as one official observed, MONUC remained 'little more than a shadow over the horizon'.[44]

The 2002 massacre in Kisangani, Congo's third largest city and the capital of Province Orientale, was the most egregious instance of such inaction.[45] On 14 May, following a suspected mutiny, RCD loyalists 'went on a rampage' that killed roughly 180 people and injured many more.[46] Young women were rounded up and raped, and hundreds of homes were pillaged. The 1,000 or so peacekeepers stationed in the area, who had knowledge of the violence underway, did not use force to halt the massacre or patrol to deter abuses.[47]

5.2.3. Contestation: The Struggle Toward Operational Consensus

Implementation during the first phase of MONUC's deployment was shaped largely by contestation within the Security Council over Great Lakes policy. This in turn had operational consequences for the mission and its ability to adopt a robust posture.

The Rwandan genocide prompted a recalibration of donor relations with the region. Overnight, the small east African state was catapulted onto the international policy agenda to become an aid darling of the West, particularly Anglophone donors. Plagued by both collective and, in some instances, personal guilt over international inaction, senior officials in both the second Clinton administration in

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[42] Interview with military officer, Goma, February 2010.
[43] Stockton 2003: 51.
[44] Ibid: 39.
[45] Similarly, when over fifty civilians were massacred by the RCD in Walungu (South Kivu) in April 2003, peacekeepers stationed in the area were instructed by their superiors in Kinshasa not to respond to the attacks or bring the perpetrators to justice despite the mission's mandate to protect civilians. Interview with former MONUC official, Nairobi, November 2011.
[46] Human Rights Watch, *War Crimes in Kisangani: The Response of Rwandan-backed Rebels to the May 2002 Mutiny*. New York: 2002; IRIN*, UN responds to HRW criticism over Kisangani massacre*. Nairobi: 22 August 2002.
[47] Clifford Bernath and Anne Edgerton. *MONUC: Flawed Mandate Limits Success*. Washington: Refugees International, 2003:2.

Washington and the new Labour government in London fostered and maintained strong links to Kigali, and committed millions of dollars in direct long-term budgetary support to the government.[48] By contrast, France–its legitimacy shot in Rwanda–shifted its gaze from its erstwhile ally to neighbouring Congo. In an attempt to maintain regional influence and preserve the Francophone *précarré* (private domain), French development and military assistance flowed into Congo and in January 1997 France was involved in the covert levying of 300 mercenaries in a failed attempt to save Mobutu.[49]

This division of loyalties meant that from the mid-1990s until 2002, US-UK and French interests on the Council remained at odds.[50] France inveighed against Uganda and Rwanda's presence in Congo, was a 'driving force' behind the UN Panel of Experts which investigated Kigali and Kampala's wartime profiteering, and repeatedly called for sanctions against senior officials in both states.[51] In contrast, the US and UK denied, downplayed, and at times ardently defended Rwanda's involvement even as Kigali's reach extended beyond the Kivus, thereby weakening the interpretation that it was simply taking defensive precautions along its borders.[52] Information and analysis presented to the Council that implicated Rwanda and illuminated abuses by its forces or those it backed was frustrated or swept aside by its Anglophone allies.[53] These differences undermined a common international approach to addressing the conflict in Congo, and crippled Security Council proceedings on the region.

Contestation within the Council had implications for the mission and its operations, which gave rise to additional forms of contestation. Senior officials question whether, despite their Chapter VII mandate, forceful action would actually have the backing of their authorising body. Moreover, divisions within the Council meant that, in addition to the belligerence of the parties, member states

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[48] In the US, Secretary of State Madeleine Albright Secretary of State and Susan Rice, Assistant Secretary of State for Africa, were critical in building this relationship. For both, the Rwandan genocide was, in the words of Rosenblum, 'no abstract event'. Peter Rosenblum. "Irrational Exuberance: the Clinton Administration in Africa." *Current History* 101(655) (2002). As the US representative to the UN in 1994, Albright actively obstructed UN intervention to stop the killing; whilst Rice–at the time a junior official at the National Security Council (NSC)–was derided by colleagues for asking during a meeting what the effect would be on the congressional midterm elections if the administration were to use the word 'genocide' and 'be seen to do nothing'. After the genocide, both Albright and Rice expressed great remorse and an unwavering resolve to support Rwanda. Quoted in Jason Stearns, "Rwandan Ghosts", *Foreign Policy,* November 2012.
In the UK, Clare Short, the Secretary of State for International Development, did not have the same link to Rwanda. However, she quickly fostered and maintained a close personal relationship with Kagame. Between 1997-2003, she made frequent trips to Kigali and the two spoke nearly every week on the phone. Clare Short, "The Vaughan Memorial Lecture: The UK and Post-Genocidal Rwanda." University of Oxford: Oxford Central Africa Forum (OCAF), November 2012. See also Zoe Marriage. "Defining Morality: DFID and the Great Lakes." *Third World Quarterly* 27(3) (2006): 477-490.

[49] Jakkie Cilliers. "Still . . . France Versus the Rest in Africa?." *African Security Review* 10 (3)(2001); A. Huliaras. "The 'Anglosaxon Conspiracy': French Perceptions of the Great Lakes Crisis." *Journal of Modern African Studies* 36(4) (1998): 593-609.

[50] Catherine Gegout. "The West, Realism and Intervention in the Democratic Republic of Congo (1996-2006)." *International Peacekeeping* 16(2) (2009): 231-244.

[51] Interview with senior government official, December 2011.

[52] Marriage 2006.

[53] E.g., The *Garreton Report,* UN study on revenge killings during the forced closure of the refugee camps was swept aside and the follow up investigation delayed 10 years until the 2010 mapping report. Similarly, in 2001 and 2002, the UK rejected the UN Panel of Expert's early findings. Roberto Garreton. "Mission Impossible: The Massacres in Former Zaire", *Le Monde Diplomatique*, December 1997.

were wary of committing the resources and personnel necessary for a more assertive role. By February 2001, only 200 UN military personnel had arrived in Congo, and an additional two years passed before the original size of the force authorised by the Council was realised.[54] In Kisangani, Deputy Force Commander General Martinelli explicitly stated at the time that his decision not to deploy forces during the massacre was largely out of concern for the casualties that MONUC would likely incur given that peacekeepers were ill-equipped to deal with the threat posed by the RCD and its Rwandan backers.[55] 'The RPA was the strongest army in the region and possibly in Africa' as one analyst recounts. '[They] were ruthless and very powerful and the UN was in way, way above its head'.[56]

The inherent challenges of peacekeeping in such a context engendered further contestation between the Council and Senior officials in the mission and the Secretariat. The objections put forward by the latter mirrored those raised during impartiality's institutionalisation at the macro-level. Specifically, members of the Secretariat expressed doubt about the viability of the mission and the assertive role prescribed for MONUC. In a draft of the first-ever report on the DRC, senior officials recommended a delay in sending the mission until the environment proved more hospitable for deployment[57], and in January 2000, the Secretary-General advised *against* the adoption of POC as a core task for the mission.[58] This was consistent with Annan's position on the inclusion of an injunction to protect civilians in UNAMSIL's mandate, as described in Chapter Four.

These tensions persisted throughout the first phase of MONUC's deployment. Following the Kisangani massacre, SRSG Ngongi came to the defence of his personnel and, contradicting MONUC's mandate, stated that 'MONUC did what it could at the time… [the mission] was not created to ensure the security of the population'.[59] In New York, when, in the wake of the massacre, the Council reaffirmed the mission's responsibility to promote POC, the Secretary-General issued cautionary words and called for the Council to adjust the strength of MONUC.[60] In the same vein, Guéhenno drew attention to the mission's lack of capacity. He warned that MONUC continued to be too small to 'present a credible military deterrent… The risks are tremendous. We are taking a gamble'.[61]

[54] S/2000/128 (2001). *Sixth Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo:* para. 76, 38. See on the slow deployment in Virgil Hawkins. "History repeating itself–the DRC and the Security Council.' *African Security Review*, 12(4) (2003): 47–55.
[55] Human Rights Watch 2002.
[56] Interview with Hara.
[57] Phone Interview with Peter Swarbrick, former Head of Political Affairs and Disarmament, Demobilisation, Repatriation, Reintegration, and Resettlement, MONUC; former analyst, Great Lakes Desk, Department of Peacekeeping Operations, March 2010.
[58] S/2000/30 (2000). *Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo:* para 67.
[59] IRIN, 'UN condemns MLC threat against MONUC" Nairobi (21 July 2000).
[60] S/RES/1417 (2002). *The Situation Concerning the Democratic Republic of the Congo.*
[61] Guéhenno 2002: 78.

Whilst the Kisangani massacre became a hallmark of MONUC's passivity during its first phase, it was also a watershed event. Behind closed doors, Western donors increased pressure on Rwanda and Uganda, and in the months following the massacre both states signed bilateral accords with Kinshasa, leading to the formal withdrawal of their forces.[62] These accords paved the way for the Global Accords signed in Sun City, and the establishment of the Transitional Government.

Moreover, in the Council, tensions over Great Lakes policy softened. No longer the *bête noir* of Kigali, Chirac's government officially welcomed the 2003 Rwanda elections as 'an encouraging sign of progress'; in Washington, those senior officials closest to Kigali–including, Susan Rice and Madeleine Albright–were replaced under the Bush administration; and in London, Clare Short–the chief architect of the UK's partnership with Rwanda–resigned from her post as Secretary of State for International Development over Tony Blair's handling of the Iraq war.[63] Galvanized by the prospect of peace in Congo, member states increased the resources available to the mission, and a deluge of development assistance flowed into the country. The great powers adopted broadly similar policies to ensure that the Transition stayed course for elections.

This confluence of factors, as the following section explains, enabled peacekeepers to adopt an assertive posture at several junctures. Differences, however, in how officials within the mission perceived the legitimacy of and threat posed by particular actors in abrogation of the Transition and/or who imperiled civilians led to operational inconsistencies.

5.3. The Transition Period (2003 – 2006)

The establishment of the Transition Government (TG), based on a "one-plus-four" power-sharing model, marked the formal end to the war and prompted a radical shift in the mission's focus.[64] Details of MONUC's plans for the Transition period were outlined in a new concept of operations issued in July 2003.[65] Peacekeepers, as William Swing–the newly appointed SRSG and former US Ambassador to the Congo– explained were 'to provide support to the [TG], leading to the country's

[62] The Pretoria Agreement between Rwanda and DRC was signed in July 2002 and the Luanda Agreement between Uganda and DRC in September 2002.
[63] Richard Youngs. "A new approach in the Great Lakes? Europe's evolving conflict-resolution strategies." *Journal of Contemporary African Studies* 22(3)(2004): 312.
[64] The "one-plus-four" model included: Yerodia Abdoulaye (for Kabila's party/government); Arthur Z'Ahidi Ngoma (for the civil society/unarmed opposition, having been a founding member of the RCD); Jean-Pierre Bemba's Mouvement de Libération du Congo (MLC); and Azarias Ruberwa's Rassemblement Congolais pour la Démocratie-Goma (RCD-G). The various Mai-Mai militias who signed the peace agreement were not apart of the TG.
[65] S/2003/566 (2003). *Second Special Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo.*

first free and fair elections in four decades'.[66] In addition, following the Kisangani massacre, POC was reaffirmed in every subsequent resolution relating to MONUC.

Increased international commitment to the Congo and unity among donors brought about new co-ordination bodies and security arrangements.[67] Of these, the creation of the International Committee in Support of the Transition (CIAT) in late 2002 was particularly significant. Chaired by MONUC, the CIAT was the international community's main liaison mechanism with the TG.[68] It met regularly and played an important role in preventing the Transition from derailing at several critical junctures, including during the elections.[69]

These new institutions were accompanied by a dramatic expansion in the mission's size and resourcing. Beginning in 2002, the number of uniformed personnel increased from roughly 4,000 to over 18,000 by mid-2006.[70] Moreover, as elections drew near and political impasse on several issues central to the Transition led to violence, the Council issued a series of increasingly robust mandates that propelled what UN officials described as the mission's 'quantum leap' into a more 'active phase'.[71] Resolution 1565 of October 2004 authorised MONUC to 'use all necessary means, within its capacity and in the areas where its units are deployed', to build confidence and 'discourage violence' that threatened civilians and the stability of the Transition.[72] Six months later, in Resolution 1592, MONUC's mandate was further strengthened with the specification that the mission 'with all necessary means… may use cordon and search tactics to prevent attacks on civilians and disrupt the military capability of illegal armed groups that continue to use violence in those areas'.[73] Both resolutions allowed for pre-emptive action that, along with MONUC's other activities were to be supported by the creation of a 'joint military analysis cell' (JMAC).[74]

To translate the mandate into practice, Secretary-General Annan requested that the Council allow his military advisor, Major General Patrick Cammaert, to develop an operational plan that he would then

[66] Interview with William Swing, former Special Representative of the Secretary-General, MONUC, Geneva, December 2009.
[67] In addition to the CIAT, an electoral assistance unit was created within MONUC; a 'Neutral Force' was deployed by the mission in Kinshasa, which sought to safeguard members of the TG; and lastly, MONUC served as co-chair of the Joint Commission on Security Sector Reform, which worked towards the development of a unified national army and police. S/RES/1493 (2003). *The Situation Concerning the Democratic Republic of the Congo;* S/RES/1565 (2004). *The Situation Concerning the Democratic Republic of the Congo.*
[68] The CIAT was comprised by ambassadors from the five permanent UN Security Council members plus Belgium, Canada and South Africa (joined later by Angola, Gabon, Mozambique, Nigeria, Zambia, the African Union/African Commission and the European Union/European Commission).
[69] Interviews with Senior MONUC officials, Kinshasa, February 2011. Interview with NGO official, London, July 2011.
[70] This was still considerably less than the 23,900 which the Secretary-General had requested in S/2000/566 (2000). *Third Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo.*
[71] MONUC, Military Briefing, Goma, 30 March 2005 (internal).
[72] S/RES/1565 (2005).
[73]S/RES/1592 (2005). The mission directive based on Res 1592 stipulated 'full adherence to the ROE', stating that 'robust actions under Chapter VII will underpin all military activity'. MONUC, Divisional Commander's Operational Directive, Eastern Division, July 2005 (Restricted).
[74] S/RES/1565 (2005).

oversee as Division Commander in eastern Congo.[75] Of Dutch origin, Cammaert had served with UNPROFOR in Srebrenica, where UN inaction in the face of violence came to inform the approach to peacekeeping he would later take in Congo. A reconceptualisation of impartiality as assertive was at the crux of this vision:

> The UN is impartial and thus is obliged to act when directly confronted with any force attacking/threatening civilians–even if the perpetrators represent the government…. Impartiality means literally 'to give a fair share' of something... it involves the repeated exercise of personal judgment, the application of fairness and principle to a given situation. Impartiality is a quality used at the tip of your toe; neutrality on the heel of your foot. Neutrality cedes opportunity, initiative and advantage to others. Impartiality allows seizing all three.[76]

Throughout the Transition, many expatriates and Congolese officials espoused a similar view to Cammaert's, and saw greater possibility for MONUC to be impartial, 'equidistant between the various belligerent actors.'[77] As a European diplomat stationed in Kinshasa during this period reflected: '[t]he UN could be more independent and impartial when there wasn't an elected government whose consent was critical. During the Transition, MONUC supported a process, shepherding the country to elections… It tried to be partial to the principles of the Transition with the aim of bringing peace and democracy to the Congo.'[78]

With Cammaert at the helm, peacekeepers, as I describe below, undertook some of the most combative military operations in the UN's history. However, this action was far from consistent; the mission's responses to actors in abrogation of the Transition and who threatened civilians varied significantly.

5.3.1. Threats to the Transition

Whilst the Sun City agreement succeeded in reuniting the country under the Transition Government, it did not bring an end to violence. Armed actors and their domestic and foreign backers proved reluctant to cede power, the economic and political benefits of peace outweighing the illusory gains of further fighting. Those that did lay down their weapons left power vacuums in which others vied for control. Rebellious factions of former rebel groups adopted a strategy of holding out for a possible resort to force if the elections did not turn out in their favour, parallel chains of command persisted

[75] MONUC, Divisional Commander's Operational Directive: 2005.
[76] Patrick Cammaert. "A Peacekeeping Commander's Perspective." *The RUSI Journal*, 15(3)(2008): 70. Interview with Major General (ret) Patrick Cammaert, former United Nations Force Commander for the Eastern Democratic Republic of Congo, MONUC, New York, October 2011.
[77] Interview with MONUC official, Goma, February 2010.
[78] Interview in government official, Goma, February 2010.

in the army, limiting control of those brigades which were said to be "integrated", and competing authorities sprang up simultaneously in the administrative and financial structures of the capital and provinces.[79]

During the Transition period, flashpoints of instability were seen across the country. The Ituri district of north-eastern Province Orientale, and both the Province of North and South Kivu were wracked by violence. As such, they became priority areas for MONUC.

In Ituri, the formal withdrawal of Ugandan troops in 2003 left a gap of authority in the resource-rich district. During the war, neighbouring Uganda played a formative role as 'both arsonist and fire-fighter', enflaming and containing violence between groups linked to the rival Hema and Lendu communities.[80] From 2003-2004, ethnically based attacks and wanton destruction escalated as groups viciously competed for control over mining areas and commercial zones–often supported and sustained by Congolese and regional (especially Ugandan) actors who sought to profit from the gold and timber trade.[81]

Unlike the situation in Ituri, where actors outside the TG were the principal cause of the area's instability, violence in the Kivus was fomented by both parties and non-parties to the TG.[82] In particular, the Global Accords were a source of deep disquietude for the RCD and its Rwandan backers. After years of expansive control in Congo, they faced a precipitous decline in power. During the Transition, fissures opened up within the RCD as members debated whether their interests were better protected through positions of power in Kinshasa or through more localised and violent resistance. Skeptical of where the RCD's loyalties now lay, Rwanda formally abandoned the group and threw its weight behind those dissident elements, in abrogation of the Global Accord, in an effort to safeguard its economic and political interests in the region.[83]

In North Kivu, Kigali sided with Eugène Serufuli, a founding member of the RCD and Governor of the province, who maintained a personal militia of 3,000 Hutu throughout the Transition.[84] In addition, Laurent Nkunda (ex-RCD and RPA) enjoyed Rwanda's support and was said to have been instrumental to Kigali's "plan B" should the Transition not work out in its favour.[85] Based in the highlands of Masisi (North Kivu), Nkunda recruited militia from refugee camps in Rwanda and mobilised thousands of supporters. He drew on deep-seated grievances surrounding land and

[79] International Crisis Group. *The Congo's Transition is Failing: Crisis in the Kivus*. Nairobi/Brussels: 2005.
[80] The violence in Ituri was related to but distinct from Congo's Second War, leading analysts to describe it as a "conflict with a conflict". See Koen Vlassenroot and Timothy Raeymaekers. "The Politics of Rebellion and Intervention in Ituri: The Emergence of a New Political Complex?" *African Affairs* 103(412) (2004): 385-412.
[81] Interview with Dan Fahey, Consultant, Eastern Congo Initiative, Goma, March 2011.
[82] See International Crisis Group. *The Kivus: The Forgotten Crucible of the Congo Conflict*. Nairobi/Brussels: 2003.
[83] Prunier 2009: 294.
[84] ICG 2005.
[85] Cited in Stearns 2008: 246. See also Reyntjens 2009: 211.

ethnicity, and claimed to offer succor as a protector of minorities, particularly of the Congolese Tutsi from the FDLR, which, although diminished in strength, continued to be active in the Kivus.[86]

5.3.2. Inconsistent Implementation

The mission's responses to the sources of Congo's continuing instability were varied. It undertook robust action against those groups who were not party to the Global Accords and thus were outside the TG. Whilst assertive action occurred across the east–including in the Kivus where MONUC launched operations against such groups as the FDLR, the Rastas, and the ADF–Ituri district was the centre of enforcement activity by the international community during the Transition.[87]

Combat operations in Ituri began in 2003 following a surge of violence in and around the city of Bunia. Vicious attacks on civilians as well as on the small contingent of blue helmets deployed for guard duty elicited international attention and prompted the Security Council to authorise the deployment of a three-month Interim Emergency Multinational Force (IEMF) to the district, carried our under the auspices of the EU and spearheaded by France.[88] During Operation Artemis, the 1,400-strong force provided a modicum of peace in Bunia, and thousands of IDPs returned to the city.[89]

Operation Artemis paved the way for a more sustained and farther-reaching campaign launched by MONUC forces in conjunction with the FARDC to root out the remaining armed groups in the wider area. The campaign's primary objective was to pacify the region so that elections could be held and, second, to protect civilians.[90] Employing a carrot-and-stick approach, peacekeepers coerced militias to disarm and used considerable force if they failed to do so. Operations began in December 2004 with action against the Forces Armées du Peuple Congolais (FAPC). Air attacks were followed by ground operations during which MONUC went 'from camp to camp burning them down'.[91] Efforts intensified in the lead up to the elections and with the expiration of an ultimatum that SRSG Swing issued in 2005, calling on all armed groups in Ituri to disarm.[92] At the peak of this activity, the mission conducted an average of fifteen operations per day, most of which were supported by attack helicopters.[93] By late 2006, operations began to wind down in the lead up to elections, and as the

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[86] For background on Nkunda see Jason Stearns. "Laurent Nkunda and the National Congress for the Defence of the People (CNDP)." In *L'Afrique des Grands Lacs*, edited by Stefaan Annuaire Marysse, Filip Reynjens and Stef Vandeginste, 127-145. Paris: L'Harmattan, 2008.
[87] IRIN, "MONUC gets tough on foreign armed groups." Bukavu: 22 March 2006.
[88] In addition to France, Belgium, Brazil, Britain, Canada, Germany, Greece, South Africa and Sweden also contributed forces to the operation, and Austria, Hungary, Ireland, Italy, the Netherlands, Portugal and Spain contributed officers to the HQs. For an overview see Catherine Gegout. "Causes and Consequences of the EU's Military Intervention." *European Foreign Affairs Review* 10(3) (2005): 427-33.
[89] Interview with former resident of Bunia, in Beni, January 2010.
[90] S/RES/1565 (2005).
[91] Interview with senior MONUC official, Kinshasa, February 2011.
[92] Armed groups that were targeted included: the FAPC, Forces de Résistance Patriotique en Ituri (FRPI/FNI), Parti pour l'Unité et la Sauvegarde de l'Intégrité du Congo (PUSIC), Union des Patriotes Congolais (UPC), the Front Populaire pour la Démocratiedu Congo (FPDC) and the Lords Resistance Army. Drawn from MONUC, "List of Operations conducted since June 2005", Powerpoint 2007 (Internal).
[93] Interview with Cammaert.

leaders of the various remaining armed groups in Ituri were arrested, entered DDR or were integrated into the FARDC. Without these key individuals at the helm, many of the groups dissolved and roughly 18,000-militia members were demobilised during this period.[94] The campaign was widely heralded a success.[95]

The robust peacekeeping undertaken against groups that were not party to the Transition was in marked contrast to the mission's pusillanimous and passive posture towards those groups that were party to or were backed by parties to the Global Accords. In Ituri, for example, MONUC's campaign, which was conducted jointly with the FARDC, revealed that the national army was often a greater risk to civilians than the very militia they were pursuing.[96] Whilst Cammaert reports having canceled operations where FARDC forces appeared 'ill-equipped', and on occasion instructed the brigade to arrest miscreant FARDC officers, force was never used against the FARDC, and abuses by the army continued.[97]

More damning, however, was MONUC's inaction vis-à-vis ex-RCD members in the Kivus, and, in particular, Nkunda. Nkunda's May 2004 siege of Bukavu, the provincial capital of South Kivu, was of particular consequence, and has been dubbed by some analysts as the start of Congo's "Third War".[98] For months, tensions within the city had been running high as RCD officers and government loyalists disputed the terms of army integration. Nkunda's attack in support of dissident RCD Colonel Mutebutsi was allegedly aimed at preventing "genocide" against the city's Tutsi community and was backed by Rwanda. Whilst the Tutsi had certainly been persecuted at the hands of the FARDC, Nkunda's claims of genocide were wildly exaggerated and, UN field staff reported, were inflamed by Rwanda.[99]

As Nkunda's militia approached the city, the contingent of Uruguayan peacekeepers stationed at the airport handed over the facility after consulting with their superiors in Montevideo and despite orders from MONUC's military command to defend the airport with force if necessary.[100] The following day, Nkunda continued his march as FARDC troops fled Bukavu, unprepared to defend the city from the renegade General's better-equipped force.[101] Emboldened by their absence, Nkunda took Bukavu

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[94] Interview with Cammaert.
[95] IRIN, "EU calls Artemis Operation 'a big success'." Brussels: 17 September 2003
[96] In 2005, MONUC Civil Affairs Section estimated that in Ituri more than 75% of the total human-rights cases documented for that year were committed by the FARDC. MONUC, Civil Affairs Special Report, 28 June 2006 (internal).
[97] Cammaert 2008.
[98] Jason Stearns. *North Kivu–The Background to conflict in North Kivu province of Eastern Congo.* London: Rift Valley Institute, 2012.
[99] ICG 2005: Human Rights Watch (12 June 2004) 'War Crimes in Bukavu' Human Rights Watch Briefing Paper, New York; MONUC, 'MONUC and the Bukavu Crisis 2004', report by the Best Practices Officer in MONUC, in consultation with senior MONUC personnel and other DPKO colleagues, including DPKO Best Practices Unit and the Office of Operations, Africa Desk in New York, March 2005, New York (Restricted) (Henceforth, '*Bukavu Report*').
[100] MONUC, Cables within mission FRAGO 144/2004; cables within mission FRAGO 145/2004 (Internal).
[101] Interview with military official, September 2011.

without resistance on 2 June. MONUC evacuated inhabitants of the city and provided assistance to IDPs. However, for reasons I discuss below, the 400-600 peacekeepers stationed in Bukavu did not use force to confront Mutebutsi or Nkunda's militia–both of which acted in clear violation of the Transition agreement and posed a threat to civilians. Members of the militia raped civilians and pillaged the city, killing more than 100 people and displacing an estimated 24,800 civilians in the region before retreating to North Kivu under international pressure.[102] Back in Masisi, where he continued to be unopposed by blue helmets, Nkunda stepped up recruitment, set up parallel police and intelligence services, and carried out attacks on those who did not support him.[103]

5.3.3. Contestation: Struggling to Safeguard the Transition

Manifest inconsistencies in the response of MONUC forces in these circumstances prompt several key questions: Why did peacekeepers take action against some armed actors and not others? And how did this both reflect and give rise to additional contestation?

The armed groups in Ituri and the Kivus against whom the mission took action were not what the *Capstone Doctrine* would later call 'main' parties. Specifically, they were party neither to the Global Accords nor to the Transitional Government. Taking action against them did not pose a threat to the stability of the Transition; if anything, officials asserted that it guaranteed that the Transition stayed on course.[104] Moreover, the withdrawal of consent was not an issue since these armed groups had not consented to the mission's deployment or the peace agreement it was tasked with overseeing.

Critically, action against these actors had the 'full backing' of the Security Council.[105] None of the groups targeted were allies or backed by allies of Council members. Most were widely regarded by international actors as "negative", "illegal", and "criminal". Indeed, individuals at the helm of several groups against which MONUC launched operations were targeted with international sanctions and, as in the case of the LRA and FDLR, were wanted for international prosecution. What is more, some political analysts contend that contestation over other issues in the Council actually had diplomatic dividends for Congo which made such assertive action possible. These analysts maintain that the Anglo-French rift over the Iraq war compelled both sides to look for opportunities to 'play nice'

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[102] *Bukavu Report* 2005. During the crisis, Belgian Foreign Minister Louis Michel had suggested that the EU was considering sending peacekeepers to Bukavu in 'an operation along the lines of *Artemis'*. Agence France-Presse statement on 7 June 2004.
[103] E.g., Human Rights Watch, *Civilians attacked in North Kivu*. New York: 2005.
[104] In Ituri the "big players" (UPDF, MLC and RCD-K/ML) had largely withdrawn by early 2005 and remaining armed groups were not central to the national peace process, thereby limiting the risks of peacekeeping action. As a senior MONUC official deployed to the east throughout this period reflected: 'Dealing with the Ituri rebels was feasible because they were of secondary importance. The same thing would never have been possible in the Kivus. There was no Rwandan involvement in Ituri and the parties MONUC was using force against were not critical for the Transition. In the Kivus they were'. Interview with senior official, Kinshasa, February 2011.
[105] Interview with senior official, Kinshasa, February 2011.

when and where they could.[106] With comparatively less strategically at stake, they could agree on robust action against the armed groups in Ituri. Similarly, given the government's potential to destabilise the transition or of MONUC's possible expulsion, there was little contestation about taking action against the FARDC in Ituri, despite its recorded human-rights abuses.

As in the Council, there was relatively little contestation within the mission about the robust engagement against armed groups in Ituri and against non-signatories elsewhere. Officials contend that the Council's backing of these operations was critical in enabling the mission to take such assertive action. As described above, resources increased exponentially, and others note that the deployment of Cammaert, the Secretary-General's own military advisor, to oversee the campaign conveyed the seriousness of the Council's intent. Some officials assert that Cammaert's deployment was especially instrumental in increasing the willingness of troop-contributing countries to sustain casualties in Ituri. In addition, officials note that these groups were widely seen within the mission to be illegitimate–a fact that was regularly emphasised to peacekeepers. The scaling up of the mission's use of force was accompanied by a dehumanisation of the "target". A standard power-point presentation slide shown to peacekeepers in Ituri, entitled *What they are capable of* featured photos of militia jovially holding up severed heads and limbs.[107] According to an officer deployed to the region during this period, these images were meant to 'provoke fear and incite action'.[108] And instill fear they did–tales of cannibalism were rumored to keep MONUC soldiers up at night and were also said to have been a key factor in their willingness to use force.

However, whilst there was broad agreement within the Council and the mission on assertive action against non-signatories, MONUC's stance towards signatories of the Global Accords, and in particular, towards former members of the RCD, was a different matter. Unlike the previous phase, this contestation was primarily within the mission. With Rwanda's formal withdrawal and improved relations between Paris and Kigali, Great Lakes policy was not nearly as contentious as it had been.

Within the mission, the political leadership of MONUC was most averse to a robust stance vis-à-vis those party to or allied to parties of the Global Accords, and in particular Nkunda. Their reluctance stemmed from a concern that aggressive action could jeopardise commitment to the Transition, cause an intensification of conflict, or prompt retaliation by actors and their domestic or foreign allies. Closely related, some perceived a possible risk of MONUC's expulsion, given that it was through the Transition agreement that the parties had conferred consent on the mission.[109] Numerous officials

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[106] Stefaan Smis and Theodore Trefon. "Congo: Waiting for Godot." *Review of African Political Economy* 30(98) (2003): 671.
[107] MONUC, Briefing Presentation, 4 Dec 2004 (internal); MONUC, Briefing Presentation, 21 Dec 2004 (internal).
[108] Interview with MONUC official, Kinshasa, February 2011.
[109] Ibid.

within MONUC during the Transition period also assert that a 'pervasive pro-Rwandan sentiment' amongst the political leadership in Kinshasa and the Kivus influenced decision-making, a sentiment which partly explains their reluctance to confront Rwandan-backed belligerents who, in addition to representing local grievances in Congo, safeguarded the economic and political interests of Kigali in the Kivus. This favouritism was said to be the result of both a more general 'institutional guilt' over the genocide, and personal ties between certain senior officials and Rwandan elites/ex-RCD elements.[110] For example, several UN officials condemned what they regarded as the 'wildly inappropriate relationship' between the head of MONUC's North Kivu office, and Governor Serufuli.[111]

In addition, critics charged that a more robust approach towards renegade ex-RCD members was undermined by the passive approach adopted by TCCs/PCCs. The reluctance of peacekeepers to use force, they argued, was out of fear over the potential implications for their own personal safety. Rwandan-trained and battle-hardened, both Nkunda and Serufuli's militias were thought to be daunting fighting forces. Furthermore, the more mountainous jungle terrain of North Kivu was described as less conducive to military operations than the 'rolling hills' of Ituri where, as one official described, '[y]ou could see the guys you were going after'.[112] Whilst security concerns may explain a certain passivity amongst TCCs/PCCs, the strength of this excuse is diminished by the fact that during the Transition period peacekeepers *did* use force, despite considerable risks. Indeed, during Cammaert's time as Commander in the East, twenty-six peacekeepers lost their lives during active combat.[113]

This line of reasoning is further undermined by the fact that MONUC's military command was, at times, amongst the most vocal advocates of robust peacekeeping action against ex-RCD elements in general, and Nkunda in particular. Indeed, at various points during the transition, MONUC's military commanders advocated robust responses in line with their mandate and the more assertive conception of impartiality. Their interpretations of the mandate were 'literal' and 'matter of fact', as one official explained. Nkunda and others in abrogation of the Transition were regarded as sources of instability. The desire to reel in recalcitrant actors was also shared by field officials in the political affairs and human-rights sections who saw the effects of such bellicosity on the local population.

Tensions within the mission and particularly the military and political leadership came to a head during the Bukavu crisis. Throughout the crisis, MONUC's military commanders advocated a robust

[110] Ibid.
[111] The Head of Office was alleged to have openly supported Serufuli during his election campaign. And thus, 'it was no wonder' as one official charged 'that the RCD wasn't held to account'. Interview in Kinshasa, February 2011. Interview in Goma, April 2011.
[112] Interview with MONUC official, Goma, April 2011.
[113] Interview with Cammaert.

response. With access to attack helicopters and heavy weaponry, they believed that peacekeepers 'could contain Mutebutsi' and 'stare down Nkunda's forces'.[114] To that end, on 28 May the brigade commander presented Mutebutsi with an ultimatum threatening the use of force should he fail to canton his troops.[115] In addition, as Nkunda's men approached South Kivu, the Force Commander issued a directive reminding peacekeepers in the region that the mission was operating under a Chapter VII mandate and that they would be expected to defend the city from renegade militias.[116] Accordingly, orders were issued for the deployment of MI-25 and MI-17 attack helicopters.[117]

The military command's plans to defend Bukavu were, however, rapidly thwarted by the political leadership in Kinshasa who explicitly ordered the retraction of the ultimatum issued to Mutebutsi. Without consulting the Force Commander, and in direct contradiction of his directive, civilian leaders transmitted a message to the Brigade commander that force was not to be used against Nkunda.[118] An internal UN post-event report on the crisis found that the leadership was unduly concerned for the safety of the Tutsi community, giving credence to Nkunda's fears of genocide. The report surmised that this was likely the result of the leadership's direct communication with Nkunda during the crisis as well as their disregard of UN reports from the field, which showed that his claims of genocide were unfounded.[119] Contradictory orders coming from the leadership have also been identified as an important reason for peacekeepers' lack of action against Nkunda; for example, one official suggested that the mixed signals from Kinshasa may in part explain why the Uruguayan commander sought direction from Montevideo and, having been advised not to take action that would imperil the forces, handed over control of the airport.[120]

MONUC's inaction during the Bukavu crisis provoked fierce criticism from headquarters. The internal post-event report on the crisis censured the political leadership for 'undermining the military chain of command and concept of operations specifically related to the ROE on the use of force' and condemned the mission for failing to uphold its Chapter VII mandate.[121] The report questioned 'how the senior leadership in Kinshasa had come to the conclusion that a well-armed attack by

[114] Interview with MONUC, Goma, January 2009; Interview with military officer, September 2011. Reported estimates on the number of MONUC forces in Bukavu tend to be quite higher (for example, the International Crisis Group cites 600 troops and Human Rights Watch cites 700) than those of military deployed in Bukavu at the time who estimate that the force had 400 men. MONUC had issued a press statement in March 2004 announcing the deployment of a 3,500 brigade to the Kivus. However, this statement was premature, raising expectations amongst the population. By May 2004 the force had not yet been established.

[115] The ultimatum was issued to Mutebusi on 28 May and as the internal post-event reports 'was strongly contested by the senior leadership in Kinshasa'. *Bukavu Report*: 14.

[116] Ibid: 6.

[117] Ibid: 6.

[118] These directives were issued shortly thereafter whilst the Force Commander was traveling. Specifically, 'the DSRSG instructed the Force Commander and the *Chef de Cabinet* to send a message to the Brigade Commander and the Bukavu Office to retract the ultimatum to Mutebusi.' Ibid: 15. Furthermore, the following message was sent from the Chief of Cabinet to the Bukavu office: 'Do not refer to any weapons free zone, or to actions MONUC might take to forcibly disarm combatants. And do NOT/ NOT give the impression that we are going to fight Mutebutsi's people.' Ibid: 19.

[119] Ibid: 18.

[120] Interview with former MONUC official, September 2011.

[121] *Bukavu Report:* 19.

mutinous FARDC officers, supported by Rwanda, did not constitute a security threat to the Congolese population in Bukavu?'[122] And argued that the threat Nkunda posed to the Transition government was precisely the reason *for* an assertive response. It concluded that the mission's leadership

> appeared to confuse impartiality with neutrality and was reluctant to confront individuals or groups who were clearly working to undermine the Transition process. Mutebutsi and Nkunda were clearly working in mutiny against the legitimate FARDC command and the wider peace process… MONUC's failure actively to condemn the mutineers Mutebutsi and Nkunda for their acts of treason left the Congolese people with the impression that MONUC was favouring its enemies.[123]

And yet despite, these trenchant criticisms, following the Bukavu crisis, the mission did not undertake action against Nkunda or other renegade elements of the Transition. In 2004, SRSG Swing circulated an edict forbidding all contact with Nkunda. However, his decree did not allow for military action.[124] Moreover, when in 2006 Nkunda debuted his new militia, the Congrès National pour la Défense du Peuple (CNDP), senior UN officials in Kinshasa authored a policy document on the 'Nkunda problematique'. The official line adopted by the mission and allowed for by the Council was clear, as one analyst recounts: '"Do not confront. Contain". And the logic was simple: "Keep the Transition functioning, hold elections, and hope that he disappears after the polls."'[125] As during the Bukavu crisis, the military command, as well as numerous civilian officials posted within the east, opposed the policy. Such dissenting views were however 'marginalised' by the political leadership, as one official described; others, like Cammaert, resigned from the mission in frustration.[126]

MONUC's policy proved to be wishful thinking; 'disappear', Nkunda did not. As the following section describes, the CNDP was to wreak ever-greater havoc on the population of North Kivu following the elections, spawning several counter-militia in opposition to the foreign-backed general's group.

5.4. The Post-Election Period (2007-2009)

On 6 December 2006 Joseph Kabila was sworn in as the country's first democratically elected president in more than four decades. Thousands of guests gathered at the State House in Kinshasa, shaded from the rain under a sea of umbrellas in the national colors of red, blue and yellow. They

[122] Ibid: 18.
[123] Ibid: 16.
[124] Interview with Swing.
[125] Interview with NGO official, London, July 2011.
[126] Interview with senior MONUC official, Kinshasa, February 2011.

listened sanguinely as Kabila proclaimed that 'a new page' was opening up before them, and pledged to combat the corruption and violence that had devastated his war-battered country. His administration, he exclaimed, would be based on 'the trilogy of good governance, democracy and respect for human rights'.[127] To the delight of the donors in attendance, the thirty-five-year-old President paid homage to the 'remarkable solidarity' of the international community during the Transition period.[128]

Following the elections, the Security Council and the Secretariat reviewed MONUC's role for the post-Transitional period. In his 23rd report, the Secretary-General asserted that the central focus of the mission was to support the government of Congo with the aim of 'the consolidation of democracy' and 'the extension of state authority'.[129] In support of this overarching aim, the Secretary-General recommended that the Council continue to authorise the mission to protect civilians 'under imminent threat of violence'.[130]

Support to the nascent government was an integral part of the UN and the wider donor community's exit strategy. No sooner had the ballots been counted than discussions on drawdown plans and benchmarks began at HQ in Kinshasa and New York. In late 2006, Lise Grande, the DSRSG and Humanitarian Co-ordinator, developed the UN Security and Stabilisation Support Strategy (UNSSSS); similarly a package of interlinked humanitarian reforms was introduced by the UN, intended to shepherd the Transition from crisis to development, and strengthen humanitarian co-ordination.[131] However, for many within the mission, the appointment of Alan Doss as Swing's successor to the position of SRSG was the clearest indication of the direction in which the Council and the Secretariat 'thought things *should* be going'.[132] Although he had a strong background in development, Doss was, as one official described, 'simply not a political animal'.[133] He was widely seen as a 'mission closer'[134]– a 'shadow SRSG'[135] that would 'pack the UN up and leave the Congo mid-way through Kabila's term'.[136] As an official based at headquarters in Kinshasa told me: '[w]e planned for the election, after which we thought our job was largely done'.[137]

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[127] Reuters. "After Violent Decades, Congo Finally Installs an Elected Leader," 7 December 2006.
[128] Ibid.
[129] S/2007/156 (2007). *Twenty-third Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo.*
[130] Ibid.
[131] This included the introduction of the integrated mission concept to coordinate the various agencies in the DRC under the "one UN" umbrella and the direction of the Resident Humanitarian Coordinator. Other reforms included: the common humanitarian funds (CHF), the cluster approach, the first country-level Good Humanitarian Donor Initiative (GHDI), the establishment of provincial OCHA offices, and MONUC's designation of the Humanitarian Affairs as Civilian Affairs.
[132] Interview with senior UN Official, New York, June 2011.
[133] Interview with senior UN Official, New York, June 2011.
[134] Interview with MONUC official, Goma, December 2008.
[135] Interview with senior UN Official, Kinshasa, February 2011.
[136] Interview with MONUC official, Goma, March 2011.
[137] Interview with MONUC official, Goma, March 2011.

The mission plans for withdrawal were, however, soon shelved as security conditions deteriorated in various parts of the country and particularly in the east, where, as discussed further below, the CNDP rebellion gained force. The Security Council responded by reiterating its support to the government and in increasingly strong language admonished those who challenged Kabila's authority.

In December 2007, the Council reaffirmed MONUC's mandate under Chapter VII to 'use all available means within the limits of its capacity… to support the FARDC integrated brigades with a view to disarming the recalcitrant domestic and foreign armed groups, in particular… the dissident militia of Laurent Nkunda'.[138] With the backing of New York, the Force Commander's Directive of March 2008 further clarified that implementation of the mandate allowed for pre-emptive action, calling upon the forces to be more 'proactive and seek to prevent incidents from taking place rather than reacting to them'.[139] The Directive also highlighted MONUC's robust ROE, particularly with regard to protection, which authorised the Force 'to use all means, up to and including lethal force, to guarantee protection of the population'.[140]

Moreover, during this phase the question of the protection of civilians garnered unprecedented attention and scrutiny. Circumstances in the east would eventually compel the Council to take the unprecedented steps of designating POC the mission's 'highest priority' and authorising the use of force against 'violence emanating from *any* of the parties engaged in the conflict'.[141] Implicit in the latter was an assertion that force could even be used against the FARDC. However, during this period, the two core tasks assigned to the mission–the protection of civilians and support the government–came into tension with one another, and brought to light ambiguities over assertive impartiality and consent. As I discuss below, for all the president's international posturing, signs of resurgent authoritarianism in Congo soon followed the elections, suggesting that rather than turning a 'new page', Kabila was in fact taking a leaf from the book of his predecessors.

5.4.1. La Pagaille and Rebellion in the East

Deprived of what he had expected to be a landslide victory, President Kabila saw his election as the end to all political opposition.[142] He acted swiftly and brutally. In early 2007, government forces clamped down on opposition supporters in the west and center of the country where Bemba had won 75% of the vote in the run-off. Protests by groups such as the Bundu Dia Kongo (BDK), which

[138] S/RES/1794 (2007). *The Situation Concerning the Democratic Republic of the Congo*.
[139] MONUC, Force Directive, No. 132, 2008 (Internal).
[140] Ibid.
[141] S/RES/1856 (2008). *The Situation Concerning the Democratic Republic of the Congo*.
[142] Kabila failed to obtain an absolute majority and a run-off election was held in early 2007.

sought greater provincial autonomy, were put down by state agents using excessive force.[143] And in Kinshasa, Kabila launched an all out military offensive to 'eliminate Bemba' and his guards.[144] Hundreds of civilians were killed in the crossfire.[145]

Kabila's violent clamp down directly following the elections set a precedent. It presaged the president's ongoing attempt to crush all opposition at the expense of democratic and equitable peacebuilding for the benefit of the country's population.[146] Throughout the remainder of the mission's deployment, governance in Congo continued to be structured around similar power dynamics to those that existed at the peak of the war–defined by a lack of accountable leadership at both the local and national level, and the extreme centralisation of formal power in Kinshasa. Provincial governors not in favour with the president were either expelled on charges of corruption or simply forced to step down. The decentralisation reforms stipulated by the Constitution were ignored and the local elections, scheduled to follow the general elections, were never held. This created a shortage of local and representative governance, and ensured that community tensions and grievances remained unaddressed. Moreover, with security sector reform largely stagnant, the national army persisted as a venal and weak institution, a rag-tag team of numerous rebel groups incorporated but not unified under a single chain of command that preyed on civilians and continued to form temporary and opportunistic alliances with various militias, including the FDLR.[147] Resurrecting a term from the Congo of the 1960s, analysts questioned whether the period should be referred to as "La Pagaille"–a context of uncertainty, wayward morality and chaos brought about by a weak yet brutal government.[148]

Nowhere were the challenges for MONUC in supporting such a government more acute than in eastern Congo where the authority of Kabila was most contested. Developments in this region not only demonstrated discord over the mission's relationship with Kabila's regime and the FARDC, they also engendered their own forms of contestation over MONUC's response to groups that took up arms against, and in the absence of, state institutions. Of these, the CNDP was most significant. As one former senior UN official describes:

> The winners of the election proceeded to trample on most of the rules of democracy at the same time that at least one other key player [Laurent Nkunda] decided to ignore the rules completely. This was a bit like two rugby teams showing up at a soccer tournament and deciding to play by their own very different rules–officiated by a blind referee

[143] Human Rights Watch. *We will crush you: the restriction of political space in the Democratic Republic of Congo,* New York: 2008: 3-4; MONUC, Report on Election Violence, Human Rights Division, 2008 (Internal).
[144] HRW, 2008: 3.
[145] HRW, 2008: 3.
[146] Paddon and Lacaille 2011.
[147] ICG 2005.
[148] Thomas Weiss, "DRC Crisis", Panel at Columbia University, March 2010.

> [MONUC]. The referee might hear the booing from the sidelines and the screaming from the field but not see who deserved red cards. When both sides attacked the fans (to shut them up) the referee had no idea how to restore order.[149]

The elections were a resounding disappointment for the RCD, which after years of controlling the Kivus failed to inspire popular support in the polls. Their defeat was unsettling for Nkunda, and those on both sides of the border whose interests he sought to safeguard.[150] No Tutsi were elected to the North Kivu provincial assembly and only one to the National Assembly, who was not an RCD candidate. Nkunda responded by redoubling his efforts to expand the CNDP's sphere of influence in direct challenge to the government's authority and in the name of protecting the Tutsi minority from, amongst others, the FDLR.[151]

Beginning in 2006, Nkunda launched a series of offensives in North Kivu, which the FARDC proved unable to defeat. A pattern emerged: bursts of violence in and around urban centers were accompanied by an expansion of CNDP power in rural areas, which would then compel the government to negotiate with the general. This produced several "peace agreements", brokered largely by the parties themselves. This included a failed attempt in 2007 to integrate the CNDP into the FARDC–a process known as "mixage". In most instances, however, parties had barely signed on the dotted line and shook hands before forces on one of the two sides would launch an attack thereby nullifying the so-called peace. Alongside this deadly game of cat and mouse, Nkunda gained control of huge swaths of territory in North Kivu, committed widespread human rights abuses and brutally terrorised the local population.[152]

These hostilities provoked a groundswell of local opposition and the rapid mobilisation of at least a dozen or more armed groups in the east. This increased mobilisation was driven by insecurity, as communities sought to defend themselves against the CNDP and an increasingly rapacious government. The region, which, as Stearns notes 'had been on the mend for the several years following the 2002 peace deal… plunged into a downward spiral of violence'.[153]

5.4.2. From Assertive to Passive

MONUC's initial response was robust. In the early post-election period, MONUC's aversion to confronting the CNDP during the Transition was briefly overturned. On two occasions, the mission adopted a robust defensive posture against Nkunda in support of the Government. In August 2006, MONUC used force to repel the militia from taking the strategic town of Sake, located a mere 17 km

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[149] Unpublished writing of former MONUC military official, 2009.

[150] Ruberwa, the RCD candidate, come fourth in the presidential election, with only 1.7% of the vote and the party gained just 15 out of 500 seats in the National Assembly.

[151] Jason Stearns. *From CNDP to M23–The Evolution of an Armed Movement in Eastern Congo* London: Rift Valley Institute, 2012.

[152] International Crisis Group. *Congo: Bringing Peace to North Kivu*. Nairobi/Brussels: 2007.

[153] Stearns 2012a: 30.

from Goma. Similarly, when in November of that same year Nkunda proceeded with his advance on Goma after repeated warnings from the mission, peacekeepers gunned down over 150 CNDP men on the road leading into the city from Sake.

The mission's willingness to use force against Nkunda in support of the Government and to protect civilians more generally was, however, not sustained. An internal military evaluation conducted for the Secretary-General by General Maurice Baril (ret.) in 2008 noted the 'sharp decline in firing engagements by contingents since 2006', which he argued, 'indicat[ed] a growing aversion to the use of force'.[154] The reticence of peacekeepers to use force was most striking in the autumn of 2008. With the latest peace agreement in tatters, renewed hostilities between the CNDP and the FARDC plunged North Kivu into crisis. In one month alone 250,000 people were displaced, raising the total number of IDPs in the province to one million (or 25% of the population).

In addition to atrocities committed by the CNDP, it was also during the Goma crisis that the extent of FARDC's miscreant behaviour and predatory nature was revealed. Whilst MONUC's frustrations with the FARDC were longstanding, they reached new levels during the crisis. As the Congolese army abandoned their posts, in places like Rutshuru they ransacked towns and villages, and raped and pillaged, terrorising the local population.[155] Moreover, incensed by MONUC's unwillingness to fight the CNDP *for* them, the FARDC stirred up local opposition to the mission and in certain instances attacked peacekeepers. Indeed, MONUC officials have documented proof that during the crisis the UN suffered more attacks from 'friendly fire' (FARDC) than from the CNDP.[156] MONUC did not respond forcefully.

During this spate of violence – what became widely known as the 'Goma Crisis'–the CNDP greatly expanded its zone of control, and threatened to take the provincial capital as Nkunda began expressing national ambitions. As the FARDC fled most urban centers, MONUC publicly pledged to defend the North Kivu towns of Goma, Sake, Masisi and Rutshuru. When the CNDP encroached on Goma, the mission fired on Nkunda's nearby positions in Kibumba, 27 miles north, and, along with international pressure, succeeded in averting an attack on the provincial capital.[157]

However, whilst MONUC tried to defend Goma, Nkunda's men took Kiwanja and Rutshuru–neighbouring towns in the northeast of the Province–with no resistance from the 120 Indian peacekeepers stationed in the area. Upon entering the towns, the CNDP ordered the local population

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[154] United Nations. *Mission Report: Military Component Evaluation –United Nations Organization Mission in the Democratic Republic of the Congo* (MONUC), 19-29 April 2008 (Strictly Confidential): para 25.
[155] Human Rights Watch. *Killings in Kiwanja: The UN's Inability to Protect Civilians*. New York: 2008.
[156] Interview with senior MONUC Official, Goma, January 2010.
[157] MONUC, Press statement, November 2008.

to destroy the IDP camps that housed 27,000 people from the area, and announced to MONUC that they had taken control.[158] In the days that followed, the CNDP summarily executed an estimated 150 people. The blue helmets stayed at their base. As one woman I interviewed recounted:

> [The CNDP] broke down doors and killed. When they entered they would look for young people because they said they were Mai-Mai. Because we speak the same language we negotiated with them–tried to tell them we weren't Mai-Mai. They asked us to lie down on the ground and they started to fire. Lots of bullets into bodies. When it stopped there was the dead. My two sons died… The FARDC and MONUC did nothing.[159]

According to a senior UN civilian based in Goma and involved in a UN investigation following the massacre, 'MONUC passivity was at its starkest in Kiwanja. MONUC made public statements about not letting key towns fall. The military said it could be protected, but then they didn't. The UN could have stopped the CNDP and they didn't'.[160]

The attacks in Kiwanja elicited international attention, and were widely condemned. The possibility of an EU Rapid Reaction Force to protect civilians was briefly discussed in New York and Brussels, but gained little traction. The CNDP maintained control of Rutshuru and Kiwanja, and expanded its territorial reach, unopposed by the peacekeeping contingent stationed in the area.

5.4.3. Contestation: Shifts in Legitimacy

What explains the mission's increasingly passive stance towards Nkunda, and its unwillingness to confront elements of the FARDC that threatened civilians? And how might this have reflected and engendered contestation?

Understanding implementation during this phase requires an account of the relationship of Kabila's government with its foreign partners following the elections, as well as of the internal dynamics within the mission.

The elections ushered in a new phase in donor engagement in the Congo, as Kabila sought to quash all outside criticisms of his government. During conversations, the president made it clear to one Western diplomat 'that anyone who dared so much as question his authority was not welcome'.[161] In January 2007, the CIAT was disbanded at Kabila's order and shortly thereafter his staff informed

[158] Human Rights Watch 2008; MONUC, *Consolidated report on investigations conducted by the united nations Joint Human Rights office (UNJHRO) into grave human rights abuses committed in Kiwanja, north Kivu, in November 2008*. Joint Human Rights office. (September 2009).
[159] Interview with resident of Kiwanja, Kiwanja, February 2010.
[160] Interview with MONUC official, Goma, February 2009.
[161] Interview with senior UN official, New York, March 2010.

donors that the government was to prioritise bilateral relations over multilateral or 'comprehensive' engagement 'to avoid interference in domestic affairs'.[162] This afforded the president greater control over policy and the allocation of resources.

Kabila's increasing intransigence met little resistance. Appearances of donor unity and commitment that characterised the Transition period fell by the wayside. The semblance of peace and democracy in the Congo brought new opportunities for investment and profit, and states now competed for lucrative mining and oil contracts. As one analyst noted wryly: 'You didn't need to be particularly brilliant to see that everyone wanted to curry favour with Kabila. They were all scrambling to gain their own national advantage'.[163] Competition only increased as Kabila looked east and deepened economic ties with non-traditional donors willing to build much-needed infrastructure in return for natural resources, without good governance conditions.[164]

The Security Council and other international donors were slow to react to the crisis in the east. When they did engage, officials in the mission argued that the approach was contradictory and misguided. Whilst calling for robust action in support of the state against Nkunda, beginning in July 2007, the Council was increasingly in favour of direct political negotiations with the CNDP.[165] In September 2007, key members of the international community, including senior representatives from the USA, UK, France, Belgium, and South Africa, met in New York to develop a "road map" for the east. Shortly thereafter, an American diplomat was appointed as a high-level dialogue facilitator.

This sent contradictory signals to the mission about what position it was expected to assume, and gave rise to contestation about the mission at the macro-political level. Civilian staff deployed in the east complained that 'the countless delegations of diplomatic officials that trekked up to see Nkunda only further legitimised him', exclaiming sarcastically that 'during the Goma crisis the only person not to visit was the Pope!'[166] Moreover, as evidence of Kigali's support to the CNDP and meddling in North Kivu mounted, officials criticised what they perceived as the 'hypocrisy' of the Security Council and particularly those states–namely, the UK, the US and France–who took the lead on Great Lakes policy and yet remained uncritical of Rwanda.[167] Many charged that the Council's expressed commitment to resolving the CNDP issue did not address what was arguably a critical dimension of that problem: Rwanda. Whilst member states were prepared to engage Rwanda as a

[162] ICG 2007: 25
[163] Interview with senior UN official, New York, June 2011.
[164] Shortly after the elections, China entered into a $6 billion infrastructure for resource accord with Congo, making it China's largest deal on the continent.
[165] Human Rights Watch. *Renewed Crisis in North Kivu*. New York, 2007: 78.
[166] Interview with MONUC official in Goma, January 2011.
[167] Interview with senior UN official, Kinshasa, February 2011.

stakeholder in Congo's future stability, they refused to acknowledge and put pressure on Kigali for its culpability in fomenting instability in the Kivus.

This macro-level political contestation was characterised by disjuncture between high-level geo-political strategic objectives and the grand conditions that MONUC was attempting to manage, of which the treatment of Rwanda by council members was a case in point. For example, two former UN officials recounted their frustration over the visit of Jendayi Frazer, US Assistant Secretary of State for African Affairs, days after the Goma crisis.[168] At the mission's base camp in Goma, Frazer was given a full briefing on the crisis. During the briefing, MONUC's military command in the east provided a detailed account of Rwanda's support to the CNDP as well as its direct involvement during the crisis, including shelling from across the border and attacks by Rwandan military units on Congolese territory. Hours later, Frazer travelled to Kigali where she held a press conference stating: 'the United States government has no evidence that Rwanda supports the rebel National Congress for the Defence of the People (CNDP) of Major General Laurent Nkunda'.[169] For the military command, Frazer's remarks were 'a slap in the face', particularly given what they had just been through. For others within the mission, her statement was 'ridiculous, but hardly surprising'.[170]

These broader macro-level political dynamics had an impact on the micro-level operations of the mission that without doubt fomented contestation. No longer at the helm of the CIAT, MONUC 'struggled to assert itself' whilst supporting the Government.[171] As a senior UN official recounted, '…[t]he hissing sound that you heard after the elections was the sound of leverage leaking away from the Mission…. MONUC, without backing, was weak.[172]

In this context, MONUC's political leadership adopted an approach that mirrored the Council's and Doss took a pliant attitude towards the government and then towards Nkunda. Few criticisms were made of the Government's brutal clampdown in 2006 and 2007. However, as the Government's true colors came to light and as the Council urged engagement with Nkunda, the political leadership proved less willing to confront Nkunda militarily. As one civilian official explained: 'many in the mission were initially willing to give the government a chance, but as the shambolic nature of Kabila's administration became apparent and the FARDC failed to deal decisively with the CNDP, Nkunda and his men didn't look so bad'.[173]

[168] Interview with MONUC official, Goma, January 2009. Interview with military officer, Goma, January 2009.
[169] Frank Kagabo. "Rwanda not in Congo' says US's Frazer", *The New Times,* 2 November 2008.
[170] Interview with military officer, Goma, January 2009.
[171] Interview with senior UN official, New York, June 2011.
[172] Interview with senior UN official, New York, June 2011.
[173] Interview with former MONUC official, December 2012.

Moreover, officials stressed that the mission's mandate was to support the FARDC, not wage war on its behalf. As a result, when the FARDC proved unwilling or incapable to fight, peacekeepers did not assume responsibility for 'holding down the fort', save in instances where civilians were imperiled. When asked to explain why MONUC adopted this position, one official replied:

> We felt as though the government had not exhausted all peaceful means. The CNDP had genuine issues in need of address. We felt as though the use of force to neutralise the CNDP would have done little to take those issues off the table and would have meant very little in terms of long-term stability… However, at the same time, the UN didn't question the FARDC's right to deal with the CNDP with force.[174]

These political and strategic reasons for MONUC's passive stance were related to micro-level operational challenges and contestation on the ground. As the CNDP grew in strength and increasingly resorted to guerilla warfare tactics, the risks of confronting the militia increased for the mission. As during the previous two phases of the mission's deployment, peacekeepers were concerned about the potential consequences that taking action against the CNDP would have on their own security, given their inadequate resourcing. This material fact explains in part the robust posture adopted in 2006 but not in 2008.[175] Despite MONUC's pronouncements during the Goma crisis that peacekeepers would defend key urban centers, the mission simply lacked the capabilities to do so. In private, UN officials confessed to diplomats that if challenged 'they would only have been able to defend two pockets around the main MONUC bases in Goma.'[176] Similarly, investigations into the Kiwanja massacre conducted by Human Rights Watch and the UN found that inaction by the Indian contingent stationed in Kiwanja was partly due to mobility constraints as well as to the absence of an interpreter to inform the peacekeepers as the crisis unfolded.[177]

Moreover, as peacekeepers found themselves ill-equipped to deal with a deteriorating security situation in the east and were frustrated by having to work alongside the FARDC, the TCCs were said to have increased communication with their respective capitals and, following the direction of their superiors that they were not to go home in "body bags", assumed a passive stance.[178] Some argued that the TCCs actually developed close relations with the CNDP in an effort to ensure their security. Others argued that certain TCCs were biased towards Nkunda and his men. Specifically, UN officials maintained that the Indian contingent supplying the majority of troops to North Kivu had an affinity for the CNDP based on an inherent cultural bias, which stymied a more aggressive approach. As one official explained it: '[c]oming from a caste system at home, the Indians see the Tutsi as more

[174] Interview with senior MONUC official, Goma, January 2010.
[175] Agence France-Presse. "Lack of Troops, "Schizophrenic" Mandate Hamper UN in DR Congo", 12 November 2008.
[176] Interview with government official, Goma, January 2010.
[177] Human Rights Watch 2008: 24.
[178] Interview with MONUC official, Goma, January 2009.

cultivated and advanced, and therefore deserving of respect. Also, they are much easier to deal with than the FARDC. Some speak English. Many are Rwandan trained and unlike the other [armed groups] they have a clear hierarchy and are organised. They show up on time and in suits… and, most importantly, they know what to say'.[179]

Thus, both macro- and micro-level factors contributed to the inconsistent application of force in relation to the various players on the ground. For example, the more pliant approach towards CNDP was deeply contested. It was opposed, at various times by the military command. In a highly publicised incident at the height of the Goma crisis, General Vicente Diaz De Villegas, the newly appointed Force Commander, resigned after just three weeks on the job. Echoing the frustrations of Cammaert, de Villegas charged that the mission's policy regarding Nkunda was misguided and 'dangerous', and underscored the urgent need for 'impartial' peace enforcement in the east with adequate resources.[180] In addition to Villegas, other officials, particularly civilians stationed in the east, were critical of the unwillingness of peacekeepers to confront the CNDP.[181] They argued that peacekeepers had a responsibility to take action given both the mission's authorisation to disarm the dissidents generally, and its Chapter VII mandate to protect civilians.

However, while the military command advocated actions against CNDP, like the political leadership, it was unwilling to undertake robust action against miscreant elements of the FARDC. Here, the perceived risk was both one of an escalation in hostilities as well as a risk that MONUC might be expelled. As one former official observed: 'The population was already hostile to the mission given that we were negotiating with the CNDP. Firing on the FARDC would have upset them even more. Also, our mandate was to support the government, which had been democratically elected. Using force against the army seemed like a step beyond peacekeeping'.[182] Moreover, given the broader, more solicitous approach of donors towards the Government, such action, they argued, would not have had Council backing. Suggestions to both the military command and the political leadership that force be used to address FARDC violations, particularly given the mission's mandate to protect civilians, provoked fiery responses.[183] As MONUC's Force Commander General Gaye exclaimed, such use of force 'would never have been possible! The UN hierarchy would never have allowed it.'[184]

It therefore came as a surprise to many when, in the wake of the Goma crisis, the Council authorised Resolution 1856, which was unprecedented in two respects: first, it was the first UNSC mandate to

[179] Interview with former UN official, Goma, January 2010.
[180] Human Rights Watch 2008: 3; MONUC, UNJHRO 2009: 2-3; Holt and Taylor 2009: 281-283.
[181] Interview with former MONUC official, December 2012.
[182] Interview with former MONUC official, December 2012.
[183] Interview with government official, Goma, February 2010.
[184] Interview with General Gaye, New York, 2011.

designate the protection of civilians as a mission's highest priority; second, it specifically authorised the use of force to ensure the protection of civilians 'under imminent threat of physical violence… from *any* of the parties engaged in the conflict'.[185] While the importance of protection relative to other mission tasks was implicit and action against miscreant FARDC forces legal under the mission's previous Chapter VII mandate, the explicit injunction in Resolution 1856 added important emphasis. As a senior official involved with drafting the resolution explained in early January 2009: 'After the crisis, the threat of the FARDC to the population could no longer be ignored'.[186] He added, however, that '[w]hether it will be implemented in practice is another issue altogether'.[187]

As the next section argues, protection continued to be a primary concern for MONUC in the final phase of its deployment. But a seismic shift in regional relations, unforeseen by the Council and by the official in Goma (cited above), gave new meaning to Resolution 1856, resulting in significant contestation over its implementation and MONUC's impartiality.

5.6. Regional Rapprochement (2009 – 2010)

The Goma crisis precipitated what many Western diplomats praised as a historic rapprochement between the erstwhile enemies of Rwanda and the Congo.[188] For Kinshasa, the Goma crisis revealed the strength of the CNDP, the impotence of the FARDC, and the international community's unwillingness to reel in Nkunda and his followers. The CNDP was proving to be the greatest threat to Kabila's presidency and had become emblematic of the government's lack of control. Moreover, Nkunda's liability quotient also increased as collusion between the Rwandan leadership and the CNDP was widely exposed in the media and in a UN panel of experts report published in late 2008. Nkunda was increasingly seen by his backers to be 'getting too big for his own boots'.[189]

Talks began in December 2008 and concluded in the 23 March 2009 Agreement signed in Goma between Kabila's government and the CNDP. Under the agreement, the CNDP leadership agreed to transform the movement from a military to a political entity and to dismantle their parallel administrations in Masisi and Rutshuru territories. For its part, the government committed to the integration of combatants into the FARDC, the police, and institutions of national and local

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185 S/RES/1856 (2008): 4, emphasis added.
186 Interview with Senior MONUC official, Goma, January 2010.
187 Ibid.
188 Interview with Senior MONUC official, Kinshasa, February 2011.
189 Interview with government official, Goma, February 2010; Alex Perry. "The Man Who Would Be (Congo's) King." *Time World*, 27 November 2008.

administration. Overnight, the renegade enemies of yesterday became members of the national army. The agreement was rolled out under the rubric of disarming the FDLR.

But the 23 March Agreement was in reality only a front for the larger backroom deal reached by Kinshasa and Kigali in late 2008. Whilst the details of the secret pact are still unknown, it is widely believed that the agreement balanced Rwandan actions to depose Nkunda with tacit acceptance by the Congolese authorities of Rwanda's ongoing political and economic control over important areas of eastern Congo by CNDP cadres (facilitated by their integration into the FARDC).[190] Events preceding the formal March agreement provided ample evidence that this was the case. In early January Nkunda was "arrested" by Rwandan authorities in the border town of Gisenyi.[191] This was followed by the launch of 'Umoja Wetu' ('Our Unity')–a one-month military campaign conducted jointly by Rwandan and Congolese forces, ostensibly to target the FDLR, but which, in actual fact, sought to prevent a CNDP uprising and the consolidation of CNDP control of mineral rich areas. In mid-February, CNDP forces were "integrated" in their thousands into the FARDC. All of this occurred before the peace agreement was even signed.

MONUC was kept in the dark about the negotiations that led to the rapprochement and was sidelined from any involvement in Umoja Wetu or the integration process.[192] However, when the RPA withdrew from Congo in late February, the government turned to the mission and secured its support for future operations. At the closing ceremony for Umoja Wetu in Goma, Congolese Foreign Minister Alexis Thambwe Mwamba proclaimed to the cheers of many Congolese that the primary responsibility for the follow-up operations lay with MONUC, which was now tasked with implementing Resolution 1856 by continuing operations against FDLR and protecting civilians. As one observer noted, it was almost as an 'afterthought that [Mwamba] added that, of course, the FARDC would also be involved in operations against the FDLR'.[193] Very quickly, in the words of one official, 'MONUC became the punchbag of the secret pact between Kagame and Kabila without knowing the contents of the deal'.[194]

[190] Interview with government official, Goma, February 2010. See also S/2009/603 (2009). *Final report of the Group of Experts on the Democratic Republic of the Congo*; International Crisis Group. *Congo: Five Priorities for a Peacebuilding Strategy*. Nairobi/Brussels: 2009.
[191] BBC. "Rwanda arrests Congo rebel leader", 23 January 2009.
[192] The mission tried to be involved in the operations. Initially, a Joint Operations Command (JOC) was established in Goma with the goal of bringing together MONUC, the FARDC and the RPA to oversee the operations. However, JOC quickly became referred to as JOKE and was within a week renamed the 'liaison center' for information sharing, as it became clear that FARDC, and particularly RPA, were not in the least interested in joint planning.
[193] Interview with government official, Goma, January 2010.
[194] Interview with senior MONUC Official, Kinshasa, February 2011.

5.6.1. Operations Kimia II and Amani Leo

Operation Kimia II commenced in North and South Kivu in March 2009, ushered in by the signing of the formal agreement. Initially the operations were officially against the FDLR. However, they expanded to target other armed groups following the government's announcement on 3 July 2009 that the integration process was complete and that all remaining armed groups would henceforth be considered enemies of the state. During Kimia II, MONUC provided significant material, logistical and operational support to the FARDC and the newly integrated CNDP during operations. This included intelligence gathering and operations planning, air strikes, transportation, provision of rations, fire support, joint patrolling, and medical evacuations.

Kimia II led to an immediate increase in FDLR combatant defections and succeeded in removing a number of the group's temporary bases.[195] However, whatever short-term gains were made against the FDLR were quickly overshadowed by the political and humanitarian consequences of the operations which were 'catastrophic', in the words of Philip Alston, UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.[196] During the first nine months of operations, UNHCR reported an increase of over 500,000 IDPs. Retaliatory massacres and rampant rape were committed by members of the FDLR. As well, ex-CNDP units within the FARDC–MONUC's partners in the joint operations–killed 732 civilians, including 143 Rwandan Hutu refugees.[197] As one military officer noted: 'the CNDP is the same nasty CNDP as in Kiwanja–they are just playing dress-up in FARDC clothes'.[198]

While the stated goal of the operations was to reduce the threat posed by the FDLR and other armed groups, Kimia II provided a successful vehicle for the CNDP to greatly increase its military, political, and economic power within the Kivus under the guise of the FARDC.[199] CNDP killings were largely about securing broad control of fertile grazing land and taxable roads, mines and other sources of revenue. Many communities were displaced to make way for Congolese Tutsi refugees in Rwanda, and Rwandan settlers and their cattle. Moreover, the rise in CNDP power deepened resentment amongst non-Rwandophone indigenous communities. New armed groups such as Mai-Mai Cheka sprang up in reaction to CNDP control and aggression, and others, like the APCLS, garnered increased public support.[200] Following the Government's decree that the integration process be

[195] The overall and long-term impact of the operations is less clear, as the FDLR regrouped in a number of locations in the Kivus, and continued to recruit new fighters to replace those who defected. Raymond Debelle, "FDLR", Presentation at MONUSCO Forward HQ, April 2011. See also S/2010/596 (2010). *Final Report of the Group of Experts on the Democratic Republic of the Congo*.
[196] A/HRC/14/24/Add.3 (1 June 2010): 1 (Advanced unedited version).
[197] Human Rights Watch 2009: 85.
[198] Interview at Forward HQ, Goma, January 2010.
[199] S/2010/596 (2010).
[200] Jason Stearns. *PARECO - Land, local strongmen and the roots of militia politics in North Kivu.* London: Rift Valley Institute, 2012.

terminated, these groups were deemed enemies of the state and possible targets for military operations by the FARDC and MONUC.

5.6.2. Contestation: Challenges within MONUC

During this phase of joint operations, MONUC's involvement was strongly encouraged by Western diplomats in Kinshasa and members of the Council. They praised the rapprochement between Rwanda and Congo, and were staunch supporters of operations against the FDLR. To senior UN officials, MONUC's participation was commensurate with its mandate. In addition to outlining the mission's protection function, Resolution 1856 affirmed MONUC's commitment to assisting the government, including providing support to the FARDC in operations aimed at disarming foreign and domestic armed groups. And it specifically highlighted the FDLR as a 'major obstacle to peace'.[201] Moreover, senior MONUC officials such as SRSG Doss claimed that the mission's protection mandate was precisely why peacekeepers should be involved in the operations, as they would be better placed to ensure that civilians were protected. As one official insisted: 'It would have been morally and ethically untenable *not* to support the operations'.[202]

The leadership's decision to participate in Kimia II, particularly without conditions on the support given by MONUC to the FARDC, was virulently contested within the mission. Several officials working within the Civil Affairs and the Human Rights Divisions of MONUC opposed their superiors' decision to engage in joint operations from their very inception.[203] They cited the FARDC track record of civilian abuse, and argued that the potential backlash and retaliatory measures by the FDLR and non-Rwandophones in the region were likely to be significant, and the humanitarian consequences dire. Moreover, in March 2009, civil-affairs staff brought forward concerns about the mission's possible complicity in human-rights violations by the FARDC and the need for conditionality measures, given that no attempt had been made initially to make MONUC's operational support contingent on the FARDC's adherence to international humanitarian law. These concerns echoed formal legal advice given to the mission by the UN Office of Legal Affairs (OLA) in January 2009. The OLA recommended that MONUC 'establish conditions for respecting international humanitarian law, as required by its mandate, before it began to support the operations'.[204]

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[201] S/RES/1856 (2009).
[202] Interview with senior UN official, Kinshasa, February 2011.
[203] MONUC. "*Protection Impact of Umoja Wetu"* Powerpoint presentation, MONUC Goma, 28 February 2009 (internal); MONUC, "Summary of protection issues associated with the coalition operations against FDLR and fast-tracked FARDC integration process", Civil Affairs Section, Goma, 20 February 2009 (internal).
[204] The OLA advice also clarified that if the FARDC did violate international law, MONUC would need to take a range of measures, including, if the violations were 'widespread or serious', to end its 'participation in the operation as a whole'.

The initial objections of a few within the mission became more widespread as the humanitarian consequences of Kimia II, as well as abuses by the FARDC, came to light.[205] Civilian and military staff in the field and close to the frontline were amongst the most ardent critics. However, MONUC's leadership in Kinshasa gave little weight to their concerns.

Civilian officials in the east complained that their field analyses of the humanitarian and political implications of the operations were regularly dismissed by Kinshasa, and that they were sidelined from decision-making forums in which their objections could be raised. Tense relations between field offices and the mission's national headquarters developed, with the former being expected to toe the line of the latter. As two civilian officials within the mission recounted:

> [W]e'd send info up to Kinshasa and they would say "confirmed or speculative?" and the evidence would get shot down without a request for clarification… Doss refused to have any analysis in sitreps [situation reports]. We were only allowed to recount the details. Triangulation of sources was not valued–there was no space to say I believe in my sources–in order to make the information more credible. He found ways to dismiss information.[206]

> The SRSG kept us out of meetings… he didn't want to hear from [us]… He wanted to hear what he wanted to hear. The mission in Kinshasa is not open to criticism on policy decisions, and many UN officials were sidelined during Kimia II… The SRSG says that the Human Rights division of MONUC can't do what it wants to because of the sovereignty issue.[207]

Military officials within the mission voiced similar frustrations. TCC anxieties–and in particular those of the Indian, Pakistani and South African contingents–about partnering with members of FARDC, including well-known human-rights violators, were regularly dismissed. As a military adviser in the North Kivu brigade explained: '[d]uring Kimia II there was a taboo about talking about the CNDP and abuses committed during the operations'.[208] Moreover, concerns about the legitimacy of the operations, particularly as they expanded to include attacks against groups other than the FDLR, were discounted. The same official recounted: 'Not all the armed groups align with the FDLR. Some are working to provide protection to their own people in a place where there is simply no law and order, and where the state is a big part of the problem. How can supporting operations against such groups be a good idea? No one in Kinshasa is willing to listen to or address these concerns'.[209]

In this context, NGOs charged that 'Kimia'–which translates as 'keep quiet' in Swahili – had become

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[205] MONUC Goma, "Evaluation of the impact of Kimia II by MONUC-NK Substantive Sections", 06 June 2009 (internal); MONUC Goma, "Kimia II – Implications for the Protection of Civilians", *Powerpoint Presentation for the Visit of SRSG Alan Doss,* 7 June 2009 (internal); Code cables to New York from the SRSG's office regarding the operations did not reflect the assessments of field officials.
[206] Interview with MONUC official, Goma, April 2011.
[207] Interview with MONUC official, Goma, January 2010.
[208] Interview with military officer, Goma, December 2009.
[209] Interview with military officer, Goma, December 2009.

disturbingly appropriate given the efforts undertaken by the leadership of MONUC to play down the negative impact of the operations and to silence reports of abuses.[210]

5.6.3. Amani Leo to MONUSCO

In December 2009, after nine months of support, the UN attempted to mitigate the potential legal and moral liability of continuing to support to the FARDC. The Council renewed MONUC's mandate in Resolution 1906 and introduced the UN's first-ever conditionality policy in which the mission's support to Congolese army units was to be contingent on human rights verification and respect for international humanitarian law. Days following the resolution, Kimia II operations were terminated and, in what many criticised as largely a 'rebranding exercise', were replaced by a new set of operations–Amani Leo ('Peace Today'). Amani Leo incorporated the conditionality policy, reiterated POC as a key objective of the operations, and laid greater emphasis on operations against *all* armed groups in eastern Congo 'whether acting alone or in concert with the FDLR.'[211]

Some officials in both New York and Congo saw Resolution 1906 as the harbinger of a new phase of peacekeeping in Congo. They argued that the conditionality policy–coupled with the strong mandate to protect civilians–provided the necessary framework for peacekeepers to be 'truly impartial' in an assertive manner.[212] Such optimism, however, was soon tempered by the frustrations of UN military officers on the ground, who maintained that the policy was largely unenforceable in practice, due to UN's lack of oversight over key parts of the mission. These included: material assistance (e.g., rations could be diverted), control over FARDC deployment and redeployments (e.g., which commander was sent where) and the enforcement of punitive measures against FARDC forces when abuses were detected.[213]

In a damning interview with the *Washington Post* on 9 March 2010, Colonel Innocent Zimurinda, a commander in the FARDC with one of the worst records of human-rights abuses, claimed to have benefited from MONUC support during operations in 2010–that is, following the adoption of the conditionality policy and its attendant screening process.[214] 'We cannot say we are happy with the level of support,' Zimurinda said in the interview. 'But anyway, we want to say "thank you" to the UN.'[215] A month later, it was reported that General Ntaganda Bosco, an ICC-indicted war criminal

[210] Oxfam International, Waking the devil: the impact of forced disarmament on civilians in the Kivus, July 2009.
[211] MONUC, *Operating Guidelines*, viewed by author in Goma, January 2010 (restricted).
[212] Interview with senior UN official, New York, June 2011.
[213] Interview with senior military official, Goma, April 2011.
[214] Stephanie McCrummen. "Abusive Congolese Colonel got aid", *Washington Post Foreign Service*, 9 March 2010.
[215] Ibid.

also known as the 'Terminator', was deputy co-ordinator of the joint operations despite government and MONUC assurances to the contrary.[216]

Kabila's government felt increasingly aggrieved by the negative attention generated by the joint operations. MONUC's support was beginning to come at a higher cost, and with the country's 50th anniversary of independence in 2010 and national elections scheduled for 2011, Kabila grew increasingly concerned the attention would reflect poorly on his leadership, which was already greatly contested. In December 2009, as consultations for the renewal of MONUC's mandate were underway, Kabila requested that the mission begin its drawdown. In March 2010, during a visit to Congo by Le Roy, Under-Secretary-General for Peacekeeping, the president was more forceful in his call and ordered complete withdrawal of the mission by the end of 2011.[217]

In response, the UN Security Council intervened and negotiated a deal: blue helmets would remain in Congo in return for the UN's continued support of FARDC in joint operations. In addition, the mission was relabelled the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo (MONUSCO), which, through its emphasis on stabilisation, aligned the UN even more closely, compromisingly and invidiously with the Congolese state. Military operations continued. Roads were paved. Buildings were erected. And the security situation in the east continued to deteriorate. Reflecting on the mission, Guéhenno, Le Roy's predecessor, damningly charged that the UN mission in Congo had 'lost its way' and become a 'kind of gun for hire… President Kabila's own private military company'.[218]

5.7. Sites of Contestation

The analysis of implementation in this chapter has revealed significant contestation over the meaning and appropriateness of assertive impartiality as a norm of peacekeeping in the Congo. This contestation was both a product of and further contributed to disagreements at the macro- and micro-levels. In what follows, I summarise the sources and sites of contestation across MONUC's four phases. In particular, I highlight the various linkages between the macro and micro-levels, which are necessary to understand the practice of peacekeeping in Congo. In addition, I consider how the process of implementation privileged particular actors and their conception of what it meant to "impartially" keep and, at times, enforce peace in Congo. The discussion in this section focuses mainly on contestation amongst those involved with implementation. The effects of the norm on

[216] David Smith. "Congo conflict: "The Terminator" lives in luxury while peacekeepers look on", *The Guardian*, 5 February 2010.
[217] The government's request was reiterated in February 2010.
[218] Interview with Guéhenno, New York, March 2010.

local actors, including the various ways in which they contested the mission and its aims, are examined in the following, penultimate chapter.

5.7.1. The Macro-level Politics of Peacekeeping at the Micro-level

As actors interpreted and enacted the norm in the context of Congo, the extent of assertive impartiality's ambiguity was revealed. First, the process of implementation illustrated the lack of clarity over the *basis for* and limits to the authority of peacekeepers, and specifically when and in relation to whom peacekeepers should impartially implement their mandate. Simply put: whose consent should be necessary? Answers to this question varied significantly and changed over the course of MONUC's deployment, as each phase ushered in a new set of political dynamics. While ambiguities over consent engendered contestation during the Transition, as I discuss below, the issue of consent was most divisive following the 2006 election. As Kabila's regime increasingly became synonymous with the state, and elements of the state emerged as a significant, if not *the* greatest, threat to civilians, tensions between consent and assertive impartiality were heightened. Were peacekeepers to use force against miscreant elements of the FARDC even when doing so might risk their expulsion? How was the mission to position itself in relation to the government? Furthermore, was the consent of other actors still necessary? And if so, which actors?

Second, and closely related to the issue of consent, implementation brought to light ambiguities over what specific forms of action were prescribed by assertive impartiality, how to decide among competing priorities, and what to do when resources were limited. How were peacekeepers to reconcile their mandate to support the government–both during the transition and following the elections–with the task of civilian protection? Were peacekeepers supposed to protect civilians first and worry about the potential political implications of such uses of force later? Or were political considerations to take precedence? These questions were further complicated by the very nature of protection. Peacekeepers might be able to provide protection to civilians in the short-term, but this was not a long-term or sustainable strategy, given the state's role as primary bearer of the duty to provide protection. Was taking action against a state a sound course of action if it risked its alienation? Moreover, what of groups that defined themselves in opposition to and in the absence of the state, and claimed to offer protection? Were peacekeepers to use force against them? Such ambiguities over what forms of action were to be pursued, when and against whom, were also heightened by considerations of resource scarcity. What forms of actions could be expected of peacekeepers such as those in Kisangani and Kiwanja when they were inadequately resourced? Did resource constraints change the calculus of which tasks should be prioritised by the mission?

Further, implementation revealed ambiguities over the procedural requirements of the norm. Did support given to the government inherently mean that the mission was regarded as biased? Could actors claim to make impartial decisions without full access to information? More fundamentally, as I discuss below, given the UN's history in Congo and more recently the policies of particular member states towards the region, could the mission ever be regarded as unbiased and informed?

In addition to revealing ambiguities related to various components of impartiality, contestation at the macro-level was also magnified by who contested the norm during implementation. Specifically, several of the same actors who contested the norm during institutionalisation also raised objections during implementation. For example, during the first phase of MONUC's deployment the Secretariat reiterated many of the same concerns that it had raised in the context of other missions and during deliberations over POC at the macro-level. As during institutionalisation, however, the protestations of the Secretariat lessened over the duration of the mission. As divisions in the Council dissipated and it became clear that scaling back the mission's mandate was unlikely in the near term, the Secretariat focused its efforts on trying to boost the mission's effectiveness given existing political constraints.

Contestation at the macro-level also manifested in the behaviour of the TCCs/PCCs. Many of the countries that contributed forces to MONUC over the duration of its deployment were amongst those most critical of assertive impartiality during institutionalisation, most notably India, Uruguay and Pakistan. This led many civilians within the mission to conclude that the passivity of peacekeepers was merely a reflection of their home country's policy. A common refrain during interviews with civilian officials was that contingents had been told to avoid combat situations lest they "come home in body bags". Whilst peacekeepers may have received such direction, this line of argumentation does not explain those instances in which peacekeepers from these countries *did* use force, including during the Transition in Ituri and against the CNDP shortly following the elections– in both cases, at considerable risk.

To account for this variation, several officials question whether the increase in communication between TCC contingents and their superiors during the Bukavu and Goma crises–and their consequent reluctance to use force after having received directions–stemmed in part from their frustrations over the contradictory directives issued by the mission leadership and the lack of strategic vision. As one peacekeeper exclaimed: 'when you fire a shot that has the potential to kill, you want to make sure your superiors have your back'.[219]

[219] Interview with military officer, Goma, March 2011.

Moreover, it is likely that the frustrations felt by peacekeepers, which were particularly acute during the third and fourth phase, may have escalated contestation at the macro-level, which in turn had an impact on the mission. Many argued that such tensions came to a head in 2011. As the mission planned for elections and the Security Council prepared to authorise a resolution calling for peacekeepers to play an even greater role in ensuring the protection of civilians, India withdrew its four remaining Mi-35 attack helicopters from MONUSCO. Analysts described the move as a 'fatal blow' to the mission.[220] In addition to voicing concerns over the direction in which the mission was heading, Manjeev Singh Puri, India's Deputy Ambassador to the UN, reiterated objections made previously at the macro-level. Specifically, he underlined the need for 'more consultations' with TCCs and a more equitable distribution of the costs of peacekeeping.[221] 'India cannot,' he noted, 'be the only place in the world with attack helicopters'.[222]

5.7.2. The Micro-Level Politics of Peacekeeping in the Congo

Understanding how the macro-level politics of peacekeeping impacted implementation requires accounting for those forms of contestation generated during the process of implementation and related to the Congo context. In what follows, I explain how dynamics within the Council and the mission, each at times affecting the other, influenced implementation.

Despite the fact that Congo is of marginal strategic interest to most of the Great Powers, particularly when compared to countries in the Middle East, decision-making within the Security Council on Great Lakes policy has nonetheless been subject to significant disagreement. MONUC's mandates have been both a reflection and product of this contestation, as well as of the persistent interests of particular members of the Council. Divisions within the Council over Great Lakes policy were, as suggested earlier, most striking during the first phase of MONUC's deployment. Acrimonious relations between France and the US-UK hindered peacemaking efforts in the region and meant that states were reluctant to contribute forces. Moreover, this tension in relations partly explains why members of the Council were averse to acknowledging the 'reality gap' inherent in the Lusaka Agreement, the role prescribed for the UN by the signatories, and, indeed, their own mandates for the mission.

Tensions eventually dissipated during the Transition; however, they never fully disappeared, and Rwandan sympathies within the Council continued to have a tangible impact on policy towards the

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[220] Colum Lynch. "India's withdrawal of helicopters from Congo points to wider trend", *The Washington Post*, 14 June 2011.
[221] The Hindu Times. "India withdrawing helicopters from U.N.'s Congo mission, 16 June 2011.
[222] Lynch 2011.

region.[223] The US and the UK maintained close relations with Rwanda throughout MONUC's deployment, despite evidence of its abuses in eastern Congo. And whilst relations between Kigali and Paris improved, French suspicions of Rwanda never fully disappeared. For much of MONUC's deployment, Britain and the US continued to minimise Rwanda's support of militias in eastern Congo, focusing instead on the continued presence of the FDLR, whereas France regarded these militias as the main aggressor, asserting that the FDLR no longer posed a credible threat to Rwanda. Everyone, in other words, had a different villain. The appointment of Susan Rice as ambassador to the UN under the Obama administration only served to deepen these divisions, as she used American influence within the organisation to "dial down" criticisms of Rwanda and thwart France's pleas for a more punitive approach towards Kagame's government.[224]

The relationship between member states and the government in Kinshasa also had a considerable impact on implementation. During the Transition, the collective effort of donors played an instrumental role in the organisation of the Congo's landmark elections, and ensured that the Transition did not go off the rails at several critical junctures. Similarly, the robust action undertaken by the mission in Ituri was possible in part because Cammaert enjoyed the backing of the Secretariat and the unwavering commitment of the Council. Commenting on the elections and the operations in Ituri, journalist Michael Kavanagh noted that these were important examples 'of what can be done when the international community decides it cannot accept failure'.[225]

The fragmented approach of Congo's western donors following the elections, however, hampered the mission's ability to adopt a robust posture. MONUC's leverage was further undermined by a lack of coordination among the IMF, the World Bank and the UN, and by the arrival of non-traditional donors such as China and Japan. As a political affairs officer deployed in eastern Congo remarked, 'It is difficult for MONUC and member states who share a similar vision to say that assistance is conditional, tied to human-rights performance and better vetting of the army, when China just comes along and gives $6 billion without asking any questions'.[226]

Council dynamics had an impact on the mission in various ways. They shaped the content of its mandates, the resources made available to mission, as well as its broader leverage. Moreover,

[223] Saint-Malo Declaration, 1998. http://www.atlanticcommunity.org/Saint-Malo%20Declaration%20Text.html.
[224] For example, in 2010, Rice attempted to block the release of the UN mapping report, which, amongst its many findings, implicated Rwanda in the massacre of thousands of Hutus in the mid-1990s. According to Stearns, senior officials involved with the report asserted that Rice 'didn't see how opening up old wounds would help'. Similarly, when in 2012 the UN Panel of Experts documented Rwanda's direct support to the M23–a rebel group that continues to this today to wreak havoc on eastern Congo–Rice attempted to block publication of the panel's findings and then several months later allegedly removed language from a resolution citing Rwanda's and Uganda's well-documented support of the group. Jason Stearns. "Rwandan Ghosts", *Foreign Policy,* November 2012. See also, Colum Lynch. "How Rice dialed down the pressure on Rwanda" *Turtle Bay,* 3 December 2012.
[225] Michael Kavanagh. "A Review of Severine Autesserre's 'The Trouble with the Congo'." *African Security Review* 20(2) (2011): 90.
[226] Interview with MONUC official, Goma, February 2010.

dynamics in the Council also shaped how officials, particularly the political leadership, interpreted its mandate in so far as what the Council mandated was not always an accurate reflection of what it communicated in practice. For example, in Kisangani, officials noted that the military command was acutely aware that any action against the RCD, despite the mission's mandate to protect, would be highly contested within the Council. Similarly, reflecting on the mission posture in the post-election phase, one official stated that '[e]ven though the mandate authorised the protection of civilians, the mission's leadership was very sensitive to Council politics and whether action would have "top cover"'.[227]

Composition of the mission itself was also mired in contestation. Far from being a homogeneous entity, peacekeeping missions like MONUC routinely encompass a diversity of actors with different bureaucratic and operational identities and interests, which in MONUC's case demonstrably influenced implementation and engendered their own forms of contestation. Whilst disagreements at times reflected the personal biases of individuals, more general patterns also emerged. Two in particular are worth noting.

First, tensions between the military and political command of the mission were visible at various junctures. The senior political leadership based at the mission's operational headquarters in Kinshasa were reluctant to take any action that would risk a possible escalation in hostilities or that would jeopardise consent for the mission and its activities. This reluctance is likely explained by the close proximity of the leadership to the government and to donors and diplomats based in the capital, and by their involvement in formal peace processes. In contrast, the military command at several junctures, notably including during the Bukavu and Goma crises, called for robust action against various actors.

Second, there was visible contestation between the field offices and the headquarters based in Kinshasa, and specifically between civilian officials working in the Civilian Affairs, Political Affairs and Human Rights Divisions, and the political leadership. The former were closer to the frontline. They saw the consequences of policies set in Kinshasa and were often more compelled to engage armed actors when they believed it was within their capacity and when the adverse effects on the population did not outweigh the benefits, as they argued was the case during Kimia II and Amani Leo.

Amid this contestation, the political leadership had the greatest degree of influence in determining what decisions were taken and what course of action the mission carried out. In similar fashion to

[227] Interview with senior UN official, New York, July 2011.

the way the dynamics of contestation played out at the macro-level, the leadership exercised its dominance in part by controlling the flow of information, filtering out evidence that challenged what it regarded as the course of action worth pursuing, and by impeding access to decision-making forums.

5.8. Conclusion

The purpose of this chapter has been to examine the implementation of the new assertive conception of impartiality in the Congo case. The various forms and sites of contestation illuminated by this chapter's analysis underscore the importance of studying the process of implementation to understand better both the global and local politics of peacekeeping in particular contexts. However, as I argued in Chapter Two, the study of norms must also account for the implications and consequences. To that end, Chapter 6 considers the various effects of *prescribing* an assertive role for peacekeepers in Congo, particularly given the lack of consensus detailed in this chapter. It demonstrates how portraying peace and protection *as* impartial and apolitical–when in fact they are deeply contested–has had consequences for all actors in the Congo case: civilians, armed groups, the Congolese government and the mission itself. In short, my argument is that losing sight of the 'many-sidedness' of conflict by selectively condemning on moral grounds certain but not all of the participants' words and actions has come at great and grievous cost, particularly for those most vulnerable in this ravaged region.[228]

[228] Patricia Owens. *Between War and Politics: International Relations and the Thought of Hannah Arendt.* Oxford: Oxford University Press, 2007: 42.

6. *The Effects of Assertive Impartiality in the Congo*

On the evening of 29 September 2009, MONUC deployed gunship helicopters and fired on the APCLS, a local Hunde militia group, based in northern Masisi.[1] Four civilians were reported to have died in the attack. The peacekeepers were acting in support of the Congolese army stationed in the area (FARDC, ex-CNDP) which claimed that the APCLS, supported by the FDLR, had launched an offensive the previous day, killing civilians. In actual fact, however, the FARDC was attempting to cover its tracks. The day before, the FARDC had kidnapped twenty women and girls on their way to buy school supplies at the market. The civilians were held captive and gang-raped by the army. The APCLS had attacked the FARDC in order to release the hostages. As the army retreated, five civilians were killed trying to escape. In the wake of MONUC's assault, the APCLS lambasted the UN as an aggressor allied to Rwandophone interests, and denied peacekeepers and humanitarians future access to the volatile region.[2]

How, in this sort of situation, does a peacekeeping force know whom to attack? How to assess, in advance, the likely fallout from such action, from so-called "assertive impartiality"? How to untangle its skein of consequence?

This chapter builds on the analysis of contestation in the previous chapter to examine the effects and unintended consequences of the assertive conception of impartiality as applied in the Congo. The process of norm implementation, as MONUC's assertive action in Masisi illustrates, may impact actors in very different ways. For some, it entails costs. For others, it furnishes benefits. Consequently, the actual or expected behaviour generated by the implementation of a norm may influence the decision-making of actors, compelling them to act in ways they otherwise would not have. During this process, a norm may engender effects and consequences unforeseen by policymakers or those tasked with implementation, and contrary to their original intent. Civilians caught in the line of fire during MONUC's attack, and those subsequently prevented from receiving assistance, were imperilled, not protected, by the actions of peacekeepers. And MONUC, in this instance, acted against precisely the wrong aggressor.

It is precisely because norms are not unalloyed, that it is important to account for their effects. This is a necessary step, as Chapter Two explained, before value judgments regarding their desirability can or should be made. In other words, before exalting the purposes of contemporary peacekeeping, we

[1] The incident was not widely discussed within the mission and received no press coverage. Interviews with several military and civilian officials within the mission, Goma (February 2010, April 2011); Interview with senior UN official, Kinshasa, February 2011; Interview with senior members of the APCLS, Goma, April 2011.
[2] Interview with senior MONUC official, Goma, April 2011.

must assess their effects now, in this world, as they occur in contexts like Congo. It is only then that practitioners and scholars alike can consider how the harmful effects of a norm can be mitigated.

The chapter proceeds in six substantive sections. In sections one through four, I elucidate the effects and consequences of the norm on four specific sets of actors: civilians, armed groups, the state, and the UN mission. Whilst the discussion is broken down according to actor, the analysis highlights how the effects of the assertive conception of impartiality were often inter-related with implications for multiple actors. In the final section, I evaluate whether my findings confirm or reject the substantive objections about assertive impartiality raised by TCCs and the Secretariat during the process of norm institutionalisation. In so doing, I examine the level of congruence between contestation at the macro-level–at the United Nations in New York–and the effects of assertive impartiality at the micro-level–on the conflict-torn terrain of the Congo. In addition, I consider whether the analysis of peacekeeping practice in Congo reveals other effects of significance unforeseen by actors at the global level. The concluding chapter explores the relevance of my overall findings for other cases in which peacekeepers are deployed.

6.1. Civilians

To begin, I examine the direct effects of the mission's assertive mandate on civilian security. This is a germane starting point insofar as the concern for civilian protection was what initially instigated the reconceptualisation of impartiality. I explain why civilians came to believe that peacekeepers would deter and respond to attacks against them, and take measures to eliminate or restrict the activities of spoilers. Furthermore, I demonstrate how these expectations informed the decision-making of civilians and, in certain instances, adversely affected their security.

6.1.1. Civilian Expectations of Peacekeepers

The deployment of a UN mission, as the *Brahimi Report* cautioned, invariably generates expectations that peacekeepers will support those at risk.[3] Several factors in Congo, however, meant that civilian expectations of the mission were prodigiously high. First, to many Congolese, the mission simply looked the part. Compared to the shambolic and marauding Congolese military, MONUC from 2003 onwards was a seemingly capable and robust force. The mission had the accoutrements of a modern, professional fighting force, including an arsenal of heavy weaponry, tanks, armed personnel carriers, attack helicopters, and a fleet of aircraft that by 2005 had surpassed all commercial rivals to become

[3] *Brahimi Report*: para 62.

Africa's largest airline.[4] Whilst UN officials bemoaned what they regarded as the mission's inadequate resourcing, the magnitude and profile of MONUC's operational footprint nonetheless engendered perceptions and expectations amongst the Congolese that peacekeepers could and would take action. As a Congolese woman in Goma told me: 'They are strong and we are weak'.

Second, expectations of robust peacekeeping in Congo were heightened because MONUC's explicit mandate *was* to protect civilians and ensure peace/political processes. This was regularly communicated to the population. In official speeches, public outreach campaigns, and media reports, UN officials disseminated information about the mission's role and activities.[5] Moreover, at several crisis points, members of the mission made public pronouncements in which they explicitly promised protection and robust action. In the lead up to the Bukavu crisis, the head of MONUC's office in Bukavu gave assurances in the local media that peacekeepers would enforce a weapons-free zone in the city, and informed the public that additional troops were being flown in as back-up.[6] Similarly, both before and during the 2008 North Kivu crisis, officials pledged to defend Goma, Sake, Masisi and Rutshuru, and reiterated the mission's mandate to protect civilians–despite admitting in private that the force lacked the capacity to do so.[7] More recently, in 2012, statements that MONUSCO would 'not let key towns fall' became a common refrain as the M23 rebellion escalated.[8] These proclamations only served to heighten expectations. And yet in each instance, the mission reneged on the commitments it had made.

Third, and closely related, civilian expectations were magnified in areas where MONUC carried out dedicated protection programming and directly engaged with communities on protection issues.[9] Civilians were instructed to alert blue helmets to imminent danger through early-warning cells established by the mission in vulnerable communities as early as 2004, the idea being that peacekeepers would respond to such warnings.[10] Later, through the Joint Protection Teams (JPTs) and the Community Liaison Interpreters (CLIs), UN officials met with the local population, collected

[4] Jim Fisher-Thompson. "U.S. Ambassador Swing, Ituri aviation chief describe MONUC air operations", Washington File Staff Writer, 9 June 2009.
[5] In an attempt to improve its communication with the local population the MONUC Public information office (PIO) published a brochure, entitled *Understanding MONUC's mandate* (Comprendre le mandat de la MONUC). In addition, Radio Okapi, in particular, served as a critical mouthpiece for the mission with its nation-wide coverage and twenty-four-hour-a-day broadcasting . It was established in 2002 by the mission and the Swiss NGO, Foundation Hirondelle. It is the most ambitious radio operation in the UN's history. See Michelle Betz. "Radio as Peacebuilder: A Case Study of Radio Okapi in the Democratic Republic of Congo." *The Great Lakes Research Journal* 1 (2004): 38-50.
[6] *Bukavu Report*: 14.
[7] Xan Rice. "Panic grips Congo as rebels advance on town of Goma", *The Guardian,* 30 October 2008; Human Rights Watch 2008. Interview with government official, Goma, February 2010.
[8] Voice of America. "Peacekeepers Vow to Protect Eastern Congo City From Rebels", Kinshasa, 10 July 2012; Agence France Press. "DR Congo, UN troops reinforce Goma from rebel attack", 12 August 2012.
[9] Other protection tools included: the Rapid Response and early Warning Cell (RREWC), the protection network of Victims, Witnesses and Human Rights Defenders (VIWIN) and the Protection Matrix. Individual bases such as those in Kiwanja and Nyanzale also established early warning systems. See Holt and Taylor 2009; Julie Reynaert. "MONUC/MONUSCO and Civilian Protection in the Kivus", *IPIS,* 2011.
[10] Interview with MONUC official, Kinshasa, February 2011; Joshua Marks. "The Pitfalls of Action and Inaction: Civilian Protection in MONUC's Peacekeeping Operations." *African Security Review* 16(3) (2007).

information and conducted vulnerability assessments which were then used to develop recommendations such as the deployment of new operational bases in high-risk areas.[11] In an effort to manage expectations, members of the JPTs and CLIs explained MONUC's protection mandate, including the constraints faced by the mission that might impede assistance.[12] However, these caveats were often lost on civilians as they answered questions about the sources of their insecurity. As one senior official, lamenting the challenges of moderating expectations, explained:

> There is no way of nuancing the word protection. The man in the street, the woman in the street—let alone the woman in the bush—knows what it feels like to be protected and not protected. And if you're going to say that the primary purpose of this mission is protection, you cannot blame people for having a very fundamental and simple understanding of that. Nuances don't matter outside the Council on an issue like that. It doesn't count whether or not the mandate is hedged with caveats or people are made to be aware of this. If you say you are there to protect, then that's what they hear. That's what they believe.[13]

The last reason for high civilian expectations is that precedent–instances when peacekeepers *did* use force to protect civilians and confront spoilers–informed those expectations. As the previous chapter described, from 2005-2006, peacekeepers launched a series of aggressive operations that successively demobilised thousands of militia in Ituri and the Kivus who posed a threat to the civilian population. Similarly, in 2006 blue helmets gunned down over 150 of Nkunda's men during a CNDP advance on Goma. Such shows of force by the mission invariably led some to believe that peacekeepers would continue to assume a robust posture for the duration of their deployment. As a woman in Kiwanja told me: 'the blue helmets defended Goma and attacked the CNDP at Sake. We assumed they would do the same in Kiwanja in 2008... Are we any different? Are we not people too?'[14] The woman's two sons were amongst those killed in 2008 when the CNDP took control of Kiwanja. They were shot in the head just a kilometre from the MONUC base.

6.1.2. Decision-making, Information and Unintended Consequences

Beyond providing some nebulous hope of protection, expectations that peacekeepers would engage in robust action informed the decision-making of civilians and led them to act in ways they otherwise would not have. This observation is premised on the assertion that civilians are not merely passive victims; their responses to violence and to the threat of violence are neither random nor irrational. A

[11] The JPTs existed during the Transition as an informal *ad hoc* mechanism; they were standardised in 2008 following the Kiwanja massacres. JPTs were composed of staff members with relevant expertise from a cross-range of departments from within MONUC; namely, Civil Affairs, Child Protection, Human Rights and Political Affairs. JPT missions lasted roughly a week and teams were often sent to remote areas. In 2009, the mission developed a network of Community Liaison Interpreters. The CLIs were staffed primarily by Congolese nationals and, unlike the temporary deployments of the JPTs, they constituted a more permanent presence in the field. Their primary objective was to notify the mission of impending threats with a long-term view of strengthening communication between the mission and the population
[12] Interview with MONUC official, Goma, April 2011.
[13] Interview with senior UN official, New York, July 2011.
[14] Interview with resident, Kiwanja, January 2010.

growing body of ethnographic research substantiates this assertion, and usefully accounts for civilian agency in conflict settings.[15]

As in other contexts, individuals and communities in Congo developed strategies to avoid, defy and resist violence.[16] These strategies were informed by previous experiences of violence, local knowledge and networks. When people believed that peacekeepers would protect them and combat spoilers, this belief factored into their decision-making and risk calculation. In some instances, it emboldened them to take even greater risks. For example, instead of fleeing to areas of possible safety, people remained in place. Others travelled in what were sometimes insecure conditions to areas where peacekeepers were located and knocked on the gates of the UN compound.[17] Some came forward to tell UN officials about how they had been attacked and to share sensitive information about threats they faced. When protection was forthcoming or justice was administered, taking such risks was worthwhile. When it was not, then the risks were all the more grave. Acting on the assumption that robust action would be forthcoming, civilians naturally became even more vulnerable when peacekeepers failed to fulfill their stated purpose or acted in ways that were incommensurate with what was expected of them.

The unintended consequences for civilian security were particularly pronounced in the context of the mission's dedicated protection activities. Whilst the JPTs were widely touted as an innovation and effective protection tool both inside and outside the mission, in fact their record was decidedly more mixed. In some instances, actions of the teams exacerbated the threats faced by civilians. These concerns were detailed in a confidential evaluation report written by CAS in 2009.[18] The report recounted how the presence of JPTs created expectations among host communities that could not 'always be met' and maintained that 'in many cases', [the] key recommendations of the JPTs [could not] be implemented.'[19]

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[15] Several ethnographic studies detail civilian coping strategies in conflict, including the creative ways in which people seek to reconfigure their livelihoods in times of war (Carolyn Nordstrom. *A Different Kind of War Story.* Philadelphia: University of Philadelphia Press, 1997; Danny Hoffmann. "The City as Barracks: Freetown, Monrovia, and the Organization of Violence in Postcolonial African Cities", *Cultural Anthropology* **22**(3) (2007): 400-428) in order to realise life projects (Henrik Vigh. *Navigating Terrains of War: Youth and Soldiering in Guinea-Bissau.* New York: Berghahn Books, 2006). Civilians may follow old or new migration routes to flee to safer areas or remain emplaced to stay safe (Abbey Steele. "Seeking Safety: Avoiding Displacement and Choosing Destinations in Civil Wars." *Journal of Peace Research* 46(3) (2009): 419-429). Some studies elucidate how civilians, far from being passive victims, manoeuvre to secure access to humanitarian aid and resources (Karen Armstrong. "'Seeing the Suffering' in Northern Uganda: The Impact of a Human Rights Approach to Humanitarianism." *Canadian Journal of Anthropological Studies* 42(1)(2008): 1-32; Lisa Malkki. "Speechless Emissaries: Refugees, Humanitarianism, and Dehistoricization" *Cultural Anthropology* 11(3) (1996): 377-404;

[16] Erin Baines and Emily Paddon. "This is how we survived. Civilian agency and humanitarian protection", *Security Dialogue,* 43(3)(2012): 231-247.

[17] See the self-protection investigations that Oxfam conducted between 2007 and 2010, notably *Self-Protection in Conflict: Community strategies for keeping safe in the Democratic Republic of Congo.* Oxford, April 2009
Interviews with numerous NGO officials, Masisi Center, Kitchanga, Rutshuru, Lubero and Goma, 2009-2011.

[18] MONUC, "A preliminary assessment of the impact of the Joint Protection Teams", Civil Affairs Section, October 2009 (internal). (Henceforth *JPT Assessment)*

[19] Ibid.

More damning, however, was the report's finding that those individuals who provided the JPTs with 'crucial information' were 'often targeted by FDLR, FARDC or other armed groups or their intelligence services after the departures of the teams'.[20] Such targeting was the result of information leaks. As one UN official closely involved in the JPTs recalled:

> The JPT sitreps [situation reports] were used as mission propaganda–as evidence of good practice. They were often leaked and got passed around the UN. This had negative effects on security… There were several instances where CNDP got a hold of the JPT sitreps… CNDP commanders wrote targeted rebuttals to the internal reports. In one case, a senior CNDP, having read the report, called the participants and told them to be careful. If we had known that [they would be] leaked we would have written them differently.[21]

In November 2010–nearly two years after the JPTs became active–the mission tightened its protocol on information sharing and the circulation of JPT reports came to a halt. Whilst the change in policy was welcomed, UN officials lamented that it was too late: 'With Kimia II over, the most important period for protection threats had passed'.[22]

The CLIs encountered a similar set of issues to that experienced by the JPTs. Expectations were raised within communities who were led to believe that the presence of a CLI offered a 'direct line' of communication to peacekeepers in times of crisis.[23] But CLI warnings to the mission of impending threats to civilians were often met with stony silence. Moreover, just as civilians were targeted for co-operating with the JPTs, so too were the CLIs threatened. A protection assessment published by IPIS in 2010 noted how '[i]n Congolese villages everyone tends to know one another, making it quite easy for rebels to locate the CLIs and harm them'.[24] Without the reliable support from local peacekeepers and the firm backing of the mission, CLIs described how they sometimes felt 'isolated', 'unsupported' and 'vulnerable'.[25] They recounted having their authority questioned by individuals within their community and in some situations feeling targeted because of the actions they took to assist victims. Moreover, they were liable to feel vulnerable due to the very sensitivity of the information they passed along to the mission.

Lastly, the unintended consequences associated with the mission's dedicated protection programming must be understood within the context of MONUC's support for the FARDC following the rapprochement between Kigali and Kinshasa, and specifically during Kimia II and Amani Leo. This partnership further complicated the work of the JPTs and the CLIs, and was one of the main reasons why officials within the Civil Affairs Section and the Human Rights division of

[20] Ibid. In addition to these conceptual challenges, the report cites a number of significant logistical challenges. These include: 'Staffing constraints, other substantive sections, national staff, security and communication, vehicles and air transportation.'
[21] Interview with MONUC official, Goma, April 2011.
[22] Interview with MONUC official, Goma, April 2011.
[23] Interview with MONUC official, Goma, April 2011.
[24] Reynaert 2011: 26.
[25] Interviews with UN officials, Goma, April 2011.

MONUC joined the chorus of criticism against the operations. Civilians, they argued, took even greater risks and were more reluctant to cooperate with the UN because of its close ties to the FARDC, which now included the CNDP within its ranks. The internal JPT assessment stated: 'MONUC's partial role as a party to the conflict sometimes makes interlocutors reluctant to share information with MONUC, for fear of FDLR reprisals'.[26]

Moreover, in communities where the FARDC were viewed as the primary security threat, MONUC was tarred with the same brush. This further compromised the security of the CLIs and the activities of the JPTs. In several areas JPT access was forcibly obstructed and the population called for the mission to withdraw from Congo.[27] As I explain below, this both contributed to and was evidence of the mission's increasing marginalisation. However, before considering the multifarious effects of the norm on the mission itself, I first examine the ways in which the assertive conception of impartiality affected armed groups and the state. Here, too, the consequences for civilians were dire.

6.2. Armed Groups

For armed groups (AG) seeking a continuation of conflict and/or a more favourable peace than that which peacekeepers were tasked with enforcing, the assertive role prescribed for MONUC was a potential obstacle with considerable political, strategic and legal consequences. In Congo, as elsewhere, AGs deemed a threat to civilians or accused of spoiling could be attacked by peacekeepers, excluded from the peace or political process, sanctioned by the Security Council or worse, handed over to the ICC. With the balance of power in flux, action against one AG could be seen as tipping the balance in favour of another.

Given these stakes, AGs in Congo actively sought to reduce their uncertainty about MONUC and how it was likely to carry out its mandate.[28] AGs observed the mission, gathered intelligence on its operational modalities and capacities, and "tested" the resolve of peacekeepers.[29] 'At some points', observed one senior UN official, 'it seemed that the protagonists knew our policies better than we did… [They] were paying far more attention to MONUC than MONUC was paying to them'.[30] In

[26] *JPT Assessment.*
[27] This was the case in Lukweti following MONUC's attack on the APCLS. Access was obstructed in other áreas as well. See *Petition de la population du territoire de lubero,* October 2009; Oxfam, *Résultats d'enquête de protection*, 2009. See also, Human Rights Watch 2008.
[28] Alex Veit. "The Politics of Uncertainty – International Intervention and Armed Groups in Ituri (DR Congo)." Paper presented at the International Studies Association 48th Annual convention, 2007.
[29] One UN official recounted how he received 'reliable reports from [FDLR] defactors that their senior commanders had conducted an intelligence evaluation of the entire region and had prepared detailed assessments of the likely response of MONUC…' MONUC, End of mission report, senior military official, Goma, 2009 (internal). Baril made a similar observation in his 2008 report.
[30] MONUC, End of mission report, senior military official, Goma, 2009 (internal).

addition, AGs were attuned to the specific political dynamics within the mission and the Security Council that engendered contestation and influenced implementation of the mandate.

AGs used this knowledge in pursuit of their aims and to avert attacks by peacekeepers. Indeed, this sort of strategising was in play from MONUC's inception. As the previous chapter explained, the signatories to the Lusaka Agreement deliberately prescribed a role for the UN that was impracticable. They exploited the bitter divisions between Anglophone and Francophone interests within the Security Council throughout the first phase of MONUC, and actively obstructed the mission from implementing its mandate.

As the political landscape shifted and the resources necessary for a robust approach increased during the transition, the strategies and tactics of AGs followed suit. To diminish the likelihood of a robust response, offensives were planned during troop rotations and shortly after peacekeepers were deployed. AGs surmised that as blue helmets got their bearings and familiarised themselves with the context, they would be reluctant to use force. Similarly, AGs congregated and carried out attacks deep in the bush in areas where peacekeepers were absent, lacked access or were unlikely to venture. On this last point, regional expert Raymond Debelle highlights how the FDLR capitalised on enmities between troop-contributing countries in setting up its own base camp on the border between North and South Kivu.[31] With Indian peacekeepers dominant in the North Kivu, and South Kivu under the remit of a Pakistani force, the FDLR command counted on the fact, according to Debelle, that communication and co-operation between the two contingents was likely to be poor, and that blue helmets on each side of the border would be reluctant to cross for fear of igniting a larger conflagration.

In addition to the tactical effects brought about by the robust mandates authorised for MONUC, the normative agenda underpinning the mission's role had a significant effect on AGs and provided a useful propaganda tool. The discourse of civilian protection and "spoiling" was appropriated and instrumentalised by AGs in an effort to increase their own legitimacy and/or to delegitimise other actors for strategic ends. Moreover, as I explain below, exactly how AGs manipulated this discourse reflected their aims and status as a domestic or foreign armed group, as well as their future political prospects in the Congo.

[31] Debelle 2011.

6.2.1. Self-Legitimisation Strategies of the AGs

Many of the domestic AGs that MONUC confronted in Congo had taken up arms with the professed aim of protecting the population from foreign aggression, the iniquities of an unlawful and predatory state, or the precariousness of the state being absent altogether. This is not a new phenomenon. Eastern Congo has a history of ethnic self-defence forces, often referred to as the Mai Mai. To many, they are, as one interviewee described, 'the real freedom fighters in the Congo.'[32] Whilst self-defence and community protection figured as the modus operandi for these and other groups independent of the mission and its aims, MONUC's deployment as well as the involvement of other international actors such as the ICC cast a spotlight on protection issues in Congo and altered the playing field for those actors seeking to capture and maintain the moral high-ground. The drive to self-legitimate was important in that it influenced the standing of an AG vis-à-vis the mission, and thus how it was received by peacekeepers. It also carried weight with the AG's support base and shaped its prospects for wider and more enduring political recognition.

In this context, numerous armed groups, including the CNDP, M23, PARECO and the various Mai Mai forces, explicitly used "protection of civilian" language as an integral part of their communication strategy. Protection concerns figured prominently in their manifestos and memoranda, and were emphasised in discussions with international actors. They informed the ways in which militia fought and how their actions were represented and relayed to external actors. Charges of human-rights abuses were vehemently denounced.[33] Bodies, both literal and metaphorical, were hidden. And in some instances, access for international actors was blocked in response to charges of violations or in order to avert the collection of evidence.

For example, when MONUC published a report in mid-2002 that accused the RCD-G of 'grave violations of human rights and humanitarian law' in Kisangani, Adolphe Onusumba, the group's leader, responded by declaring Namanga Ngongi, MONUC's second SRSG, *persona non grata*, demanded his recall, and charged the mission leadership with being partial in the conflict.[34] Crucially, however, instances of such AG hostility towards the mission rarely led them to attack peacekeepers, for fear of negative effects on the group's reputation.

[32] Interview with MONUC official, Goma, 2009.
[33] Interviews with numerous NGO officials, Goma and Bukavu, March 2011; Interview with APCLS, Goma, April 2011. See also, CNDP, *Cahier de Charges du Congrès National Pour la Défense du Peuple*, Bwiza, 14 October 2006; *CNDP, Communiqué de Presse sur les 'Massacres' à Kiwanja*, Bwiza, November 19, 2008; Human Rights Watch 2010.
[34] In addition to denying Ngongi access to the east, the UN's human-rights chief in Kisangani, Luc Henkinbrant, and two other UN officials, were ordered out of RCD-controlled territory for 'threatening internal security'. IRIN*: Rebels expel three UN officials from the east*, Nairobi: 3 June 2002. The ban was eventually lifted. See IRIN, *Rebel Group Lifts Ban On UN Envoy*. Bunia: 3 September 2003.

Moreover, efforts were made to cover up alliances with miscreant forces or to distance themselves from particular individuals considered by the international community to be particularly beyond the pale. Sources assert, for example, that in addition to being retaliation for the MONUC attack in September 2009, the APCLS's blockade of access to the UN and humanitarian groups was partly motivated by a concern that international actors, were they to deploy, might uncover the group's links to the FDLR. This exposure, they feared, would tarnish their image as a legitimate group with legitimate grievances, and scupper any future political deal.[35] In interviews, members of the APCLS vehemently denied affiliation with the FDLR and emphasised their respect for human rights as defenders of the Hunde.[36] Similarly, the prominent role of Bosco, an ICC-indicted war criminal, and Colonel Innocent Zimmurinda, who was subject to UN sanctions, within the CNDP and then the M23 has also been a divisive issue within the groups. Senior commanders such Colonel Sultani Makenga, who also have egregious records of human-rights abuse, have actively denied fighting alongside Bosco and others, in an attempt to paint themselves as more compliant with IHL and to diminish the potential for guilt by association.[37]

AGs also turned the tables on MONUC and the UN in an effort to legitimise themselves. They claimed a right to exist and argued that their actions were legitimate given the poor track-record of protecting civilians and ensuring security of the mission and, more generally, the international community. In discussions with mission officials, the CNDP, for example, regularly used the protection of human rights as the rationale for their actions and justification for not withdrawing from particular areas.[38] They derided the capabilities of the mission and criticised the historic 'failure of international community to uphold [human] rights'. Citing the UN's involvement in the camps in the 1990s and the mission's partnership with the FARDC, they 'charged that [the international community] had a track-record of sheltering those who had committed violations'.[39]

From all of the above, it can be concluded that identifying who *can, does,* and *should* protect civilians is a matter manifestly subject to contestation.

In this respect, MONUC's partnership with the FARDC provided the most fertile ground for critique, not least because many AGs defined themselves against Kabila's regime and Congo's decrepit state institutions. The intensity of these charges only mounted over the course of MONUC's deployment, and was closely linked to the mission's tightening links to the FARDC, and

[35] Interview with NGO official, Goma, February 2010.
[36] Interview with members of the APCLS, Goma, April 2011.
[37] Jason Stearns. *Strongman of the eastern DRC: A profile of General Bosco Ntaganda.* London: Rift Valley Institute, 2013.
[38] Arthur Boutellis. "In the DRC Communications War, Rebels Learn PoC Language" International Peace Institute, Global Observatory, July 2012.
[39] MONUC, "Protection Analysis", Civilian Affairs Section, Goma, 06 December 2008. Interviews with NGO officials and Human Rights Watch, Goma, April 2011.

the egregious abuses by the army, particularly following the integration of the CNDP. In an attempt to self-legitimate, AGs highlighted violations committed by the FARDC. And in the context of battle, some even contrasted their methods with those of the national army, emphasising, for example, how their use of 'light weapons' carried less risk of civilian casualties, while the FARDC was using tanks, helicopters and mortars.[40]

6.2.2. Delegitimisation Strategies of the AGs

Self-legitimisation was not, however, a viable option for all AGs. Several groups in Ituri, as well as the LRA, FDLR and ADF, were seen by international actors to be particularly abhorrent. They were regularly cast as 'criminal' forces, and members of both the LRA and FDLR were subject to Security Council sanctions and national and international criminal investigation.[41] Moreover, given the marginalisation of these actors and the fact that several of them were foreign-armed groups (FAG), they had few long-term political prospects in Congo. Therefore, instead of using the normative discourse of protection to give themselves legitimacy, these actors pointed to instances of failure to protect as a means of delegitimising others and, in particular, the mission. The disastrous consequence of such a strategy was an increase in the intensity of direct and intentional violence against civilians. This was particularly the case with FAGs.

Whilst certain foreign groups such as the FDLR and ADF had units, which, after years in Congo became enmeshed in host communities, their history was overwhelmingly one of predation on and brutality towards the local population. Pressure to demobilise, and attacks on their positions by MONUC and FARDC, frequently resulted in vicious retaliation against civilians within local or nearby communities. Titeca and Vlassenroot, for example, recount how a massive joint FARDC-MONUC military offensive against the ADF in December 2005 precipitated an increase in 'pillages, taxes, and acts of violence by ADF recruits' against civilians. Moreover, they note that 'several suspected MONUC informants [were] killed'.[42] Similarly, that same year, when Pakistani peacekeepers stepped up operations against the FDLR in Walungu territory (South Kivu) and organised an alert system in villages to warn them of imminent attacks, the FDLR responded with brutal retribution on the population. In one such incidence, the militia hacked 18 villagers to death, mutilated 11 others and held 50 more as hostages. 'The message was clear: if you attack us, it will be the civilians who pay'.[43] Time and time again they backed up that message.

[40] Boutellis 2012.
[41] See details of sanctions and judicial charges in Group of Experts reports: S/2010/596 (2010); S/2011/738 (2011); S/2012/348 (2012).
[42] Kristof Titeca and Koen Vlassenroot. "Rebels Without Borders in the Rwenzori Borderland? A Biography of the Allied Democratic Forces." *Journal of Eastern African Studies* 6(1) (2012): 163.
[43] Marks 2007: 77.

In 2009, the retaliatory practices of the FDLR turned into a deliberate strategy of targeting civilians as a form of warfare. Under Kimia II, the FARDC and MONUC attempted to dismantle the FDLR by simultaneously cutting off the group's revenue sources–namely, their access to natural resources and economic centers–and by putting pressure on units to demobilise. As desertions mounted, the senior FDLR command in Europe issued an order to all units instructing them to deliberately target 'civilians… hospitals and health centers'.[44] A clear violation of international law, the directive explicitly stated that the aim was to 'create a humanitarian catastrophe that would force the international community to halt operations against the FDLR and compel them to put pressure on Kigali to negotiate with FDLR'.[45]

The directive was highly controversial within the FDLR.[46] Units in South Kivu were particularly reluctant to carry out the order. Unlike North Kivu units, those in South Kivu had not been subject to rotations and had thus established better links with the local population.[47] Internal opposition notwithstanding, the humanitarian consequences of the operations and of FDLR's targeting were catastrophic, particularly in North Kivu. In the first nine months of Kimia II, the FDLR deliberately killed at least 701 civilians. As Human Rights Watch reported, '[m]any people were chopped to death by machete or hoe. Some were shot. Others were burned to death in their homes'.[48] The perverse logic underpinning the FDLR's strategy was based on MONUC and the international community's sensitivity to the issue of protection. The aim was to destabilise the mission and weaken its resolve by "hitting them where it hurts". As one FDLR ex-combatant told me: 'the international community doesn't want us to kill civilians. It makes them look bad'.[49] In sum, instrumentalised as a strategy of legitimisation of self and delegimisation of others, in some instances the goal of protection actually created greater risk for civilians.

6.3. The State

As in the case of various armed groups, the robust mandate prescribed for MONUC had a marked effect on Kabila's government and the state institutions from which he attempted to wrest control. The moral judgments inherent in the new conception of impartiality meant that the state's ability to protect its citizens and maintain security was opened up to outside scrutiny, and became a

[44] Colonel Leo-Richard Kasonga Cibangu (on behalf of the Major-General) *Communique des Forces Armees de la Republique Democratique du Congo*, 5 July 2009. Interviews with former FDLR, Matobo Reorientation Camp, Rwanda, February 2010. Phone conversation with active FDLR, South Kivu Unit, February 2010.
[45] Ibid.
[46] Interviews with former FDLR, Matobo Reorientation Camp, Rwanda, February 2010.
[47] Ibid. Written correspondence with Raymond Debelle, former member of the Group of Experts on the Democratic Republic of Congo, January 2010.
[48] Satellite imagery collected by the American Association for the Advancement of Science (AAAS) showed that in some areas 80% of homes and structures were destroyed. Human Rights Watch, *You Will Be Punished: Attacks on Civilians in Eastern Congo*. New York, 2009: 6.
[49] Interviews with former FDLR, Matobo Reorientation Camp, Rwanda, February 2010.

benchmark of its legitimacy. At the same time, however, as a sovereign entity Kabila's regime enjoyed privileged status. It remained the primary duty bearer and, among the other powers it exercised, granted access to external actors. As gatekeeper the state was not so easily passed over by MONUC and other international actors. In this context, ambiguity over the relationship between consent and the assertive conception of impartiality was particularly acute in the post-election period, raising questions about the basis for and limits to the authority of peacekeepers vis-à-vis the state.

Kabila, like his father, exploited this unresolved tension and actively manipulated the mission and its robust mandate in a bid to shore up and centralise his power. As criticisms of the government's venality and brutality mounted, Kabila played the sovereignty card to constrain the mission and used the government's weakness to blackmail the UN into sustaining it on his terms. Following the elections, Kabila made himself less available to international donors. One diplomat recalls how, as an indication of this new imperviousness, the president switched his telephone number without warning: 'No one could get a hold of him. For a time, people literally could not reach him, causing panic in the diplomatic community'.[50] Moreover, senior UN officials recounted how Kabila made it clear on more than one occasion that 'if the mission wasn't willing to throw its complete and unquestionable support behind the government and the FARDC, in particular, than it better leave'.[51]

6.3.1. Waging War on Behalf of the State

Throughout MONUC's deployment, peacekeepers supported the FARDC in operations to protect civilians and extend the authority of the state. However, as shall be discussed further below, in the post-election period the mission became increasingly militarised and emptied of its political content. This was a deliberate strategy of Kabila, who saw the UN force as an appendage to further his own interests. MONUC was called upon for material, logistical and fire support in military operations conducted jointly with the FARDC although not based on credible peace agreements. The purposes of and multiple agendas at play in these operations were often so shrouded in mystery that the mission was left in the dark about them.

In 2009, for example, MONUC provided logistical and material backing to the FARDC to suppress a growing rebellion against Kabila in the province of Equateur, an opposition stronghold.[52] MONUC's support, which proved decisive to *Operation Confiance à l'Ouest*'s success,[53] was offered despite the fact

[50] Interview with senior UN Official, New York, June 2011.
[51] Interview with senior UN Official, New York, June 2011.
[52] MONUC, "Force Commander Visit to Gemena 10 Dec 2009 – After Action Report", Interoffice Memoradum, 11 December 2009.
[53] Eyewitness accounts describe how MONUC's support was critical to the FARDC's success in forcing the milita to 'back down' from Gamena, the Provincial capital, to Dongo. Interview with NGO official, Goma, 16 January 2010.

that the UN had little knowledge about what the conflict in Equateur was actually about.[54] Similarly, in the east, peacekeepers backed the FARDC against numerous groups that challenged Kabila's authority, overseeing and enforcing agreements–most notably, but not exclusively, the 23 March Agreement which were based on back-room deals–made by the government, the full contents of which the mission was not privy to. In the context of these operations, MONUC, critics charged, furthered a multitude of nefarious interests, and enabled Kabila's regime to avoid having to deal with the consequences of its own mistakes and shortcomings.[55]

For many within the government and the FARDC, however, MONUC's involvement in these operations fell short of what was expected, and the assistance provided by peacekeepers was often derided as inadequate. They demanded more of the mission, wanting peacekeepers to not only *support* them in operation but also actively wage war *on their behalf*–particularly when the army was unable or unwilling to do so. During combat, the FARDC regularly retreated, abandoned its positions and fled, leaving MONUC to hold the fort. Members of FARDC employed various tactical manoeuvres in active combat to draw MONUC into fighting on their side, in such a way that peacekeepers would bear the brunt of retaliatory attacks.[56] Government troops positioned their tanks next to, or behind, positions held by MONUC, with the goal that when whatever militia returned fire on the FARDC, the peacekeepers would be provoked into responding, and the government legions could either retreat or seek cover behind the UN.[57] In some instances, as human-rights groups documented, these tactics went so far as to constitute war crimes. This was the case during the 2008 Goma Crisis, when, on several occasions, the FARDC deliberately installed their post next to civilians clustered at a UN base, using them as 'human shields'.[58]

When the mission refused to play along with such tactics, proved unwilling to meet the FARDC's demands or was critical of the army and its abuses, the government turned on the UN. For example, during the Goma Crisis, the Congolese Minister of Defence and the Minister of the Interior reportedly 'warned MONUC officials that if it did not engage the CNDP more robustly, they would set the population on the peacekeepers'.[59] These were not idle threats. Throughout the crisis, in various parts of North Kivu, the population targeted peacekeepers. Representatives of the local authorities, incited by the FARDC, threw rocks, erected barricades and confronted peacekeepers

[54] MONUC, "Incidents of Violence in the area of Dongo, Equateur Province", *Joint Mission Analysis Cell* (JMAC), 3 December 2009 (restricted). Jason Stearns, former Chairman of the Group of Experts, observed in January 2010–'The situation remains shrouded in mystery, even the internal MONUC reports don't shed a great deal of light on the matter.' Jason Stearns, Congo Siasa, http://congosiasa.blogspot.com/2010/01/mystery-of-dongo.html, 6 January 2010.
[55] Interview with senior MONUC official, Goma, February 2010.
[56] Interviews with military officials, Goma, January 2009 and February 2010.
[57] BBC, "DR Congo army 'used aid as bait'." *BBC World,* 6 November 2009.
[58] Human Rights Watch 2008: 35.
[59] Human Rights Watch 2008: 22.

with arms.[60] Moreover, as explained in the previous chapter, on numerous occasions members of the national army fired directly at peacekeepers.

6.3.2. The Mission as Scapegoat

The government's designs to use MONUC's robust mandate to bring about its desired ends, were also accompanied by rampant scapegoating. Peacekeepers were condemned by civilians and armed groups alike for the government's own inadequacies in the latter's attempt to evade responsibility. 'When something went wrong' as SRSG Swing remembers 'the mission was blamed…there was lots of scapegoating.[61] In this respect, the expectations raised by MONUC's ambitious mandate were used against the mission. Failure to protect the Congolese became the failure of peacekeepers, and not of the state for which in actual fact, the provision of protection was a primary responsibility.

To deflect criticisms and shift the blame, not least because of the UN's sordid history within the region, Congolese officials drew on historical grievances and the popular view that it was ultimately the mission's job to create peace in Congo.[62] The polemical statement of the Congolese ambassador to the UN in response to charges of the FARDC's ill-discipline on the ground in Congo provides just one such example. Instead of believing or engaging with such criticisms, he proclaimed that,

> t]he United Nations should be driven by a desire to succeed, if only this once, where it sadly failed almost half a century ago, allowing the country to fall into unspeakable chaos. The macabre memories of those violent years are still fresh in the minds of the Congolese people. Today again, the supposed lack of discipline of some elements of the Congolese army seems to be a pretext for the same actors who take pleasure in turning the knife in the wound to perpetuate the misery of the Congolese people.[63]

UN officials lamented how the mission's self-flagellation actively played into such views, giving further ammunition to those critical of the UN's past and present involvement in Congo. As one official explained: 'When the mission comes out and beats its breast and says "we failed, we failed" or we don't have enough of this or we don't have enough of that, it reinforces the notion that this is really our job–that it really is the UN's job to bring stability to Congo… to protect civilians… It lets the government off the hook'.[64] MONUC could arguably never fullfil the state-like responsibilities it adopted and its attempts to do so, given its history in the region, would never been seen as legitimate. But its attempts were politically expedient for Kabila's regime. For the mission, as I

[60] Interviews with government officials and senior MONUC official, Goma, January 2010; Interviews with members of the Barza Inter-Communautaire (Local governing council), Rutshuru Territory, February 2010.
[61] Interview with Swing.
[62] Interview with senior MONUC official, Kinshasa, February 2010.
[63] S/PV.6253 (2009).
[64] Interview with senior UN official, New York, July 2011.

describe below, its failures dealt an even greater blow to its legitimacy. As one senior official explained, 'protection was a brickbat that the Council handed the Congolese to beat the mission with… MONUC was never going to be able to protect everyone everywhere. [And thus] it was always going to be criticised'.[65]

6.4. The Mission

The assertive role prescribed for UN peacekeepers in Congo had a number of significant unintended consequences for MONUC, that is, for the individuals employed by the UN as part of the mission and the mission as a collective entity. In this section I will elucidate the more general effects on the mission's reputation, access, security and political leverage.

6.4.1. Mission Fragmentation

The judgements, which peacekeepers claimed as impartial, were in fact far from uniform, as the previous chapter described. Who was a "spoiler" and what constituted "spoiling activity" was subject to considerable disagreement–and thus, officials within the mission contested what was an appropriate and impartial response. Such divergent interpretations of MONUC's mandate within the mission generated acrimonious relations between UN officials. Tensions between the civilian and military components of the mission were particularly acute. As discussed in Chapter Five, on several occasions senior military staff left the mission precisely because their understanding of what constituted impartial peacekeeping differed from the conception they were expected to adopt by the political leadership.

These differences were also present at the field level and for those TCCs/PCCs on the frontline. Confusion and contestation were pervasive. When peacekeepers responded in ways incommensurate with what others within in the mission expected of them, they were censured. In some instances, their courses of action that brought opprobrium merely magnified larger debates at play within the mission. This was particularly the case during Kimia II and Amani Leo when MONUC partnered with the FARDC to conduct military operations.

An incident that took place in the broader context of ongoing Amani Leo operations illustrates these tensions as well as the confusion of peacekeepers. In February 2010, peacekeepers providing an escort to several humanitarian workers were stopped at gunpoint by the FARDC (ex-CNDP) on the

[65] Interview with senior official, New York, July 2011.

outskirts of Muhanga IDP camp near Kitchanga in Masisi. The government soldiers instructed the peacekeepers to leave the camp area, which they did, effectively abandoning the humanitarians. With the blue helmets out of sight, FARDC entered the humanitarian vehicles, robbed the staff, and forced them to drive into the camp, which FARDC soldiers then looted.[66] Despite the mission's Chapter VII mandate to protect civilians, particularly vulnerable populations such as IDPs and humanitarian personnel, one MONUC official, when pressed, flatly stated that 'MONUC can't fire on the FARDC' as these were the very same forces that they were mandated to work with.[67] MONUC's apparent impotence caused outrage amongst officials at the daily situation meeting in which the incident was reported, and an investigation was launched. Later, in Kitchanga, the MONUC forces involved in the incident expressed their uncertainty as to what they should have done in such a situation.[68]

Some officials assert that such ambiguity and confusion contributed to more pervasive peacekeeping inaction over the long run–what one official described as a 'palpable atmosphere of apathy' by 2010.[69] According to various sources, the North Kivu brigade felt marginalised from decision-making, resented having to support such an inept and lawless force as the FARDC, and criticised the absence of strategic direction for the mission by the civilian leadership.[70] As frustrations mounted, officials contend that peacekeepers were more inclined to consult their superiors in their respective capitals than their UN superiors. Not wanting their forces to be killed and reluctant to endorse more robust operations, superiors advised their contingents not to pursue life-endangering action. This further contributed to their passivity and exacerbated divisions within the mission.

6.4.2. Reputation, Access, Information and Security

In addition to tensions within the mission, other actors developed expectations of the mission in relation to its robust mandate. When MONUC fell short of fulfilling these expectations and civilians were killed—as in the Muhenge camp incident—criticism rained down on the mission. In some instances, the Congolese took to the street and raged against the mission on the radio and in print

[66] The incident took place on 15 January 2010 and was reported at the internal MONUC morning briefing on 18 January 2010. In addition to the example cited here, on several occasions I witnessed MONUC forces interacting with FARDC forces who were at the time using forced civilian labour in contravention of the mandate and in violation of IHL. Each time, MONUC forces failed to intervene to assist the civilians (Masisi Center, 2009; Rutshuru 2010)
[67] Interview with military officer, Goma, February 2010.
[68] Interview with military officer, company operating base - Kitchanga, January 2010. Similarly, the internal *JPT Assessment* (2009) noted that 'MONUC military commanders [sometimes] argued that they could not stop FARDC who were committing human-rights violations against civilians, because they were partners'.
[69] Interview with MONUC official, Goma, March 2011.
[70] Interview with senior MONUC official, Kinshasa, February 2010. Interview with former MONUC official, Oxford, December 2012.

media. Massive public demonstrations occurred at various junctures throughout the mission's history, including following MONUC's passivity in Kisangani, Bukavu and Kiwanja.[71]

The Bukavu crisis, in particular, provoked a groundswell of public protest and violence across the country. Staff members received death threats, and in South Kivu, civil-society groups demanded the departure of the SRSG, whom they condemned for the 'balkanization of the Congo'.[72] Millions of dollars of UN property were destroyed. Indeed, the fallout was so great that it prompted a radical overhaul of the organisation's security protocol. The mission's headquarters in the capital, which had once been relatively open and approachable, inconspicuous in the city's downtown quarter, became 'Fortress Kinshasa' with concrete blast walls, reinforced wire sandbags, and security check-points.[73]

MONUC was criticised both for the consequences of its inaction, and for having assumed a robust posture. It was damned when it acted and damned when it did not. During both the Transition and post-Transition period, MONUC's co-operation with and support of the FARDC gave rise to perceptions that the UN was distinctly partial and 'in the enemy's camp'.[74] As a result, some communities were hesitant to co-operate with the mission, both because of its links to the FARDC and for fear of reprisals, as discussed above. On several occasions, the UN was denied access to communities, including in the aforementioned case of the APCLS in 2009. Decreased co-operation and problems of access limited the information available to officials of the mission, which further hindered its ability to be impartial. Without knowledge of what was going on in particular areas, the mission had little basis on which to develop policy. This had numerous effects on the mission's activities, including its ability to fulfil its protection mandate by engaging with armed groups to ensure better compliance with human rights and IHL.

In other instances, hostility towards the mission resulted in attacks on UN bases and the deliberate targeting of peacekeepers and UN officials. Most of these episodes involved armed groups that MONUC was engaged in military operations against, and in particular those not party to the peace or political process that the mission was tasked with supporting. The greatest number of peacekeeping deaths resulting from what DPKO categorises as 'malicious' acts occurred during MONUC's most robust period of peacekeeping (2004-2006) and in areas where these operations were conducted.[75] In early 2005, for example, as operations in Ituri intensified, nine Bangladeshi peacekeepers were killed

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[71] E.g., IRIN, "UN responds to HRW criticism over Kisangani massacre". Nairobi: 22 August 2002; Marc Lacey. "2 Die in Congo Demonstrations, As Protesters Storm U.N. Sites". *The New York Times,* 4 June 2004; Reuters, "A Massacre in Congo, Despite Nearby Support", 4 March 2005; Joe Bavier. "Villagers stone UN investigators in eastern Congo", Reuters, 29 May 2007.
[72] Interview with Congolese activist, Goma, February 2011;
[73] Interview with NGO official, London, July 2011.
[74] Interview with NGO official, Goma, February 2011.
[75] United Nations. "Fatalities by Year, Mission and Incident Type", Department of Peacekeeping Operations. Available at http://www.un.org/en/peacekeeping/resources/statistics/fatalities.shtml

in an ambush by the FNI–the victims were stripped and their bodies mutilated. A year later, eight Guatemalan peacekeepers were killed and five were wounded during an attack on the LRA in Garamba national park.[76] These attacks exacerbated macro-level tensions between TCCs/PCCs and the Council in New York, as states from the global South became increasingly wary of robust action given their potential, and all too human, consequences.

6.4.3. Political Leverage and the Mission's Marginalisation

Perceptions of partiality, and diminished access to information in turn affected MONUC's ability to act as an honest broker of peace. The mission's acceptance as an unbiased actor was called into question from its very inception, given interests in the Security Council and the historical role of both the UN as well as particular member states within the region. Yet despite these challenges the mission managed, at certain key moments during the Transition period and through what one official described as 'political ju-jitsu', to exert considerable leverage through the CIAT and to play a critical role as mediator. Opportunity and capacity for the mission to play such a role, however, quickly evaporated following the 2006 election. A combination of donor disunity and Kabila's imperviousness to any form of political engagement by outside actors greatly diminished MONUC's leverage, and relegated the mission to the sideline. This occurred at the local level as well as at the national and regional level, where MONUC was increasingly marginalised from those forums where political deals were brokered. In this context, the Security Council and MONUC, as one official asserted, 'ran after the train without asking…where it was taking us?'[77]

Moreover, the mission's political marginalisation and fear of being further marginalised compelled its senior leadership to pursue policies that resulted in precisely what they had feared, and compromised the mission's standing even more. For example, many close to the mission insisted that MONUC's willingness to support the FARDC during Kimia II was in part out of fear that the government would further cast the mission aside. As MONUC had been completely left out of the negotiations leading to the rapprochement between Kigali and Kinshasa, and its involvement during Umoja Wetu had all but been blocked, Kimia II was seen as an opportunity to 'get back into the game'.[78] According to one senior NGO official, 'MONUC constructed its participation in Kimia II to be relevant'.[79] Similarly, MONUC's support to the FARDC in Equateur–an operation that, as I described above, had questionable purposes–was leveraged to try and gain a seat at the table in the

[76] Phone interview with senior UN official, August 2010. See also Bryan Mealer. *All Things Must Fight to Live: Stories of War and Deliverance in Congo.* New York: Bloomsbury USA Press, 2008: 64.
[77] Interview with military officer, Goma, February 2010.
[78] Interview with military officer, Goma, February 2010.
[79] Interview with senior NGO official, Goma, January 2010.

East.[80] Again, concerns of being relegated to the sidelines led the mission's leadership to adopt an ill-informed and potentially compromising position.

The public and international outcry over MONUC's decision to support these operations was tremendous. MONUC helicopters were shot at in Equateur and protests occurred throughout the area.[81] In the east, civil-society groups mounted a significant opposition to Kimia II and in some places like Lubero called for the UN's withdrawal.[82] NGOs issued petition letters and the ICRC released an unprecedented statement categorising MONUC as party to the conflict, thereby eroding the UN mission's status as a neutral party protected under international humanitarian law.[83] Moreover, MONUC's own ability to investigate the humanitarian consequences of the very operations it was supporting was called into question. Alston charged that '[a]s a party to the conflict, MONUC's real or perceived ability to independently and effectively investigate allegations of abuses by its FARDC counterparts or by its own forces is compromised'.[84] Reports that contingents supported by MONUC were complicit in human-rights abuses and, worse, that the operations were being commanded by an ICC-indicted war criminal, only deepened the opprobrium brought to the mission.

Because of such compromising associations, MONUC's more assertive role also became self-limiting. As NGOs and the media shone a spotlight on the mission's association with individuals considered beyond the pale, it became increasingly difficult for officials to have any contact with these individuals and the groups they were apart of for fear of further condemnation. Seen this way, assertive impartiality and the mission's claim to a more righteous role became a constraint that, arguably, impeded the realisation of its core aims. Specifically, it limited the mission's ability to engage certain groups in IHL training and political negotiations that could in the long term reduce human suffering. As one frustrated official explained in 2011:

> We can't find a solution to the CNDP now because it is so difficult to talk to them given the human-rights implications…Because they are labeled, we can't access them… This is so wrong. It is urgent that we help the living. Yes, it is important to avail the dead, but the urgency must be to help to the living. We should not be in the business of denouncing. We are here to help find political solutions.[85]

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[80] Interview with senior MONUC official, Goma, February 2010. Interview with senior MONUC official, Kinshasa, February 2011.
[81] Agence France-Presse. "Armed group claims firing at UN chopper in DR.Congo", 27 November 2009.
[82] The Congo Advocacy Coalition (84 local and international NGOs) published a statement calling the humanitarian cost of the Kimia II operations 'unacceptable'. Human Rights Watch *et al.*, *DR Congo: Civilian Cost of Military Operations is Unacceptable*. New York: 13 October 2009.
[83] Interview with senior NGO official, Goma, February 2010.
[84] A/HRC/14/24/Add.3 [Advanced unedited version] (2010). Philip Alston. *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*: 2.
[85] Interview with senior MONUC official, Goma, April 2011.

The most damning testament to the mission's marginalisation and diminished ability to 'help' with political solutions in Congo came on 11 July 2012. At the close of the emergency session of the International Conference on the Great Lakes Region (ICGLR) on the renewed crisis in the Kivus, regional member states called for the 'immediate establishment of a *neutral* International Force to eradicate M23, FDLR and all other Negative Forces in Eastern DRC and patrol and secure the Border Zones'.[86] After 13 years, and billions upon billions of dollars spent, MONUSCO was not so much as even mentioned.

6.5. The Global Politics of Peacekeeping at the Local Level

The effects of assertive impartiality in the various arenas discussed in the four preceding sections confirm the reservations and concerns raised by actors at the macro-level during the process of the norm's institutionalisation. As Chapter Four detailed, these included the perils of engendering false hope and high expectations amongst civilians, as well as the potential that a failure by blue helmets to deliver on their more ambitious mandates would blunt the instrument of peacekeeping itself.

Crucially, however, the analysis of implementation presented here also reveals several consequences at the global level which were unforeseen by actors. In this respect, the instrumentalisation of assertive impartiality by armed groups and the state, as distinct from the mission, was particularly salient. Whether as an attempt to bolster their standing and to self-legitimate, or as a tool of delegitimisation, actors' instrumentalisation of the norm negatively affected the mission and those endangered civilians in whose name it justified its continued presence. Moreover, whilst officials foresaw that the more assertive role prescribed for peacekeepers had the potential to diminish their claims to legitimate authority, this critique did not extend to the ways in which adoption of the norm could be self-limiting, placing constraints on who peacekeepers could engage with and the types of activities they could pursue.

Having highlighted the direct consequences of assertive impartiality and their linkages with contestation at the macro-level, I conclude by taking a step back to examine whether the substantive objections put forward at the global level were warranted in practice.

[86] International Conference on the Great Lakes Region, *Report of the Regional Inter-Ministerial Extraordinary Meeting on the security situation in Eastern DRC*. Addis Ababa, Ethiopia, 11th July 2012.

6.5.1. Peacekeeping as the default

Assertive impartiality is premised on a particular conception of violence as moral collapse, a circumstance in which a perpetrator or spoiler threatens weak and innocent civilians or victims. The Congo case problematises this core assumption and its attendant distinctions, which, in practice, repeatedly broke down. Drawing on deep-seated grievances, past victims became present perpetrators. The line between combatant and civilian was often blurred. Moreover, armed groups rarely spoke in unison; competing factions and splinters emerged.

Unsurprisingly as a result of these blurred lines, the legitimacy of particular armed groups and individuals, and the actions they took, were subject to vehement contestation within the mission and in the Security Council. Who was a "spoiler" and what constituted "spoiling activity" were subjective and fluid concepts, and were influenced by a number of ideational and material factors. But even as these differences became manifest during implementation, they did not prompt a reassessment of these distinctions or lead to an approach that sought to understand the complex motivations and dynamics behind the violence in Congo. France saw Rwanda as perpetrator, but Britain and America saw it as victim. The Council as a collective body, including those members that disagreed with its decisions, nonetheless continued to authorise mandates to protect civilians.

In this respect, just as assertive impartiality was politically expedient for armed actors and Kabila's regime, so too did it serve a purpose for members of the Security Council and those officials tasked with implementation. In the absence of consensus over a real strategy to resolve Congo's conflicts and/or willingness by member states to commit the necessary political capital and resources, assertive impartiality offered the appearance of constructive and active engagement. Ambitious mandates that aimed to save lives projected an image of consensus that covered up political divisions. In other words, protection was an objective over which only a semblance of agreement need be reached–the details could be worked out later. To paraphrase Guéhenno, being able to espouse assertive impartiality transformed what were highly political and divisive issues–peace and the kind of government desired by various actors–into a largely technical problem.[87] Peacekeepers could support the state and yet still claim to be impartial by pointing to the various programs (e.g., SSR, rule of law) to improve the latter's ability to protect. The scaling up of the mission's mandate and putative robustness thus served as a pat response to what were and what continue to be, both at the micro- and macro-levels, fundamentally political problems.

[87] Interview with Guéhenno, New York, July 2011.

6.5.2. The End State

However, given this contestation and in the absence of political engagement, attempts to reform the Congolese state whilst simultaneously supporting it proved largely futile. Ambiguities over impartiality's relationship to consent were exploited by Kabila's regime to its advantage and the leverage of those tasked with implementation was weakened by donor disunity and disagreement within the mission. There was no clear way forward. As one official asked: 'how do you build state capacity–how do you develop an ability to protect civilians–in a state that isn't interested in taking on that responsibility? Where there is no meaningful political opposition to compel the government into taking on that responsibility. And where the international community doesn't really care most of the time?'[88]

Confronted with this problem, members of the mission pursued the competing and incompatible tasks of protecting both civilians and the sovereignty of the same government whose agents were threatening them. Sovereignty was not overturned, as some actors at the macro-level feared. Rather, the status quo was maintained. If anything Kabila's regime, which became synonymous with the state, was made more, not less, powerful. The result was that the very processes arguably needed for change that would render the government more accountable were impeded. Indeed, for all the mission's emphasis on rights–human rights, children's rights, gender rights–political rights were given short shrift in Congo. Reflecting on MONUC's role, one official cautioned that 'peacekeepers must understand that they may be standing in the way of violent but legitimate resistance to oppression. Peacekeeping missions may end up usurping the role of the people to stand as external guarantor of state behaviour.'[89]

6.6. Conclusion

Over a decade following the deployment of UN peacekeepers to Congo, peace is still very much a mirage in the country's eastern region, and suffering is endemic throughout the country which is ranked the least developed in the world.[90]

On 24 February 2013, regional actors met in Addis Ababa to sign yet another agreement aimed at bringing peace to Congo, prompting renewed calls for a 'comprehensive' and 'innovative' approach

[88] Interview with senior official in Goma, January 2010.
[89] MONUC, End of mission report, senior military official, Goma, 2009 (internal).
[90] UNDP 2011.

to peacekeeping in the country. In a report presented to the Security Council days after the signing, Secretary-General Ban Ki-Moon urged the Council to strengthen the political and military role of MONUSCO.[91] He requested a reconfiguration of the mission's mandate and called for the deployment of a 'dedicated intervention brigade'–a more coercive force within the mission that would carry out targeted offensive operations against armed groups, with the notable exception of the FARDC, 'in a robust, highly mobile and versatile manner'.[92] At the time of writing, diplomats say it is likely that the Security Council will authorise a force of some 2,000 peacekeepers drawn from South Africa, Mozambique and Tanzania.

The proposed creation of such an 'intervention brigade' should give serious pause for thought. The UN mission in the Congo, as I have shown in Part III, has long been one of the most "robustly" mandated operations in the history of UN peacekeeping. In moments of crisis, the Security Council and the UN are looked to for a response. Military solutions like an 'intervention brigade' and ever stronger protection mandates have provided such a response, and given the appearance of "doing something" whilst the more intractable issues have largely been left unattended–not least by the parties themselves.

Increased military protection, however, is at best a temporary solution, one that in the case of the UN in Congo has clearly been largely ineffective. Moreover, it has undermined the UN's legitimacy and had dire consequences for the very people in whose name it claims to be impartially trying to keep peace. Peacekeepers will never be able to protect every civilian, or eradicate the armed groups in the Kivus. Claiming it will do so, as this chapter has argued, sets the mission and the UN itself up for calamitous failure. By far the likeliest scenario is that both the international community and the warring parties themselves will not be able, as they have not been in the past, to fight their way out of the Congo's crises.

[91] S/2013/199 (2013). *Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region.*
[92] Ibid.

7. *Conclusion*

'Until men are gods or can somehow escape the human condition, no inherently impartial power can be instituted… Hence impartiality is no substitute for politics.' - Rosanvallon[1]

'Judging is one, if not the most, important activity in which this sharing-the-world-with-others comes to pass.' - Arendt[2]

7.1. Taking Sides

Claims to assertive impartiality are powerful and purposive. They offer simple and easily comprehensible accounts of right and wrong, good and evil, in what are often contexts of extreme human suffering. They differentiate victim from perpetrator, they assign innocence and guilt, and they offer answers to questions about what must be done to bring about good, to stop the suffering. They provide something to believe in. All this makes them difficult to argue with. That civilians should be protected seems a notion that is unassailably worthy. Who could possibly disagree?

But claims to assertive impartiality must be considered as only that — claims. Far from being universal, impartial judgments are, as I have demonstrated throughout this thesis, socially bound. They are *intruths*–valid, true and good only insofar as they reflect shared purposes and resonate with social values.

In addressing the question of how impartiality has been understood, this dissertation has revealed a dearth of consensus over both the norm itself, and the purposes of and actions involved in contemporary peacekeeping. Although most UN member states readily use the same vocabulary and largely agree that impartiality must remain a bedrock norm, significant differences and divergent understandings persist as to what "keeping" peace "impartially" does, can and should mean. Rather than *intruths*—relative, contingent and, arguably, "real", —judgments rendered by the assertive conception of the norm have become *extruths*, which is to say, claims to authority based on idealised notions of the universal and apolitical.

Such claims, however, belie the complex political realities of the world we *actually* live in. Conflicts of values have been and still are, as Isaiah Berlin declared, 'an intrinsic, irremovable part of human life'.

[1] Rosanvallon 2011: 111.
[2] Hannah Arendt. *Between past and future: Six exercises in political thought.* New York. Viking Press, 1961: 221

They are, as he said, the 'essence of… what we are'.[3] Human rights matter in international relations. They matter deeply, arguably more so now than ever before. But human rights are not divorced from power and interest, from past injustices and present inequalities. In this context, judgments and actions based on notions of human rights cannot but be regarded as partial, as taking sides.

The contestation over assertive impartiality presented in this dissertation evinces this plurality of contending perspectives and values at multiple levels. The objections raised during institutionalisation are varied and diverse, as Chapter Four showed. They reflect fears, often voiced by former colonial states, that coercive forms of peacekeeping chip away at sovereignty and self-determination. They come in the form of charges of hypocrisy, and criticisms of unequal burden sharing. They reveal concerns about the viability of and moral hazards engendered by contemporary practices—hard lessons learned from time on the ground. They are also ideological and interest based, both personal and political, and they are often difficult to disentangle from policy issues other than peacekeeping.

These forms of contestation have also been manifest during implementation, a process that, as I have shown in Part III, generates its own forms of contestation related to the historical, social and political dynamics of a particular place. In Congo, the sources and sites of contestation over claims to impartiality have been manifold. They have long and deep roots in history–the killing of Lumumba under the UN's watch, decades of Western backing of Mobutu, the failure of peacekeepers to halt the Rwandan genocide or to deal with its consequences in eastern Zaire, and the West's more recent favouritism of Kigali. Such contestation is also grounded in the dynamics of present. Rather than representing a wrong that peacekeepers as pseudo-enforcers of the law can right, the violence of today is often deeply political and polyvalent, sewn into the very fabric of this history. As a result, the dichotomies attendant in assertive impartiality break down in practice. There are often no clear and definitive answers to the questions of who is perpetrator and who victim, who protector and who in need of protection. Attempts to pass judgment and to take action by assigning such roles have at numerous junctures, as I have shown, divided all those involved from the warring parties themselves, to the peacekeeping mission, and more broadly, the international community.

It is in this context that this dissertation has addressed a second question: "what are the effects of impartiality as a contested norm?" My analysis here has focused on Congo, but in doing so has drawn linkages between the broader, macro-level forms of contestation during the institutionalisation and the implementation of the norm in this particular case.

[3] Isaiah Berlin. *Liberty–Incorporating "Four Essays on Liberty,"* edited by Henry Hardy. Oxford and New York: Oxford University Press, 2002: 213.

Specifically, Part III shows how ambiguities over the dominant conception of impartiality–the result of prior disagreements–were problematic in practice, as actors interpreted and enacted the norm in a process that was mired in its own forms of contestation. This led to inconsistencies and variations in the decisions and actions of UN officials associated with MONUC on the ground. Civilians were protected in certain instances and not in others. Certain armed groups incurred the wrath of blue helmets, whilst others augmented their power unopposed by the mission.

These variations had significant unintended consequences. The robust role prescribed for peacekeepers raised expectations and created specific incentives amongst actors within the context of implementation. In doing so, it encouraged particular actions that would not have occurred otherwise. As Chapter Six recounted, civilians who expected peacekeepers to behave in a particular manner were adversely affected when their expectations were not met. Furthermore, armed groups and actors within the government instrumentalised the mission and its professed purposes in an attempt to realise their own strategic and political aims. In this way, the discourse associated with the assertive conception of the norm, as I have shown, proved to be a powerful tool used by local actors to both legitimise themselves and de-legitimise others, including, crucially, the mission.

Over time, the UN's authority was eviscerated. This was exacerbated by the fact that the Security Council's response, time and time again, to policy failure in Congo was to scale up the mission's mandated "robustness", which in turn only further tarnished its credibility and claims to impartial authority, assertive or otherwise. In 2013, critics condemned the mission–the UN's largest and most expensive to date–as a failure, even as the Council discussed plans to deploy a new, more muscular combat unit within the mission.[4] That its assertive "impartiality", which has had so many unintended consequences, should in fact be contestable, has not prompted the Council to consider changing course in Congo, nor arguably elsewhere.

Why is this the case? And why might we expect this to continue? The fact that peacekeeping is something of a hydra-headed institution means, as I explained in Chapter Four, that no single actor is forced to assume the complete costs, political and otherwise, of a UN collective decision. This partialising of burdens greatly increases the likelihood of 'political evasion and posturing'.[5] Those member states that have greater influence in determining policy and those that authorise mission mandates are rarely the same states that field forces.

[4] Geoffrey York. "'Peace Enforcement' Brigade considered for Congo", *The Globe and Mail* (Canada), 24 March 2013.
[5] Cunliffe forthcoming 2013: 223.

Crucially, the very nature of assertive impartiality makes it difficult for those who claim such authority to change course. Once members of the Council and peacekeepers proclaim that the UN should protect civilians, it becomes difficult, no matter what the circumstances or prospects for success, to go back on their word, particularly in contexts where forces have already deployed. Closely related, the designation of some actors as "criminal", "spoiler" and "perpetrator" makes it difficult for representatives of the UN to engage these actors in the very sorts of political negotiations that are often necessary to make and keep peace. Given that the legitimacy of peacekeeping derives both from whether it is seen to reflect and promote shared values, as well as from the degree to which it is actually effective, this does not bode well either for peacekeeping itself or for the UN, the institution to which it has become so symbolically linked.

The existence of such demonstrable contingency and contestability in the formulation and implementation of any "impartial" role argues strongly for the less visible function that the UN plays. Ultimately, its task may not be to judge malefactors or victims, but rather to reflect and in the deepest sense of the word—to "mediate" among the real-world contradictions, vagaries and inconsistencies of its member states. In other words, to represent the gap between rhetoric and reality, stated ambition and actual practice, however troubling for those civilians in whose name peacekeeping is now conducted and the UN itself.

To fully appreciate these effects, however, requires an approach to studying impartiality that recognises its inherently political and contested nature. To that end, this dissertation has attempted to take both politicisation and contestation seriously.

In the remainder of the conclusion I summarise this dissertation's more specific contribution to key debates in International Relations as well as possible avenues for future research, both theoretical and empirical.

7.2. The Study of Peacekeeping and Assertive Liberal Internationalism

At its broadest, this dissertation's study of impartiality furthers existing research on peacekeeping, which has been reluctant to investigate and analyse peacekeeping as an inherently political and contested phenomenon. It underscores the value of a holistic understanding of peacekeeping as a multi-level and dynamic process. It affirms the necessity of accounting for the history, culture and politics of those contexts into which peacekeepers are deployed, including the legacy of the UN and particular member states within such contexts. And, relatedly, it demonstrates the importance of examining the effects of contestation on a range of actors, including on peacekeeping missions themselves, which, as I have described, must be understood as political entities, comprised of individuals and groups with diverse interests and identities. To overlook these dynamics, as scholars overwhelmingly have, limits what insights they can offer about peacekeeping, its relationship to the UN and its role within international relations more broadly.

To this end, the contributions of this dissertation could be strengthened and refined by the examination of additional case studies and other dimensions of contemporary peacekeeping policy, as well as the practices associated with assertive liberal internationalism. Such future research offers opportunities for scholars to draw on and further advance theoretical debates and methodological approaches within IR. In what follows, I discuss several of this dissertation's findings and the ways in which they provide a jumping-off point for further study. I then explain this dissertation's specific contribution to constructivism and the study of norms in IR.

7.2.1. Understanding Impartiality

Despite impartiality's ubiquity in both policy and scholarly discourse, the norm is insufficiently studied and largely misunderstood. Impartiality is widely invoked but rarely accompanied by rigorous conceptual analysis or detailed empirical investigation of how it has operated and continues to operate in practice. This dissertation fills a gap simply by dissecting the norm, and by charting its evolution in UN peacekeeping. In doing so, the disaggregation of impartiality into its composite parts–the so-called 'structure of impartiality'–provides a conceptual framework for future analysis both by scholars and practitioners of peacekeeping, as well as other institutions. Indeed, similar claims to impartial authority and the more compulsory and coercive practices they engender in peacekeeping have, as Chapter Three details, manifested in other areas of international engagement, including international criminal prosecution and humanitarian assistance, areas that may now be seen as susceptible to similar critique and re-configuration of purpose.

In this respect, the ambiguities surrounding assertive impartiality detailed in Chapter Three are particularly worthy of future investigation in order to further substantiate the findings of this dissertation. In addition, they provide a point of departure for additional areas of research, as several of the issues highlighted could not be investigated in this dissertation, given both the specifics of the Congo case as well as space limitations of the present study.

In particular, future research would benefit from examining the unresolved tensions between consent and assertive impartiality. Questions such as "whose consent is necessary, when, and at what cost?"

came to the fore in the Congo case, particularly given the widespread human-rights abuses by elements of the state. While similar dynamics may arise in other peacekeeping contexts, they are unlikely to present in the same way, underscoring the value of additional case-study research.

More broadly, this tension also highlights the need for further research on the imprecise and politicised relationship between peacekeeping and RtoP. Impartiality continues to be a core norm associated with peacekeeping, but it is rarely discussed in relation to RtoP. When raised, as in the 2001 ICISS report, it is to distinguish peacekeeping, which adheres to impartiality, from 'war fighting' or instances where 'one party is to blame'. However, assertive impartiality calls into question that distinction–a contradiction inherent in the ICISS report itself, which asserts that impartiality requires that peacekeepers apply international law, the application of which invariably implies finger-pointing. Over a decade since the report's publication, confusion persists, particularly as both norms have gained in strength. Given that most peacekeepers operate under Chapter VII—and therefore are legally permitted to undertake action to protect civilians irrespective of who is imperiling them–where does the distinction between RtoP and POC lie? RtoP was used to refer to the *peacekeeping* mission in Darfur, while NATO's *enforcement* action in Libya to protect civilians was authorised without explicit reference to RtoP. The politics surrounding the relationship of RtoP and POC, and the pathways of their evolution within the UN, in particular, present valuable areas of future research.

In a similar vein, those other areas of ambiguity detailed in Chapter Three, which concern the relationship between peacekeeping and other institutions, and which raise issues over impartiality, would prove a profitable second area of further research. In this respect, regional and sub-regional peacekeeping arrangements, including their relationship to UN-led missions, are particularly worthy of scholarly attention, not least given DPKO's strong commitment to building and strengthening external partnerships, and the growing prevalence of such arrangements in the field. How does impartiality figure as a norm of regional peacekeeping, given that the very characteristics that make these actors suited to rapid and robust response may make their lack of bias–whether real or perceived–all the more questionable? Similarly, given that members of the global South are amongst the most ardent critics of assertive impartiality, how do forces deployed by organisations like the AU understand their role in relation to the parties? These questions are also of relevance to UN-led missions given that they often deploy alongside or following such arrangements.

Were it to be broadened to other institutions and practices, research on impartiality as a norm of humanitarian practice and international criminal justice would also be of significant value. This is particularly salient, as Chapter Three described, given the emphasis on strengthening and deepening co-operation and integration between these actors and peacekeeping missions. Whilst these actors all claim to act impartially, their activities and short-term objectives may differ markedly, as may the degree of consent with which they operate. In the Congo case, for example, MONUC's decision to undertake joint operations with the FARDC created deep fissures both within the mission and between it and the humanitarian community operating in the east. In particular, NGOs protested that their access to and acceptance by local communities was greatly diminished because they were tarred with the same brush and were seen to be taking sides. Similarly, the ICC's involvement in Congo and, in particular, its indictment of General Ntaganda Bosco had a considerable impact on how local actors engaged with the mission and on the credibility of MONUC's claims to impartiality. Particularly damning in this respect was the revelation that Bosco was deputy co-ordinator of the operations that MONUC was jointly conducting with the FARDC.

Accounting for these other actors in relation to peacekeeping is essential to a deeper understanding of the politics and practices associated with assertive liberal internationalism, and its implications for peacekeeping and beyond.

7.2.2. Institutional Dynamics

This dissertation's examination of how the ambiguities associated with assertive impartiality reflect and engender further contestation underlines the necessity of studying the institutional politics of peacekeeping as well as of other institutions associated with assertive liberal internationalism. The various sites and sources of contestation uncovered in this dissertation illustrate the importance of disaggregating both the UN and its peacekeeping missions in order to analyse decision-making pathways and processes, and the relative power of and roles assumed by particular actors. Several findings related to both institutionalisation and implementation warrant future consideration.

7.2.2.1. Macro-level Dynamics

At the more macro-level, this dissertation sheds light on the Secretariat's engagement with peacekeeping in the new millennium. In doing so, it raises salient questions regarding the Secretariat's own "impartiality" within a more assertive liberal international order. Specifically, Chapters Four and Five described how the Secretariat has shifted from a more skeptical and cautious engagement with assertive impartiality during the initial phases of institutionalisation, to a more active role as 'entrepreneur' and 'advocate' of the norm in recent years. This has been clearest in Ban Ki-Moon's emergence as one of the most vocal proponents of an assertive approach calling, amongst other things, for RtoP to be streamlined and defined through peace operations. The change in approach suggests, as I have argued, that the establishment of institutional precedent was of particular concern to the body, but that once established, the Secretariat has increasingly opted to work within, rather than critically to question, the parameters of policy set by its members, and particularly by the Council. This change is of considerable significance given the contestation illuminated in this dissertation, and the fact that impartiality remains a core norm of the Secretariat, enshrined in its very code of conduct. What, then, is to be the role and function of the Secretariat in a more assertively liberal international order? Should the Secretariat advance and advocate a particular normative agenda for the UN, when doing so may be viewed as deeply partial by some of its members? How much consensus is enough to be representative? How should competing interpretations and normative visions be balanced?

The identification of the NAM as a critic of assertive impartiality also offers opportunities for further research, given the dearth of scholarship on the politics within and surrounding the NAM in the post-Cold War era, particularly with respect to peacekeeping. Moreover, when scholars do engage the subject, they tend to speak of a homogeneous global South, especially on issues related to peace and security. The variation of perspectives within the NAM, identified in Chapter Four, challenges this dichotomisation and underscores the need for a more nuanced analysis of UN politics. Specifically, further analysis would be beneficial to understand what factors drive the variance, and whether these can be generalised to other policy areas. How has the dramatic increase in peacekeepers deployed from the global South shaped the movement? How is peacekeeping linked to other issues on which the NAM engages? Does contestation by NAM members differ across institutional bodies? Are they more, or less, critical, and how do their objections differ, when raised as non-permanent members in the Security Council versus other NAM members in the C-34? And how might these dynamics more broadly shed light on the NAM and the politics of the global South at the UN?

Finally, this dissertation offers insights into the Security Council's role as an important, if not *the* most important, actor in the institutionalisation and implementation of assertive impartiality. Chapter Four asserts that the P5 have demonstrated a modicum of co-operation with regards to peacekeeping policy in the new millennium, visible in the prevalence of robust mission mandates containing prescriptions for POC. This characterisation is at odds with what analysts predicted would be the demise of robust peacekeeping following the diplomatic furor in the Council in 2011 over the UN's helicopter strikes against positions held by former President of Ivory Coast, Laurent Gbagbo–action taken in the name of protecting civilians but criticised as intended to bring about regime change and thus deeply partial.

However, Council practice of the last two years, including that detailed in Chapter Six, would suggest that the practice of robust peacekeeping is likely to endure in particular contexts.[6] Rather than demonstrating consensus amongst the Great Powers, the pattern of mandating robust forces has, as this dissertation has shown, reflected and will probably continue to reflect political dynamics within the Council which often relate to issues other than peacekeeping. These dynamics affect where peacekeepers are and are not deployed as well as the contents of their mandates, including when and against whom force is authorised. Understanding these political dynamics is therefore necessary to understanding the policies and practices of peacekeeping, as well as other areas of engagement. Crucially, the contestation inherent in and occasioned by these practices may potentially, as this dissertation has argued, have long-term consequences for the legitimacy of peacekeeping and the UN, including the Security Council. What authority does the Council command if members from the global South are no longer willing to offer up troops? Or if parties decide that the potential costs of UN engagement outweigh the benefits, and so turn to other institutions to address issues related to international peace and security?

7.2.2.2. Micro-level Dynamics

These questions regarding macro-level dynamics are inextricably linked to the micro-level dynamics which this dissertation has brought to light. In this respect, the in-depth study of MONUC offers several findings that would be strengthened by comparative analysis with other cases of peacekeeping, with potential insights for international practices other than peacekeeping.

Specifically, Part III identified several sites of contestation which reflected more consistent differences in interpretations of impartiality among certain actors. These were: tensions between the political leadership and military command of the mission; tensions between the mission leadership based in the capital and officials stationed at field offices in the east of the country; and finally, tensions between the civilian component of the mission and the TCCs/PPCs. Interviews highlighted several factors that might explain this variation, including divergent professional cultures and priorities; location and proximity of these actors to the host state, civilians and armed groups; and issues related to resourcing as well as to policy coherence. These factors, as I have shown, were often inseparable from macro-level contestation: the tasks assigned to peacekeepers; when and what resources they receive; and whether a mission forms part of a larger comprehensive strategy of donor engagement, factors which may all reflect broader political dynamics.

[6] Shortly following the rancour over UNOCIL, the Council authorised the deployment of the United Nations Mission in South Sudan (UNMISS) and the United Nations Interim Security Force for Abyei (UNISFA). Both resolutions contained Chapter VII mandates to protect civilians in Sudan, a country that in the past had bitterly divided members of the Council. Similarly, the scaling of MONUSCO's mandate and, as discussed in this dissertation, current discussions of the 'intervention brigade' are case in point.

Additional case-study research would be fruitful in uncovering whether, how and to what effect these factors manifest in other contexts of multi-dimensional peacekeeping such as Haiti, Sudan or Ivory Coast. Do similar divisions show up within other missions? Do the factors shaping implementation that were identified in the Congo case hold true in other peacekeeping contexts? What other factors may shape implementation and give rise to contestation within peacekeeping missions? As discussed above, these questions take on added significance given the push towards both formal and informal cooperative arrangements between peacekeeping missions and other actors. As peacekeeping practice continues to expand to include a broader set of actors, accounting for these institutional dynamics and potential sites of norm contestation will become ever more crucial.

7.2.3. Local Actors and The Importance of Context

Lastly, the findings of this dissertation underscore the importance of context in the study of peacekeeping and beyond. In this way, additional research into institutional dynamics may provide a more nuanced understanding of missions and the politics of more assertive forms of engagement. They will never fully be able to account, however, for how mandates translate on the ground. Implementation will invariably be contingent, shaped by the specificities of context, including, crucially, how local actors perceive and engage with peacekeepers during that process.

The agency of local actors has received scant attention from scholars interested in peacekeeping and in other international institutions. This oversight is problematic given that the more invasive forms of intervention now pursued by peacekeepers and other international actors are such that these parties are often deeply embedded within host country societies and must work closely with local actors. These deeper forms of intervention have a marked and lasting effect on places in which they operate. As Chapter Six demonstrated, the strategies adopted by various local actors are often informed by their expectations of peacekeeper behaviour, and in particular by whether or not force is used.

In this respect, the findings of Chapter Six are particularly salient and should give cause for further research to account for realities at the micro-level. How do civilians understand protection? What are the civilian determinants of security—that is, what does "being safe" mean in specific contexts? What strategies do people adopt to avoid violence and protect themselves? And how do these strategies change in the presence of peacekeepers? What factors influence civilian expectations? And what factors determine whether international efforts undermine or bolster local protection practices? Closely related are the various ways in which armed actors may instrumentalise the discourse and practices associated with robust mandates. Here, the de-legitimisation and self-legitimisation tactics adopted are particularly worthy of further investigation, not least given their broader relevance for other international actors engaged in such contexts. What factors influence these strategies? Do they change over time? How are they shaped by internal group dynamics and, more broadly, by the relationship between armed groups and civilian populations? In what ways are these tactics related to more macro-level political developments?

All of these questions, into which this dissertation has provided initial insight, are fruitful areas for further research. They are crucial to understanding the politics–both local and global–of peacekeeping and assertive liberal internationalism.

7.3. Approaches to the Study of Norms

Aside from insight into the politics and practices of peacekeeping, the analysis of impartiality presented here contributes to the further refinement of constructivist approaches to the study of norms in International Relations. It attests to the importance of understanding norms not as static and simple but as dynamic and complex ideational structures. It demonstrates how an account of both institutionalisation and implementation is vital to the analysis of a norm's development. And it makes the case for studying not only the *power of norms*, but also the critical *role of power* in determining both the content and the effects of norms. Moreover, this dissertation has methodological implications for the study of norms in international relations. In what follows, I discuss the specific contributions of this dissertation and suggest possible areas for future research.

First, this dissertation advances existing scholarship by developing and introducing the "composite norm", which, as Chapter Two detailed, provides analytical purchase for the study of other norms. Specifically, the disaggregation of the norm into its mutable and immutable components allows for a more nuanced conceptual analysis such as that in Chapter Two. It also enables the study of changes in a norm's content both within and across historical periods. This was of particular advantage in Part III in that it provided a framework to examine alterations in the norm's content within the Congo case, as MONUC's mandate evolved significantly over the duration of its deployment.

More fundamentally, the finer analysis enabled by the "composite norm" is necessary to study contestation and move beyond the binary conception of norms pervasive in constructivist theorising. It shows that instead of simply rejecting or accepting a given norm, actors resisted particular elements of the norm and, at times, put forward their own interpretations of these elements during both the processes of institutionalisation and implementation. This was particularly valuable in elucidating impartiality's ambiguity–the tension between elements of the norm and other norms, and the various ways in which the lack of precision during institutionalisation (which was driven by contestation) had significant implications for implementation.

The second principal contribution of this dissertation is to illustrate the importance of treating norm institutionalisation and implementation as dynamic and inter-related processes. Institutionalisation is important, but does not signal the end of contestation, as the models of many positivist constructivists would suggest. Assertive impartiality was and continues to be hotly contested despite its institutionalisation at the end of the 1990s. Similarly, counter to the work of some post-positivists, this dissertation demonstrates how, if scholars are meaningfully to account for contestation and the way in which norms are actually enacted, implementation cannot be studied in isolation from institutionalisation. As Chapter Five revealed, contestation during institutionalisation may carry over into implementation in various ways, including in the ambiguities surrounding a norm that is institutionally embedded. In sum, this dissertation demonstrates how the form and substance of contestation in both processes may be inextricably linked in ways that are critical to understanding the effects and implications of impartiality, as well as other norms.

In this respect, the framework developed in this dissertation to study contestation would be further enriched by the study of how the processes of institutionalisation and implementation and their various linkages differ across institutions and issue areas. Additionally, future research would benefit from considering these processes in light of the specific character of certain norms. Chapters Five and Six showed how the risks associated with assertive impartiality had an impact on contestation during implementation, but also on the politics of peacekeeping at the more macro-level, namely in the C-34 and the Security Council. This suggests that the character of norms and specifically what 'normative practice' entails warrants greater attention in order more fully to understand them. An appreciation of the risks or 'costs' associated with certain norms has, with few exceptions, been largely unexamined by constructivists.[7] It becomes all the more important, however, given that constructivists tend to work at the 'hard edge of human misery' and on people-centered issues where the human risks are indeed great.

In this respect, future norms research would also benefit from a closer examination of individual agency and leadership in the processes of norm institutionalisation and implementation, as well as the psychological dimensions of normative decision-making. The Congo case, for example, demonstrates, how Cammaert and Rice, amongst others, played a formative role in determining what impartiality came to mean in practice. In the case of both individuals, previous peacekeeping experiences–and the guilt, shame and trauma they occasioned–had a profound impact on their

[7] Notable exceptions include: Tannenwald 2007; Price 2008.

decisions and actions, underscoring the often overlooked importance of personal and emotive dimensions of norm dynamics, and, more broadly, of international policy.

The third contribution of this dissertation is to demonstrate the necessity of taking power seriously in norm analysis. Certain actors had greater influence, during both institutionalisation and implementation, over the realisation of their preferred conception of impartiality. The power wielded by particular individuals and bodies within the institution during both processes has been significantly determined by their status, their access to informal and formal decision-making forums, and their control over information and resources.

Nevertheless, the power and influence of these same actors was not unbridled, as has been detailed in Chapter Two and in subsequent analysis of institutionalisation and implementation. This analysis elucidated instances of 'norm entrapment' in both processes, as the policy choices of certain actors were constrained because of their prior rhetorical affirmation of assertive impartiality. Similarly, Chapter Six demonstrated how those tasked with implementation were unable to fully control the process and its effects when the norm came to interact with local practices and politics. These dynamics produced a range of harmful effects as local actors instrumentalised the norm in various ways. Ultimately, this weakened the legitimacy of the powerful and their ability to realise their desired ends.

Indeed, the unintended consequences of assertive impartiality and the questions it raises regarding the potential moral hazards associated with particular norms make the study of implementation vital. Even seemingly laudable norms such as assertive impartiality are not unalloyed. The process of implementation, as this dissertation has shown, may occasion new sources of violence, repression and social exclusion. As others within the discipline have recently argued, such serious consequences demand that scholars reflect more than they have done on the normative assumptions that either implicitly or explicitly guide their research, and their decisions as to how, where and what norms are studied.[8] Simply put, the scope and gravity of its effects call for greater consideration of the "normativity" of norms research and the ethics of constructivism as an approach to the study of international relations.

Finally, the methodological analysis employed in this dissertation contributes to the embryonic ethnographic turn in IR. Each of the above theoretical findings highlights and affirms the benefits of conducting in-depth research at various levels to study norms and their effects, and, in particular, the vital importance of ground-level experience and observation. However, as scholars of international

[8] Price 2008; Frost 2002.

relations are increasingly drawn to ethnographic methods to study the norms, institutions and practices associated with international peace and security, the challenges, ethical questions and, indeed, the potential for unintended consequences implicit *in* such research, merits greater consideration. How close is too close? When does participant observation risk becoming partisan observation? What obligations and duties do researchers accrue when they study vulnerable populations up close?

7.4. Impartiality and Assertive Liberal Internationalism

A core contention of this dissertation is that the change in the dominant conception of impartiality as a norm of peacekeeping is an integral part of the emergence in the new millennium of a more assertive liberal internationalism. The analysis presented in this dissertation offers valuable insights for and affirms the necessity of further research on the institutions associated with this broader change, which also lay claim to impartial authority. However, if scholars are to advance more than a 'partial' understanding of such norms as impartiality, of the practices associated with these institutions, and, indeed, of the social construction of international relations more broadly, they require a wider, more encompassing set of perspectives.

In this respect, it is crucial to keep in mind that impartiality implies, as Rosanvallon describes, 'vigilance and an active presence in the world, a determination to represent social reality as faithfully as possible.'[9] Impartiality is not a consequence of detachment, of being set apart from society, far from it. It is the result of 'reflective immersion'.[10] Arendt concluded that this entails broadening one's own 'thinking in order to take account of the thinking of others'–and thereby work towards a greater level of generality.[11]

Perhaps all that can be hoped for in any collective enlarging of perspective, any bringing into being of a condition that is truly "sharing-the-world-with-others", is that both individuals and institutions, most especially the United Nations, seek to cultivate a certain degree of humility and honesty. An idealised yet simultaneously practical and prudent conception of impartiality, which discriminates but is less quick to judge, would see people and states as they are, not as how they would like to be seen. And it would recognise, by virtue of groups with conflicting interests and values living in this world together, that impartiality is necessarily and inextricably political. But that, for all that, it may be no less sacred.

[9] Rosanvallon 2011: 89.
[10] Ibid: 89.
[11] Hannah Arendt. *Lectures on Kant's Political Philosophy*. Chicago: University of Chicago Press, 1982: 107.

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Explanatory Note: This bibliography includes most secondary works consulted during research for this thesis, as well as the primary and secondary sources cited in the text itself. The bibliography is bifurcated between primary and secondary sources.

The primary sources are sub-divided according to: (a) UN documents; (b) NGO/IO policy reports and press releases; (c) newspaper and magazine articles; and (d) other primary source documents.

The secondary sources are sub-divided according to: (a) norms and international relations theory; (b) peacekeeping, humanitarianism, and the UN; and (c) Congo and the Great Lakes.

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