Impartiality and Legitimacy
in United Nations Peace Operations

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Abstract

In 1945, the United Nations was founded to ensure peace and security for future generations. To this end, the organization started deploying peace operations, that were founded on the core principles of consent, impartiality, and the non-use of force, except in self-defence. Early on these were primarily *inter*-state affairs, but since then they have become increasingly complex, and now operate more in *intra*-state contexts. This has led to an increasing redefinition of the meaning of the core principles and impartiality in particular, as operations are becoming ever more robust and ambitious. However, such a reconceptualization raises questions about the continued validity of the principle of impartiality, as well as what this means for the legitimacy of peace operations. Consequently, this thesis examines this tension by exploring the relationship between the impartiality and legitimacy of peace operations at the international and local levels, by looking at how policy impacted practice, and vice versa, as well as what other factors might impact the legitimacy of peace operations. It argues that impartiality remains one of the most efficient tools towards establishing credible legitimacy, but that practice matters, and that serious attention must be paid to the way more assertive legitimacy is being practiced in certain contexts.

Content

Introduction

In 1945, the United Nations (UN) was founded to ensure that war should never again wreak havoc and destruction upon the populations of the world and to guarantee peace and security for future generations.[1]

Yet, for all its humanitarian intentions, the UN is essentially a statist and political project – its membership, after all, consists solely of states, that, of course, are political entities in one way of another – and it is organised in such a way that renders certain states more powerful than others, despite the principle of equality among states enshrined in its Charter. These five particularly powerful states (the United States, the United Kingdom, France, Russia and China) are primarily given special privileges based on their role in the World War II, as well as their military and geopolitical capabilities[2], and are thus tasked with maintaining international peace and security.[3] Still, these five, or the P5 as they are generally referred to, do not reign alone, they are dependent on some level of cooperation from other, non-permanent, members of the UN Security Council (SC) to be able to carry out their duties (provided, of course, that no P5 state vetoes the given proposal).[4]

Where the SC has "[…] the primary responsibility for maintaining international peace and security"[5] and consists of fifteen members, ten of which are non-permanent[6], the General Assembly (GA) serves as the broader forum wherein all UN member states have a voice[7], and though the SC is the ultimate decision-making body, the GA has historically been able to come together in force, where it has deemed the SC unable or unwilling to carry out its primary responsibilities, as exemplified in 1950 with the *Uniting for Peace* Resolution[8] – this resolution has, however, only been invoked once, with the establishment of the First UN Emergency Force (UNEF) in 1956.[9]

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[1] Best, Anthony et al. *International History of the Twentieth Century and Beyond*. Third Edition. Routledge, 2015. Pp. 587-8; Berntson, Lennart, et al. *Europa 1800-2000*. Roskildes Universitetsforlag, 2011. P. 426; *Charter of the United Nations*. San Francisco, 24 October 1945. Preamble

[2] Stephen, Matthew D. "Legitimacy Deficits of International Organizations: design, drift, and decoupling at the UN Security Council". *Cambridge Review of International Affairs*. 2018. 31:1. Pp. 106-9; *Charter of the United Nations*, art. 23, para. 1 & art. 27, para. 3

[3] *Charter of the United Nations*, art. 24

[4] *Charter of the United Nations*, art. 27, para. 3

[5] *Charter of the United Nations*, art. 24, para. 1

[6] *Charter of the United Nations*, art. 23, paras. 1-2

[7] *Charter of the United Nations*, arts. 9-22

[8] United Nations General Assembly Resolution 377 (V). *Uniting for Peace*. 302nd Plenary Meeting, 3 November 1950. Para. 1

[9] United Nations. "Role of the General Assembly". *United Nations Peacekeeping* (available at: https://peacekeeping.un.org/en/role-of-general-assembly)

What we find, then, is an organization that has brought together an unprecedented number of states (currently 193[10]) into a cooperative framework for the greater goals of peace and security. However, with states being states, it is also a highly political one, that is not infrequently frustrated by geopolitical chess games. Therefore, it is perhaps not surprising that despite its grand ambitions, conflict persisted. This in turn forced the UN recognise its duties and to assess how it would carry out its responsibilities, giving birth to UN peace operations.[11]

One of the first things that should be observed is that there is no formal provision for peace operations in the UN Charter. Instead it came about out of a need to 'do something' and developed in rather a makeshift fashion.[12] Still, as these operations entailed inserting a foreign military presence into the territory of a state and noting the emphasis on state sovereignty in the UN Charter, it was necessary to consider what would make a state allow such a foreign presence on its soil. Consequently, early peace operations were based on some core concepts, namely: consent; impartiality; and the non-use of force, except in self-defence.[13]

Consent is to be given by the host state and can be retracted, as was the case when Egypt withdrew its consent for UNEF in 1967.[14] This has the implication that there will inevitably be some level of politicking and compromising involved in establishing peace operations. However, such consent is relevant if the UN wishes to adhere to the principle of state sovereignty enshrined in the Charter and to achieve some level of on-the-ground cooperation. The concept of impartiality was similarly meant to enable peace operations, by keeping them out of local politics and geopolitical strategizing. However, impartiality is often conflated with neutrality, meaning that it is necessary to understand what differentiates them. Neutrality, then, traditionally refers to *political* neutrality, meaning that the operation should be free from political rivalries and ideological drive.[15] Such neutrality can theoretically enhance the impartiality of peace operations, as there will not be any other agenda than that of the mandate.[16] Impartiality, however, is usually defined as treating all parties to a conflict equally

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[10] *Ibid.*

[11] Gray, Christine. "The Use of Force and the International Legal Order". In: Evans, Malcolm D. *International Law*. Fifth edition. Oxford University Press, 2018. Pp. 623-4

[12] *Ibid*.

[13] Gray, 2018: 624; Bring, Ove. "Dag Hammarskjöld's approach to the United Nations and international law". Estudios Internacionales. 2011. Year 44, No. 170. P. 164

[14] Gray, 2018: 626

[15] Whalan, Jeni. *How Peace Operations Work: Power, Legitimacy, and Effectiveness*. Oxford University Press, 2013. P. 75

[16] *Ibid.*

and not 'picking a side', so to speak.[17] Consequently, it is perhaps not surprising that we often see a tendency to conflate the two terms, especially as both rest on conceptions of fairness.[18] Nevertheless, for the present purposes, I view the two as distinct concepts, though I am aware that actors may not always operate with such a distinction.

Finally, the prohibition against the use of force, except in self-defence, to some extent also relates to the principle of impartiality. Use of force, after all, is a likely way to become embroiled in a conflict or viewed as 'taking sides', thereby diminishing one's perceived impartiality. However, the use of force in self-defence is justifiable, as one can hardly expect personnel to accept getting attacked without protecting themselves.[19] Nevertheless, this last principle has seen considerable development over the years and further exceptions has been added, such as use of force being permissible for the protection of civilians.[20] What this potentially means for the principle of impartiality and the legitimacy of UN peace operations will be considered in greater depth in this project.

At the outset, then, the tenets above were the foundation of UN peacekeeping and, at least officially, still are.[21] However, as much as the UN has come to be known by its blue helmets and ambitious peace operations – for better or worse – peace operations has not been an unchanging discipline. Instead, the development of the discipline can be divided into generations, each building on the successes and failures of the last.

In this way, the first generation of peace operations rested clearly on the three principles described above, as these allowed missions to function outside of Cold War rivalries.

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[17] Cambridge Dictionary. "Impartiality". *Cambridge Dictionary.* (available at:
https://dictionary.cambridge.org/dictionary/english/impartiality)
[18] Whalan, 2013: 75-6
[19] General Assembly. Thirteenth Session. Annexes. Document A/3943. *Summary study of the experience derived from the establishment and operation of the Force: report of the Secretary-General.* 9 October 1958. Paras. 178-81; United Nations Department of Peacekeeping Operations & Department of Field Support. *United Nations Peacekeeping Operations (Capstone Doctrine).* 2008. P. 34; Peacekeeping Best Practices Unit, Department of Peacekeeping Operations. *Handbook on United Nations Multidimensional Peacekeeping Operations.* United Nations, December 2003. P. 53.
[20] United Nations General Assembly & United Nations Security Council. *Report of the Panel on United Nations Peace Operations ('the Brahimi Report').* A/55/305, S/200/809. 21 August 2000.Pparas. 62-3; *Handbook on United Nations Multidimensional Peacekeeping Operations*, p. 57; UN Security Council resolution 1894 (2009). *Protection of civilians in armed conflict.* S/RES/1894. 11 November 2009.
[21] *The Brahimi Report,* preamble, p. ix, para. 48; *Uniting Our Strengths for Peace – Politics, Partnership and People.* Report of the High-Level Independent Panel on United Nations Peace Operations. 16 June 2015. Section IV.

Furthermore, they were mainly *inter*-state affairs, monitoring cease-fires and borders[22], making the necessity of three core principles, and consent especially, clear.

Towards the end of the Cold War, we find what has frequently been referred to as the second generation of peacekeeping, wherein operation mandates were increasingly ambitious, attempting to re-establish effective government and engender national reconciliation. However, these missions were not always met with cooperation and some were decidedly disastrous, such as the frequently quoted examples of UNPROFOR in Yugoslavia, UNOSOM in Somalia and UNAMIR in Rwanda, that came with high human costs and, arguably, catastrophic reputational damage for the UN.[23]

The fallout of mission failures such as these led to a third generation of peacekeeping. Now UN missions started to form administrations with responsibilities like those of a state, and were based on ever more ambitious and proactive mandates.[24] Moreover, a change was seen in the perception of how force should be used, exemplified in the support of the 2000 *Report of the Panel on United Nations Peace Operations*, also known as *The Brahimi Report*, for more robust peacekeeping in the protection of civilians.[25] Additionally, the report asserted that impartiality meant adherence to the principles of the Charter and the objectives of the mandate, that would itself be rooted in said principles. Impartiality, then, should no longer signify equal treatment of all parties at all times.[26]

This support for robust peacekeeping and a shift in the conception of impartiality, can further be seen in what has been dubbed the 'robust turn' of UN peacekeeping, wherein we see "[…] the emergence of a new generation of missions [that] have been authorized with a more expansive mandate to use military force and at times displayed a willingness to act on it in ways that go beyond traditional readings of peacekeeping lore"[27]. A notable example here is the Force Intervention Brigade (FIB), that is attached to the UN operation in the Democratic Republic of the Congo (DRC), MONUSCO. The FIB does not only epitomize this more robust turn in UN peacekeeping, through its mandate to neutralize armed groups[28], it also, arguably,

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[22] Gray, 2018: 624
[23] Gray, 2018: 624-6
[24] Gray, 2018: 625
[25] Gray, 2018: 626; *The Brahimi Report,* paras. 49-53, 62-3
[26] Whalan, 2013: 75; *The Brahimi Report*, para. 50
[27] Hunt, Charles T. "All necessary means to what ends? the unintended consequences of the 'robust turn' in UN peace operations". *International Peacekeeping*. 2017. 24:1. P. 109
[28] United Nations Security Council Resolution 2098. S/RES/2098 (2013). 28 March 2013. Para. 12 (b)

shows a step away from traditional conceptions of impartiality, as the mission as a whole, and the FIB in particular, is aligned with the Congolese government and its forces.[29] Considering the alignment with a particular party, as well as the mandate to use force to *neutralize* other conflicting parties, it is worth asking whether the UN is drifting away from the traditional principles of peacekeeping. While the 2013 resolution that created the FIB stressed that it should not be seen as setting a precedence, other peacekeeping missions have included robust mandates.[30] This increase in the use of force, combined with the alignment with specific parties, raises serious questions about the applicability of the principle of impartiality in UN peace operations. Indeed, in the DRC, it can even be argued that the UN has become a party to the conflict, meaning that the credibility of MONUSCO might be severely damaged and its troops and resources theoretically deemed legitimate military targets, as the mission loses its perceived impartiality.[31] Furthermore, there is a risk that this develops into a trend if mandates continue to include provisions for the use of force and alignment with particular parties, raising the question about whether modern peace operations *can* be impartial.

While this might seem a somewhat philosophical question, it is certainly worth considering as impartiality is supposedly one of the principles that enable peace operations to function legitimately in the first place and the perceived loss of impartiality might result in a delegitimization of the mission in question, or worse, of UN peace operations in general. Here some might argue that human beings can never be impartial, it simply goes against our very foundation as judging and value-seeking creatures. I, however, would like to pose a different question: do UN peace operations *need* to be impartial in order to be legitimate?

This is a question that, in my view, merits greater exploration, especially as we see the principle increasingly stretched and morphed, sometimes beyond recognition. Rather than potentially undermining the very credibility of claims to impartiality in contexts where it is indeed needed, I argue for greater contextual awareness.

I will attempt to illustrate how the principle of impartiality and peace operations alike are frustrated by a gap in impartiality-definitions and contextual differences across the local and international levels, as well as how the principle of impartiality has often been blamed for

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[29] Resolution 2098, paras. 12 (b); United Nations Security Council Resolution 1906. S/RES/1906 (2009). 23 December 2009. Para. 21; United Nations Security Council Resolution 1856. S/RES/1856 (2008). 22 December 2008. Preamble, p. 3, para. 3, 14
[30] Hunt, 2017: 113
[31] Hunt, 2017: 117

failures that had more to do with contextual variables and inadequate resourcing than with the principle itself. What this thesis argues, then, is that impartiality does indeed remain one of the most efficient tools for establishing a credible and tenable legitimacy, but that the way it has been reconceptualized and practiced in recent years raises serious questions about its sustainability and whether recent practices even qualify as impartial.

In order to explore the development and necessity of the concept of impartiality for the legitimacy of UN peace operations, I do not use the common term of peacekeeping, as I wish to highlight how peace operations are no longer solely about 'keeping peace'. Rather they now involve diverse, multidimensional frameworks that in many cases seek to 'make' and 'build peace'.[32] For this reason UN peace operations are understood in such a way that they incorporate both traditional peacekeeping and modern day peace-making and peacebuilding, and are shaped by a dual international-local tension.

I begin this study with a consideration of two primary concepts: legitimacy and impartiality. In this section I examine relevant literature and further define the two concepts for the present purposes, highlighting the contextual and subjective nature of both. In the next section I present my philosophy of science and my methodological choices. Here I explain the interpretivist basis for my project and explain how and why I make use of my chosen methods, as well as the basis for my collected data.

My analysis commences with a historical exploration of how impartiality has been conceptualized, discussed, and practiced throughout the history of peace operations, as well as why. I do this by separating, in a sense, the international from the local and examining developments at each of the two levels, to better assess how policy and practice merge and clash. Finally, I discuss whether or not impartiality continues to be a necessary tool for peace operations to establishing legitimacy. In this section, I consider how not only peace operations, but also the very nature of conflict has changed and whether the framework of peace operations is suited to these new contexts. Additionally, I explore a few potential alternative strategies to the principle of impartiality, such as reasonable, or permissible, partiality, principled pragmatism, and decoupling, to better examine whether and why impartiality remains necessary.

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[32] *The Brahimi Report*, paras. 10-3; Doyle, Michael W. & Nicholas Sambanis. "The UN Record on Peacekeeping Operations". *International Journal*. 2007. Vol. 62, No. 3. P. 497-8

I conclude this thesis with a summary of and reflection on my findings and what they indicate for the future of UN peace operations.

Literature review & theoretical framework

In order to consider whether peace operations *need* impartiality to be legitimate, it is necessary to first consider how these concepts can be conceived, how they have developed, and whether there is disagreement as to how they should be understood. Consequently, the following will commence with an examination of what it *means* to be legitimate, as well as how legitimacy can be framed and negotiated. I begin with legitimacy as it is important to have a frame of reference for the requirements of legitimacy, before considering conceptualizations of impartiality. If Legitimacy is the grail, impartiality is King Arthur on his quest.

Legitimacy

Traditionally, legitimacy has been closely linked to ideas of stability, meaning that an authority that is viewed as legitimate is able, or indeed has the right, to rule and govern in a way that is free from challenges and turmoil, indicating that legitimacy has the quality of pulling actors towards compliance.[33] In this way, legitimacy seems like a highly valuable trait for anyone who wishes to exert some kind of authority over others. For entities such as UN peace operations, who might not wish to appear as rulers, legitimate authority would still enable them to go about their work in a stable, uncontested way, thereby allowing them to better fulfil their mandates. Additionally, and as peace operations increasingly become involved in state administration[34], if compliance can be gained without a need to resort to coercion or inducement and the missions could be able to avoid challenges to their presence, an authority based on legitimacy and stability seems all the more appealing. Finally, in order for peace operations to be able to carry out their mandates, such legitimacy needs to be near-immediate, yet as they will have few local bases for it[35], how legitimacy might be attained certainly merits consideration in the planning stages of the mission and beyond.

But for all the allure of legitimacy, what does it actually mean?

At first glance, the meaning of legitimacy might seem apparent, related to a perception that what one is doing is morally right and appropriate within a given normative context, and that

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[33] Reus-Smit, Christian. "International Crises of Legitimacy". *International Politics*. 2007. 44. P. 158; Weber, Max. *Politik als Beruf*. Kindle Edition. eClassica, 2018. Location 70-7; Whalan, 2013: 7-8

[34] Gray, 2018: 625; Whalan, 2013: 24

[35] Whalan, 2013: 62

one can consequently act without the aforementioned need for coercion or inducement, the proverbial stick and carrot if you will, in order to gain compliance.[36] However, scratching beneath the surface, we find a term with a multitude of conceptions and contestations.

It is therefore essential to consider how legitimacy has been conceptualized and to further define it for the present purposes, and any deeper discussion of conceptions of legitimacy ought to begin with that colossus of legitimacy theory, Max Weber.

The work of Max Weber is often referred to and built on when scholars consider legitimacy. However, it seems that there has been a tendency of separating Weber from his socio-historical context, leading to selective readings and interpretations that might conflate power and legitimacy.[37] When considering Weber's work, and in particular his definition of the state as "[…] a relationship of *rule* over people based on the means of legitimate violence"[38], it is prudent to note the context in which he found himself. Finding himself, a German, in a time of great upheaval for Germany[39], it is perhaps not surprising that he developed something of a political streak and became interested in power politics[40], meaning that Weber's legitimacy is one that is closely related to conceptions of power, without being the same as power.[41] This has further led to what some scholars describe as the two Webers: the politician and the scholar. The politician is, as described above, "[…] obsessed with power politics as a means to secure the survival of the German nation"[42], whereas the scholar is an anti-foundationalist, believing in the "[…] uniqueness and complexity of social 'facts'"[43]. As such, ideal types, for Weber, cannot exist in nature and concepts can only be simplifications of complex realities.[44]

Moreover, a key question that lies at the heart of Weber's conceptualization of legitimacy concerns when and why men and women submit to being ruled by rulers.[45] To answer this question, Weber conceived of three 'pure' forms of legitimate authority: rule by virtue of tradition; by virtue of charisma; and by virtue of 'legality'.[46] Of course, considering Weber's

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[36] Whalan, 2013: 51, 55-59

[37] Lottholz, Philipp & Nicolas Lemay-Hébert. "Rereading Weber, re-conceptualizing state-building: from neo-Weberian to post-Weberian approaches to state, legitimacy and state-building". *Cambridge Review of International Affairs*. 2016. 29:4. Pp. 1467-1473

[38] Weber, 2018: 70-7 (translation by author – original text: "[…] ein auf das Mittel der legitimen Gewaltsamkeit gestütztes *Herrschafts*verhältnis von Menschen über Menschen")

[39] Lottholz & Lemay-Hébert, 2016: 1469

[40] *Ibid.*

[41] Lottholz & Lemay-Hébert, 2016: 1473

[42] Lottholz & Lemay-Hébert, 2016: 1469

[43] Lottholz & Lemay-Hébert, 2016: 1469-1470

[44] Lottholz & Lemay-Hébert, 2016: 1470

[45] Weber, 2018: 70-7

[46] Weber, 2018: 77-85

stance on ideal types, none of these can be found in reality in their pure form, but will rather be some kind of amalgamation.[47] Nevertheless they are still well worth considering when dealing with conceptions of legitimacy.

First, legitimacy based on tradition describes a legitimacy that is based on the "eternal yesterday"[48], meaning that which is sanctified custom, achieved through habit and tradition. This is the 'traditional' rule as practiced by the patriarch or patrimonial prince, wherein the ruler gains his authority from tradition and is limited in action by the constraints of custom.[49] Conversely, when legitimacy is based on charisma, the authority lies with personal appeal and deeds, that is "[…] the extraordinary personal *grace* (charisma), the very personal dedication and the personal trust in revelations, heroism or other leadership qualities"[50] of an individual, who might be found in the shape of a prophet, a warlord or as the leader of a political party.[51] Consequently, charismatic legitimacy means that the ruler is personally considered to be the 'appointed' leader of people and that they do not submit due to tradition, but rather because they believe in him.[52]

Finally, legitimacy based on 'legality' – or more precisely on laws and norms relevant to the given context – is an authority based on belief in the validity of legal statutes and norms, that have some origin in rationality. This, then, is rule as exercised by, for example, the modern civil servant.[53]

These three 'pure' types of legitimacy provide us with a basis on which we can consider the ways in which legitimacy works and can be achieved. For even if fear, hope, and selfish interest tend to remain the larger motives for compliance, according to Weber, when probing at the inner justifications for compliance, we come across these three foundations of legitimacy.[54]

What we can also glean from Weber's comments on the effects of fear, hope and selfish interest, is that legitimacy can be said to be a compliance without motive, as there is no stick or carrot that guides it. In this way, having legitimacy becomes a much more efficient way to achieve compliance in the long term. Both coercion and inducement, after all, rely on a

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[47] Weber, 2018: 91
[48] Weber, 2018: 77 (translation by author – original text: "ewig Gestrigen")
[49] Weber, 2018: 77-98
[50] Weber, 2018: 77 (translation by author – original text: "[…] der außeralltäglichen persönlichen *Gnadengabe* (Charisma), die ganz persönliche Hingabe und das persönliche Vertrauen zu Offenbarungen, Heldentum oder anderen Führereigenschaften […]"
[51] Weber, 2018: 77-98
[52] Weber, 2018: 91-8
[53] Weber, 2018: 85
[54] *Ibid.*

utilisation of resources that is costly to maintain and risks drying up if said costs are not covered. Furthermore, even if one has the resources, one also needs to appear credible to one's target audience.[55] While all three (coercion, inducement, and legitimacy) are reasons for compliance and cooperation in general[56], legitimacy stands apart by being based on a logic of appropriateness.[57]

Consequently, the primary benefits of legitimacy seem to be that it makes the rise of power easier, it makes power cheaper and more resilient, and overall makes it easier to elicit obedience in one's target audience.[58]

Moreover, similar to Weber's three 'pure' types of legitimacy, we also often find legitimacy conceptions that focus on the framework and practices of an institution. According to Jeni Whalan, in her work on the legitimacy of peace operations, source legitimacy concerns legitimation processes that relate to the structures of an operation, meaning "[…] judgments about the appropriateness of a peace operation based on its creation in accordance with appropriate rules and norms, and its capacity to achieve its mandated goals and purposes"[59]. Conversely, substantive legitimacy considers the outcomes as the justification for an operation in reference to its goals and the desirability of its effects.[60] Finally, procedural legitimacy "[…] refers to judgements about the fairness of procedures for making decisions and exercising power within a given relationship"[61]. In this way it is distinct from conceptions of legal legitimacy, as it is the process through which laws are implemented that matters, rather than the act of adhering to them itself.[62] However, other scholars, such as Matthew D. Stephen, view procedural legitimacy more in line with these conceptions of legal legitimacy. For him such procedural legitimacy, or so-called input legitimacy, is gained exactly by adhering to "[…] widely recognized rules of decision-making"[63]. Moreover, performance, or output, legitimacy is for Stephen that which is derived from "[…] an institution's delivering on its mandate or being guided by recognized experts"[64]. In this way it appears somewhat analogous to Whalan's

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[55] Whalan, 2013: 55-9
[56] Whalan, 2013: 62
[57] Whalan, 2013: 59
[58] Whalan, 2013: 64-5; Stephen, Matthew D. "Legitimacy Deficits of International Organizations: design, drift, and decoupling at the UN Security Council". *Cambridge Review of International Affairs*. 2018. 31:1. P. 98; Clark, Ian. *Legitimacy in International Society*. Oxford University Press, 2007. Pp. 5-6
[59] Whalan, 2013: 66
[60] Whalan, 2013: 69
[61] Whalan, 2013: 70
[62] *Ibid.*
[63] Stephen, 2018: 99
[64] *Ibid*.

substantive legitimacy, though Whalan also emphasises the *desirability* of the operation's effects. This brief exploration likewise underscores Stephen's point that "no consensus on the 'correct' criteria for legitimacy in global governance yet exists"[65], something that might make legitimacy even harder to calculate in the planning stages of any operation.

Moreover, some scholars, such as T.M. Franck, highlight that compliance, and hence legitimacy too, is not an absolute value. Rather, it is a matter of degree, dictated by a dynamic and complex set of social factors.[66] Consequently, when considering, for example, the legitimacy of rules, "to the extent actual compliance by states does demonstrate a rule's compliance pull (that is, its legitimacy), it tends to do so in shades of gray. No rule text – not even a law, for that matter – depicts and predicts social behavior with complete accuracy"[67]. While this means that a rule, or a state or institution, might have varying degrees of legitimacy, and therefore might not necessarily be considered fully legitimate by all actors, it also means that where it is violated, in the case of a rule or a law, it is not automatically rendered illegitimate and void.[68] For UN peace operations, this indicates that they do not necessarily need to be perceived as absolutely legitimate by all actors in their orbit, however desirable that might be, in order to be able to do their work – less than absolute legitimacy, as it were, does not nullify their existence. Rather, what seems important is that the right actors perceive them as legitimate. This too, if we consider, as Franck does, feelings of obligation to be rooted in notions of community.[69] Of course, Franck mainly considers the legitimacy of international rules and how it is shaped and reshaped by the community, writing that "[…] when rules are obeyed, it is because countries *think* an obligation exists, and they say so; and when obligations are disobeyed, countries tell furtive lies about the facts to cover their discomfort and avert the community's censure"[70]. Applying this to peace operations, it means that if the actors in the given community believe they have an obligation to comply with the rules and work of the operation in question, they will comply or be censured by the community at large if they fail to do so. However, if the operation has a low degree of legitimacy in the given community, this sense of obligation and consequent compliance will be harder to attain.

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[65] Stephen, 2018: 100
[66] Franck, T.M. *The power of legitimacy among nations.* Oxford University Press, 1990. Pp. 43-9
[67] Franck, 1990: 43
[68] Franck, 1990: 44
[69] Franck, 1990: 196
[70] Franck, 1990: 206-7

Furthermore, if we follow Franck's argument that legitimacy is not an absolute, we can infer that the degree of legitimacy might vary as a context evolves and changes. This in turn might lead to a loss of legitimacy, or what Christian Reus-Smit calls 'crises of legitimacy'[71], that occur "[…] when the level of social recognition that [the] identity, interests, practices, norms, or procedures are rightful declines to the point where the actor or institution must either adapt […] or face disempowerment"[72]. Consequently, "[a]n actor's legitimacy is only established and maintained when its self-representations and institutional interpretations resonate with the normative expectations of other actors"[73], meaning that "[c]rises of legitimacy are only resolved, therefore, when these are reconciled, when the discordance that has eroded social recognition is overcome"[74].

What Reus-Smit's 'crises of legitimacy' particularly highlight, is the social nature of legitimacy.[75] In this view, "legitimacy is inextricably dependent upon social perception and recognition"[76], with legitimacy being "[…] a quality that society ascribes to an actor's identity, interests, or practices, or to an institution's norms, rules, and principles"[77]. For UN peace operations, this social dimension is of course complicated by their need to appear legitimate at both the international, UN level and at the local level, relevant to the mission in question. However, such complications do not render Reus-Smit's point irrelevant, rather they seem to emphasize the attention which ought to be paid to the social dimensions of peace operations. Moreover, the concept of 'legitimacy crisis' provide us with a useful tool for assessing the ways in which these peace operations might (re)construct legitimacy, for a crisis of legitimacy is not without recourse. According to Reus-Smit, such a crisis can only be resolved through

> […] recalibration, which necessarily involves the communicative reconciliation of the actor's or institution's social identity, interests, or practices with the normative expectations of other actors within its realm of political action. This process of reconciliation necessarily involves interpretative argument over the nature and meaning of applicable social norms. A crisis can be said to be resolved when the actor or institution commands sufficient legitimacy within its realm of political

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[71] Reus-Smit, 2007: 158
[72] *Ibid.*
[73] Reus-Smit, 2007: 172
[74] *Ibid.*
[75] Reus-Smit, 2007: 159
[76] *Ibid.*
[77] *Ibid.*

action for it to achieve its objectives, or fulfil its mandate, through rightful licence and voluntary compliance first, and material inducement and coercion second.[78]

Consequently, a crisis of legitimacy cannot be countered with coercion, inducement, or the like. These might strengthen the declining legitimacy temporarily but will not lead to any stable authority in the longer term.[79] Resolving a legitimacy-crisis, then, is dependent on communication and projection, that clarifies or reconstitutes the perception of the actor seeking to be re-legitimated, as these crises are rooted in the consciousness of the relevant audience.[80]

Another way to consider changes in legitimacy-perceptions, is through the concept of 'legitimacy drift', developed by Stephen, in order "[…] to conceptualize the legitimacy deficits that emerge when an institution stays the same but its normative and political environment changes"[81], something which International Organizations (IOs) are particularly vulnerable to.[82] In this conception, there are three primary source of legitimacy drifts: broken promises; shifting standards; and audience shift.[83] Broken promises "[…] occurs when an IO's audience perceives it as no longer meeting the standards of legitimacy originally applied to it"[84], whereas shifting standards "refers to the situation that occurs when normative change alters the criteria for institutional legitimacy and consequently erodes an institution's legitimacy"[85]. Finally, a shift in the relevant public (or legitimacy constituency) can expose an institution to new standards and demands. Accordingly, an audience shift can lead to a change in legitimacy justifications.[86] There are, however, possible responses to such legitimacy drifts, namely re-legitimation through reform, and various coping mechanisms, such as a promise of reform and decoupling[87], which "refers to the gaps that tend to emerge between institutions' structures, policies, and practices, and is seen most vividly in the 'famous gaps between norms and behaviour'"[88]. 'Legitimacy drifts', then, differ from 'legitimacy crises', in that they can be ameliorated through strategies other than complete recalibration. However, these drifts and their remedies

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[78] Reus-Smit, 2007: 172
[79] Reus-Smit, 2007: 169
[80] Reus-Smit, 2007: 169-72
[81] Stephen, 2018: 97
[82] Stephen, 2018: 99
[83] Stephen, 2018: 97
[84] Stephen, 2018: 102
[85] *Ibid.*
[86] Stephen, 2018: 103
[87] Stephen, 2018: 97
[88] Stephen, 2018: 105

remain dependent on the perceptions of relevant actors and their willingness to accept the solutions offered.

Moreover, and in a similar vein, Ian Hurd highlights change in his work on (re-)legitimation practices, stating that "[l]egitimation is a practice through which states and norms interact. Both are changed as a result"[89]. In studying the way American policies have challenged the legitimacy of the norms surrounding the use of force, Hurd considers the possible delegitimating consequences in three dimensions, namely international norms, US power, and the social structures of the international system[90], arguing that

> [b]ecause states seem incapable of acting without a normative justification for their behaviour, even highly revisionist states remain embedded in a society of international norms, ideas, and resources. They construct their legitimating justifications from these communal resources and are limited in their actions by the availability of plausible justification.[91]

Consequently, a principle or norm, such as impartiality, which is at the core of the legitimating practices of UN peace operations, might be stretched and redefined, but not abandoned, if it is viewed by the society as key to legitimating justification.

However, a norm might be challenged, as seems to be the case with the American practice examined by Hurd, as "[a]ll states work at justifying their behaviour"[92]. This means that behaviour not in line with traditional norms can be handled in two ways: through reconstruction or through secrecy. Reconstruction here means (attempts at) reinterpreting or redefining norms and principles, so that behaviour otherwise viewed to be out of line, can be argued as falling within the scope of the norm or principle in question. Secrecy, on the other hand, indicates that a credible legitimation strategy is unavailable and behaviour that is outside of the norms in question is best kept hidden. Consequently, secrecy-strategies are temporary and volatile, whereas legitimation lends stability.[93] Whether, legitimation strategies will be accepted by the audience, however, is another matter, that might in turn bring about changes in how the rule-breaker, the norm, or international society as a whole, is conceived and constructed.[94] What

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[89] Hurd, Ian. "Breaking and Making Norms: American Revisionism and Crises of Legitimacy". *International Politics.* 2007. 44. P. 209
[90] Hurd, 2007: 195-210
[91] Hurd, 2007: 206
[92] Hurd, 2007: 204
[93] Hurd, 2007: 195-210
[94] *Ibid.*

this highlights is that "[c]onstructing legitimating narratives is a fundamental part of political behaviour, inherent even in the process of delegitimation"[95]. In this way, legitimation of UN peace operations by reference to the principle of impartiality might alter both the mission in question, the way impartiality is understood and practiced, and the very legitimacy of the UN, depending on whether or not claims to legitimacy are accepted, challenged, or simply ignored.

Furthermore, paying attention to alterations in legitimacy perceptions, be they crises, shifts or changes, might allow UN peace operations (and their mandating bodies) to adapt to changing circumstances, without necessarily betraying their core principles, rather than risk delegitimation.

With the above in mind, it likewise follows that when we consider legitimacy, it is important to consider the perspective. Legitimacy is, after all, in the eye of the beholder, and the beholder is not always the same. A degree of multi-levelled contextual awareness is therefore warranted, for UN peace operations are curious beasts. They are at one time international and local – products of geopolitical calculations inserted into contexts of increasingly local conflict.[96] In this way, UN peace operations have to be viewed as legitimate by a number of various actors, which in turn might open a mission up to such legitimacy crises and drifts, particularly as relates to audience shifts, as a multitude of audiences will most likely be in play.

Considering some of the earliest conceptions of legitimacy, as exemplified by the work of Max Weber, it is perhaps not surprising that there has been a tendency to focus on states, and on the internal workings of states in particular. Consequently, UN legitimacy often considers the relationship between the organization and its member states[97], as well as the legitimacy of its various organs, such as the SC[98], rather than how UN peace operations will be perceived at the local level. The local dimension, then, is not the most frequently explored when talking about the legitimacy of the UN's peace operations, but that does not mean that it has been fully neglected. Jeni Whalan, for example, has dedicated considerable attention to the local angle of UN peace operation legitimacy, arguing that "[…] peace operations work by influencing the behaviour of local actors"[99]. Moreover, considering that the increasingly robust mandates of UN peace operations might impact local perceptions, especially as regards differentiating it

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[95] Hurd, 2007: 210
[96] Whalan, 2013: 6, 22, 26
[97] Whalan, 2013: 22
[98] As seen, for example, in Stephen, 2018
[99] Whalan, 2013: 4

from a conflicting party[100], Whalan's framework for analysing local legitimacy becomes all the more relevant.

In her analysis, Whalan draws our attention to the relational power dynamics of local legitimacy, explaining that while UN peace operations are themselves powerful actors, their need for local cooperation upturn the power relationship.[101] We thus see the traditional linking of legitimacy and power, but in a two-way formulation. In this way, Whalan makes power contingent on behavioural change, stating that "power is not observed if the behaviour of local actors would change regardless of a peace operation's presence"[102]. If we consider Whalan's assessments to be valid, they provide us with an awareness of the how local power-dynamics are not uniform, but rather products of complex relational processes.

Moreover, at both the local and international dimension, contextual awareness is necessary.[103] At both levels, historical experiences, for example, will inevitably play a role in how different target audiences perceive what is legitimate. If we follow on from Whalan's definition of legitimacy as seen above, what is deemed "[…] right, fair, and appropriate […]"[104] will be impacted by past experiences. A history of colonialism, then, can make local populations hesitant to accept a foreign presence, especially if this is funded by or contains a significant number of nationals of the former coloniser. Internationally, we find a similar dynamic, as, for example, evidenced in the work of the Non-Aligned Movement within the UN[105], for just as local communities are shaped by their historical contexts, so, too, are states.

At the international level, the negotiation of legitimacy continues. According to Ian Clark in *Legitimacy in International Society*, "we should acknowledge that international society is constituted by its changing principles of legitimacy"[106], the practice of which "[…] describes the political negotiation amongst the members of international society as they seek out an accommodation between those seemingly absolute values, and attempt to reconcile them with a working consensus to which all can feel bound"[107].

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[100] Hunt, 2017: 114-7
[101] Whalan, 2013: 6
[102] Whalan, 2013: 7
[103] See for example Clark, 2007: 13-14
[104] Whalan, 2013: 7
[105] See for example Rhoads, Emily Paddon. *Taking Sides in Peacekeeping: Impartiality and the Future of the United Nations*. Oxford University Press, 2016. Pp. 94-101
[106] Clark, 2007: 25
[107] Clark, 2007: 30-1

For Clark, the focus of enquiry is upon states, though he admits that other actors have their part to play.[108] Yet, even if we frame the international sphere of legitimacy in statist terms, a few key points, that also make themselves somewhat noticeable in Whalan's local conception, become apparent.

First, legitimacy is highly relational, as legitimacy is, in essence, an expression of a form of relationship. But we must not risk assuming that these relationships are static and straightforward. International and local actors alike *are* human, and humans are capricious and often quite self-interested. This is perhaps why there is so much talk of sticks and carrots when considering how to persuade a given audience – it does simply seem easier to apply to these baser tendencies, that so often lie at the heart of compliance, as Weber also noted.[109] Relationships, therefore, require some level of mutual understanding, which in turn enables a perception of legitimacy.

This brings me to the second point: legitimacy is linked to consensus.[110] After all, when actors consider themselves to be "bound" or pulled towards compliance, it logically follows that there must be some kind of acceptance or buy-in of the authority to which they are submitting. However, in Clark's conception the degree of importance of consensus for legitimacy is dependent on how much the actors involved value consensus as a foundation for legitimacy, and for what reasons.[111] Moreover, this consensus, especially in the international realm, is, according to Clark, "[…] a project of political construction"[112], wherein "[t]he project is to create something that did not hitherto exist, and its basis may be found in other things than truth alone […]"[113], as such "Consensus can be encouraged, and thwarted, by a range of power-political, self-interested, and coercive means"[114]

Still, legitimacy is, thirdly, highly political – "a political space", if we follow Clark.[115] Furthermore, if legitimacy is a product of negotiation and, in its Weberian conceptions, linked to authority of rule, it follows that some level of politicking will be involved.

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[108] Clark, 2007: 247
[109] Weber, 2018: 85
[110] Clark, 2007: 192-207
[111] Clark, 2007: 207
[112] Clark, 2007: 193
[113] *Ibid.*
[114] *Ibid.*
[115] Clark, 2007: 30

Thinking of legitimacy as a political concept further implies, fourthly, that legitimacy is closely linked to power. Overall, the relationship between power and legitimacy seems to flow in both directions.[116] By making the maintenance of power less costly and more stable, legitimacy enhances it[117], however, as "[t]he need for legitimacy arises only in the context of the exercise of relations of power"[118], it is also constrained by it. Furthermore, according to Clark "[p]ower does not directly translate into anything else, except in so far as it is mediated through policy and actions"[119], and, according to Whalan, operates based on a "logic of appropriateness"[120]. Moreover, David Beetham considers this relationship between legitimacy and power in his 1991 book, *The Legitimation of Power*, wherein he describes power in its widest sense as an individual's "[…] ability to produce indented effects upon the world around them, to realise their purposes within it, whatever these purposes happen to be"[121]. Power in this way indicates the capacity to change circumstances and actions and is consequently dependent on the freedom to utilise said power for it to be relevant.[122] Moreover, the role of freedom in relations of power adds a further dimension to how the exercise of power might be understood, in that if the target of it changes its behaviour freely or through inducements, not affecting the overall freedom of the individual, power is not exercised. Rather, for an exercise of power to exist, it must be at the expense of the target's capacity to act autonomously, its freedom[123] – a point which is further noted by Whalan, who writes that "power is not observed if the behaviour of local actors would change regardless of a peace operation's presence"[124]. In the case of peace operation's, however, it is important to again consider the political dimension, which in the case of power relates to the consent of the "[…] membership of the political community"[125], which might only make up a fraction of the community within which the mission operates, but may also be increasingly complex as it might relate to the consent of the host state and disputing parties, as in the traditional conception of UN peace operations, or it might be contingent upon a complex web of political communities and affiliations, depending on the local context.

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[116] Clark, 2007: 5, 21; Whalan, 2013: 51
[117] Clark, 2007: 228
[118] *Ibid.*
[119] Clark, 2007: 231
[120] Whalan, 2013: 59
[121] Beetham, David. *The Legitimation of Power.* Macmillan, 1991. P. 43
[122] *Ibid.*
[123] Beetham, 1991: 44
[124] Whalan, 2013: 7
[125] Beetham, 1991: 60

Furthermore, Beetham distinguishes between the legitimacy of an individual power-holder and that of the power-system more generally. In this view, the legitimacy of the power-holder "[…] is a matter of validity according to the rules"[126], whereas that of the system and the rules "can only be justified by moral considerations that go beyond them"[127]. This indicates that if we consider UN peace operations as power-holders, they must seek their legitimating justification in relation to pre-existing rules and norms, such as those of international law and impartiality, for example. But the system within which they operate must also necessarily be justifiable, in order to be considered legitimate itself, meaning that changing values might change the very rules to which the peace operations apply themselves, possibly negating the validity of, for example, norms such as impartiality.

With this in mind, I should like to clarify my understanding of power for the present purposes, which I build primarily on Whalan's conception of power as

> […] the ability of an actor to influence the behaviour of others to the outcomes it wants through coercion (negative sanctions), inducement (positive incentives), and legitimacy (the perception that an institution is right, fair, and appropriate within a particular normative context)[128]

This means that while legitimacy and power are highly linked, we still cannot forget the 'stick and carrot', as peace operations do indeed have coercive power, depending on their mandates[129], and are, depending on their autonomy[130], able to provide some incentives for cooperation, and if they are not, their policy makers are, regardless of whether these would be underhanded or not (after all, a discussion of power should not really concern itself too much with morals). I do, however, make note of Beetham's observations on the relationship between freedom and power, as well as Whalan's own regarding motivations for behavioural change.

Having thus explored how legitimacy is defined across dimensions, and how it operates in terms of relational power, I should like to consider how it is constructed.

Here I build on Clark's conception of legitimacy as "[…] a composite of, and an accommodation between, a number of other norms"[131], wherein legitimacy is "[…] an

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[126] Beetham, 1991: 57
[127] *Ibid.*
[128] Whalan, 2013: 51
[129] Whalan, 2013 56
[130] See Whalan, 2013: 23
[131] Clark, 2007: 208

aggregate [that] does not enjoy any kind of antagonistic relationship with its individual components"[132].

Rather than being a norm in itself, then, legitimacy is an amalgamation of multiple norms. Here Clark focuses on legality, morality, and constitutionality, where legality relates to legitimacy through conformity to legal prescriptions, morality to deeper moral principles, and constitutionality to mutual political expectations that are not fixed in morals and legalities.[133] As such, the debate surrounding, for example, the NATO intervention in Kosovo, is misguided, according to Clark, in that it equates morality with legitimacy, when it is said that the intervention was "illegal but legitimate".[134] In this way, "Legitimacy does not possess its own separate Richter scale of values against which an action can be judged, but is necessarily parasitic upon the other norms […]"[135]. However, as legitimacy is in effect an accommodation and prioritisation of these norms, it becomes more than the addition of their individual values.[136]

Clark's conception thusly provides us with a way of understanding how legitimacy might be judged, as an awareness of the norms on which societies or even individual actors conceives of it and their shifting interplay, allows for a deeper consideration of which norms are valuable at which time, and consequently whether a principle such as impartiality is imperative in every context.

In summary, my conception of legitimacy builds on an understanding of a concept that is closely linked to relationships of power, but relationships that run both ways, and which are susceptible to changes to which norms are valued and to the demands of varying audiences, meaning also that legitimacy is highly communicative. In this way, the inherent dual local-international nature of UN peace operations creates a complex structure, in which the different target audiences will not necessarily agree on what equates to legitimacy. This tension might be particularly evident in the ways in which impartiality is conceived and how it, as well as if, it links to legitimacy for the various audience groups.

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[132] Clark, 2007: 209
[133] Clark, 2007 210
[134] Clark, 2007: 213-16
[135] Clark, 2007: 220-1
[136] Clark, 2007: 227

Impartiality

The Cambridge English Dictionary defines impartiality as "the fact of not supporting any of the sides involved in an argument"[137]. Notably, this definition seems slightly similar to how neutrality, or being neutral, is defined by this same dictionary, namely as "not saying or doing anything that would encourage or help any of the groups involved in an argument or war"[138]. This highlights the potential for conflation of the two concepts, but it also provides us with a starting point for a deeper exploration of this complex principle.

From a philosophical point of view, we often find that impartiality is tied to ideas about morality and moral behaviour, in that "impartiality has always been looked on as one of the defining characteristics of right actions and morally good persons"[139] and because "[m]orality requires […] that we not play favorites"[140] – that we be impartial. But of course, the impartiality of UN peace operations are not solely expressions of the behaviour of individuals, though individual behaviour may have an impact on how it is practiced and perceived. And, moreover, simply linking impartiality to morality, which is itself subjective and contextual, tells us little about how impartiality 'works', how it is constructed, and how it is perceived. Consequently, we must look at how the concept's definitions morph and evolve at both the policy and local levels, especially as the two dimensions might clash in their understandings and perceptions.

Starting with the earlier conception of impartiality in UN peace operations, we see an understanding of impartiality that rested on treating both sides equally and in accordance with a mandate that was consented to by the conflicting parties.[141] Moreover, a number of procedural conditions, that should help ensure impartiality, were contained in early peacekeeping texts, determining that peacekeepers should be as informed as possible and unbiased in their decision-making and action, they should have freedom of movement within the operational area as defined by the conflicting parties, and be composed with an international character, meaning that they should contain a cross-section of the UN's membership.[142] Additionally, in order to

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[137] Cambridge Dictionary. "Impartiality". *Cambridge Dictionary*. (available at: https://dictionary.cambridge.org/dictionary/english/impartiality)
[138] Cambridge Dictionary. "Neutral". *Cambridge Dictionary*. (available at: https://dictionary.cambridge.org/dictionary/english/neutral)
[139] Musschenga, Albert W. "The Debate on Impartiality: An Introduction". *Ethical Theory and Moral Practice*. 2003. Vol. 8, No. 1/2. P. 1
[140] Becker, Lawrence C. "Impartiality and Ethical Theory". *Ethics*. 1991. Vol. 101, No. 4. P. 698
[141] Whalan, 2013: 75
[142] Rhoads, 2016: 52; *Summary study of the experience derived from the establishment and operation of the Force,* paras. 44, 164

protect missions from bias, no P5 member, conflicting party or other state that might have a particular interest in the situation would be allowed to contribute personnel.[143] In this way, peacekeepers should 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"[144]. How this approach to impartiality played out in practice will be considered in greater detail later, for now it serves to illustrate an understanding of the concept that highlighted political caution. Moreover, then, as today and in accordance with more common conceptions of the principle, impartiality was "[…] widely regarded as reflecting a core commitment to equality"[145].

However, particularly since the 1990s we find an evolution in how impartiality is conceptualized.[146] Following the perceived failures of UN peace operations in the 1990s, we see a shift towards what Emily Paddon Rhoads calls 'assertive impartiality', wherein impartiality is increasingly reframed by reference to certain values, such as human rights.[147] This version of impartiality concerns adhering to human rights and principles, such as the protection of civilians (PoC), and can in some ways be compared to impartiality as practiced by police officers:

> As police forces maintain order in general, peacekeepers now also 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 transformed into claiming authority over parties based on a more expansive background of valuation that concerns itself first and foremost with human rights[148]

Furthermore, this reconceptualization can be tied to what has been dubbed the 'robust turn' in peacekeeping, which encapsulates a more militarized approach, wherein use of force for

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[143] Rhoads, 2016: 52; *Summary study of the experience derived from the establishment and operation of the Force*, para. 44
[144] Dag Hammarskjöld, quoted in Rhoads, 2016: 53
[145] Rhoads, 2016: 30
[146] Hunt, 2017: 110-11; Rhoads, 2016: 57-69
[147] Rhoads, 2016: 48, 56
[148] Rhoads, 2016: 68

purposes other than self-defence figures increasingly in mission mandates.[149] The impact of this on how impartiality is perceived on the ground, as well as its potential effects on legitimacy, will be considered in greater detail in my analysis. For now, however, I should like to highlight that while SC mandates are becoming increasingly proactive in their permission to use force against specific actors, or 'spoilers', this reformulation of impartiality is not without its critics.[150] In this way, "[a]lthough most member states readily use the same vocabulary and largely agree that impartiality must remain a bedrock norm, significant differences and divergent understandings persist over what keeping peace impartially should mean"[151]. The critics of this more robust conceptualization are primarily states from the Global South, including many troop contributing countries (TCCs), where the proponents are to be found more in Western states, and among the P3 (the United Kingdom, the United States, and France) in particular.[152] This once more underscores the importance of contextual awareness in any conceptual exploration, but also serves to highlight the contested nature of the principle, despite most UN members agreeing that it is indeed important.

However, simply because most, if not all, UN members agree on the validity of the principle, different conceptualizations aside, it is not without its critics. Notably, in the 1994 article, *The Delusion of Impartial Intervention*, Richard K. Betts argued that while impartiality makes sense in the original framing of UN peace operations, "[…] it becomes a destructive misconception when carried over to the messier realm of "peace enforcement""[153], asking directly how war can be ended "[…] without taking someone's side"[154]. In this way, impartiality might help maintain a balance of power among combatants, that enables them to keep fighting, effectively working against the peace that is supposed to be kept.[155] As a remedy, Betts proposes an 'imperial impartiality', an impartiality that is "[…] an active, harsh impartiality that overpowers both sides"[156] For this purpose, he reminds that "[m]aking peace means determining how the war ends"[157], that half-measures should be avoided and decisive

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[149] Rhoads, 2016: 69-70; Hunt, 2017: 108-27
[150] Rhoads, 2016: 93-112
[151] Rhoads, 2016: 93
[152] Rhoads, 2016: 94-5, 111-2
[153] Betts, Richard K. "The Delusion of Impartial Intervention". *Foreign Affairs*. 1994. Vol. 73, No.6. P. 20
[154] Betts, 1994: 22
[155] Betts, 1994: 25-8
[156] Betts, 1994: 28
[157] Betts, 1994: 30

action take its place[158], that we should *not* confuse peace with justice[159], that balance should not be confused with peace or justice, as "[p]reventing either side from gaining a military advantage prevents ending the war by military means"[160], and finally that humanitarian intervention should be made militarily rational.[161]

The critique we see in Betts mirrors the criticism of passivity that surrounded the impartiality principle in UN peace operations from the 1990s and onwards.[162] Similarly, the 'imperial impartiality' proposed by Betts, in some ways mirror the 'assertive impartiality' presented by Rhoads, in its emphasis on a more proactive approach. However, where it seems that proponents of 'assertive impartiality' maintain that it is indeed impartial, Betts seems clearer in the stance that it might be necessary to pick a side, rather than risk freezing a conflict and prolonging the bloodbath.[163]

Having thus looked succinctly at the evolution of impartiality conceptions as relates to UN peace operations, I shall consider how impartiality 'works', so to speak.

According to Rhoads, "[i]mpartiality in peacekeeping […] dictates how peacekeepers *ought* to behave, thereby giving rise to social expectations of behaviour"[164]. Moreover, in this conception, impartiality "[…] figures as an attribute of decision-making within a given social context"[165]. Consequently, we need to look at what Rhoads refers to as 'the basis for decision-making' and the 'background valuation' for impartiality.

In this view, when impartiality figures in the basis for decision-making it does so by "[…] prescrib[ing] patterns of behaviour that encompass a feeling of obligation on the part of the actors"[166], which links back to this sense *oughtness* when it comes to the behaviour and expectations of peacekeeping personnel. What this oughtness further highlights is the social, relational, and subjective aspects of impartiality in practice. If impartiality "[…] figures as an attribute of decision-making or action within a given social context"[167], it follows that it is contextual and therefore not constant and intrinsically objective. Rather it operates in the

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[158] Betts, 1994: 31
[159] Betts, 1994: 31-2
[160] Betts, 1994: 32
[161] *Ibid.*
[162] Rhoads, 2016: 68; Weller, Marc. "The Relativity of Humanitarian Neutrality and Impartiality". *Proceedings of the Annual Meeting (American Society of International Law).* 1997. Vol. 91. Pp. 441-3
[163] Betts, 1994: 25-28, 32
[164] Rhoads, 2016: 28
[165] *Ibid.*
[166] Rhoads, 2016: 28
[167] *Ibid.*

interplay of actor interaction, both affecting and being affected by them.[168] However, impartiality by itself is not the sole basis for decision-making, rather this is defined by the mission mandate, which may also evolve over time.[169] This brings in another dimension of relationality, as the mandate will be defined at the policy-level, wherein some local actors will have next to no voice, while others will have more pull, making the subjective aspect of impartiality in peace operations even more complex. Consequently, the legitimacy of impartial actors becomes somewhat contingent on whether or not this basis for decision-making will be acknowledged as legitimate by relevant actors, disputants and otherwise, in the relevant social context.[170]

Additionally, "[i]mpartial judgments rest explicitly on a foundation of values […] the 'background of valuation' [and it] is from this that an impartial actor 'selects what is relevant to judgment'"[171]. This valuation can differ wildly according to context, but it can also evolve as certain values become more *en vogue*, as we have recently seen with the emphasising of human rights and robust approaches, and therefore increasingly woven into mission mandates.[172] Still, this again highlights the different priorities at the local and international levels, as the background valuation, as framed by the mandate (and hence by the international sphere), may not in effect be perceived as impartial or valid on the ground. In the end, it must be acknowledged that "[…] claims to impartiality must be considered as only that – claims"[173], that "impartiality is necessarily and inextricably political"[174], and, finally, that "[t]he legitimacy of impartiality needs to be fought for at all times"[175].

This intrinsic contextual and somewhat relative nature of impartiality might make one question how impartiality can even be promoted, at least in more general terms. From a moral, philosophical point of view, this can be done "by ensuring that people acquire certain dispositions or virtues […] by ensuring that they adopt certain principles or 'action guides' which lead them to act impartially"[176]. In relation to UN peace operations, this means ensuring that peacekeeping personnel on the one hand 'believe' in the virtues and values they are supposed to uphold, and on the other that they adhere to codes of conduct, policy guidelines,

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[168] Rhoads, 2016: 29
[169] Rhoads, 2016: 30
[170] Rhoads, 2016: 35
[171] *Ibid.*
[172] Rhoads, 2016: 35-7
[173] Rhoads, 2016: 5
[174] Rhoads, 2016: 212
[175] Rhoads, 2016: 39
[176] Musschenga, 2003: 1

as well as the mandate. However, we once more see a potential for clash between the local and international level. Policies and outcomes at the international, including the guidelines to which peace personnel is to adhere, are, to a large extent, products of negotiation and compromise. Conversely, the local perception might be less open to compromise, depending on the context and the attitudes of actors. Ensuring that relevant actors share the values of the mandate, then, can be a difficult exercise, especially as mandates increasingly focus less on the principle of consent and more on upholding values that are *claimed* to be universal.[177] However, it is not impossible, and might theoretically be remedied with effective communication and context-relevant rephrasing, as well as a positive track-record that encourages the buy-in of relevant actors, though this, of course, would be a longer term endeavour.

Considering the role of perception in the practice of impartiality, it seems useful to further consider what it *is*, and what it is *not*.

First, impartiality is *not* neutrality, even if these are often used interchangeably.[178] According to Rhoads, "impartiality allows a person to be judgmental so long as their judgment adheres to the values that are generally agreed upon within that particular social context"[179], whereas neutrality "requires withholding judgment"[180] and "[…] refers to the apolitical and non-active character of a person's role […]"[181]. Consequently, an actor who is neutral "[…] refuses to make judgments whereas he who is impartial judges a situation in accordance with pre-established rules"[182].

In the context of peace operations, these pre-established rules will be found in the mandate. However, "[…] those claiming impartial authority [must] be open and willing to re-appraise the basis upon which their decisions are made"[183], meaning that mandates must be reconsidered and revised according to contextual changes, such as political processes at the local level and evolving norms at the international.[184] Impartiality, then, necessitates "[…] an

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[177] Rhoads, 2016: 37
[178] Weller, 1997: 443
[179] Rhoads, 2016: 38
[180] *Ibid.*
[181] *Ibid.*
[182] *Ibid.*
[183] Rhoads, 2016: 39
[184] *Ibid.*

active presence in the world, a determination to represent social reality as faithfully as possible"[185].

A similar distinction is drawn by Marc Weller in *The Relativity of Humanitarian Neutrality and Impartiality*, where neutrality is defined as a 'principle of abstention' and impartiality as a 'principle of action'.[186] In this sense, neutrality dictates that "[a] third party to a conflict must not undertake (or possibly permit) activities that would assist the war effort of either party to a conflict"[187], or, in terms of the laws determining warfare, that "a third party must not engage in activities beyond its obligations in general international law that would hinder the conduct of either belligerent"[188]. Conversely, impartiality dictates that

> [w]hatever humanitarian action is being undertaken […] it must be administered in accordance with an objective standard applied equally to all parties […] this does not mean that all sides must receive the same amount of assistance. Instead, assistance is to be rendered on the basis of the objective criteria of need, without regard to any other consideration.[189]

Whether such an objective standard can truly exist can be discussed at length, but I shall leave that to the moral philosophers of the world. Instead I consider this standard, in reference to UN peace operations, to mean the mandate, as this is the basis on which peace personnel is supposed to operate, regardless of how objective or subjective it is. This, then, corresponds to the conception we find in Rhoads, insofar as impartiality is contingent on operating in accordance with pre-established rules and values when making judgments.

Secondly, as impartiality is so highly contextual and seemingly subjective, I should like to draw attention to Rhoads conception of impartiality as a composite norm. According to Rhoads, this conception "[…] reveals how actors may resist particular elements of a norm and/or advance their own interpretations of these elements, shaped by both ideational and material considerations, and how, during institutionalization and implementation, certain interpretations […] may be privileged"[190]. In this way, we can seek to capture the ways different perceptions can shape impartiality and put it under strain when the local and

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[185] *Ibid.*
[186] Weller, 1997: 443
[187] *Ibid.*
[188] *Ibid.*
[189] *Ibid.*
[190] Rhoads, 2016: 10-1

international levels clash. Moreover, Rhoads argues that "[…] the contestability of norms like impartiality does not invalidate, or even necessarily weaken them. Rather, it brings them, vitally, into the real and present-day world"[191], meaning that we need not necessarily claim impartiality as out-dated and useless, simply because disagreement about its content exists. It also means that impartiality cannot be reduced to any one individual actor, nor is it absolute.[192] But this has the further implication that there is room for adaptation, something that might prove exceedingly useful as on-the-ground-realities clash with political compromises and humanitarian idealism.

Thirdly, the different perceptions at the two levels, also necessitate that we consider the impartiality of the mandate vis-à-vis the impartiality of its implementation. Here I turn to Jane Boulden who argues that "[…] the impartiality of a UN mandate needs to be considered separately from the impartiality of the implementation of that mandate [as s]uch a separation reveals that maintaining an overall framework of impartiality in UN operations is critically dependent on the nature of the mandate"[193]. As such, determining impartiality "[…] depends on whether impartiality exists both within the mandate and at the operational level"[194]. For the mandate to be impartial in the purest sense, it must be framed in a way that does not hinder or enable any conflicting party.[195] Moreover, according to Boulden, "a strictly humanitarian mandate might qualify as impartial in certain situations"[196], meaning that the more robust or assertive approach that has recently developed, could be termed impartial at the policy level insofar as its basis can be considered humanitarian and necessary. Next comes the implementation process, which is "[…] a direct product of the nature of the mandate"[197], but should still be considered separately.[198] In this way, impartiality can be undermined in the implementation process by, for example, actions that favour one side[199], whether intentionally or not, or by involving actors, such as regional organizations, that might not always be interested in acting impartially.[200] In terms of modern peace operations this qualification can

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[191] Rhoads, 2016: 11
[192] Rhoads, 2016: 28
[193] Boulden, Jane. "Mandates Matter: An Exploration of Impartiality in United Nations Operations". *Global Governance*. 2005. Vol. 11, No. 2. P. 147
[194] Boulden, 2005: 150
[195] Boulden, 2005: 150-1
[196] Boulden, 2005: 151
[197] Boulden, 2005: 153
[198] *Ibid.*
[199] *Ibid.*
[200] Boulden, 2005: 154

complicate their claims to impartiality, for even if we can permit mandate impartiality based on adherence to certain values or humanitarian goals, this does not necessarily mean that we can take seriously claims to impartiality where the partnerships with certain local actors, while others are to be fought, are concerned.

In summary, my conception of impartiality builds on the framework presented by Rhoads, in that it considers the contextual, social, and subjective nature of impartiality, understanding it as a norm or principle that is up for negotiation, rather than constant. Moreover, I follow both Rhoads and Boulden in their multi-levelled approach, as this enables a deeper consideration of how claims to impartiality are negotiated, perceived, and interpreted at both the local and international levels. Finally, while I operate with a distinction between neutrality and impartiality, I am aware that there is a likelihood of overlap and conflation from the point of view of the actors involved and will therefore be paying attention to interpretations of the two terms.

Having thus considered the theoretical framework underpinning my analysis, I move onto an examination of my methodological choices, where I shall first explain the my philosophy, or, more precisely, the philosophy behind my method, after which I shall elaborate on my data collection process and the choices I have made along the way.

Methodology

Most, if not all, those who undertake to study a given subject seek to 'say something about something'. However, the degree to which the researcher presents what is said as absolute fact varies across something of a continuum, depending on discipline and philosophy. In this way, researchers' approaches can be said to differ at a fundamental level, pertaining to the ways in which they view the world and the nature of truth.

At the one end of the spectrum, then, we find positivist approaches, as are often associated with the natural sciences, and founded on an inductive type of reasoning, which focuses on generalisation based on patterns found in data[201]. Positivism developed during the nineteenth century, as the academic disciplines saw an increasing professionalisation and in this trend particularly the natural sciences enjoyed immense respect.[202] At the core of positivism lies a

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[201] Ryan, Gemma. "Introduction to positivism, interpretivism and critical theory". *Nurse Researcher*. 2018. 25 (4). P. 43

[202] Floto, Inga. *Historie: en videnskabshistorisk undersøgelse*. Museum Tusculanums Forlag, 2007. Pp. 27-8

belief that science is 'neutral'[203], "[…] that there are facts that can be proven, reality is the same for each person […] and observation and measurement tell us what that reality is"[204]. In this way, "positivists believe that the researcher and the world are separate, with the world existing regardless of the researcher's presence"[205]. Consequently, the methods most commonly associated with positivist approaches are quantitative, that aim to prove or disprove falsifiable facts.[206]

At the other end of the spectrum we find interpretivist approaches, that are based on a deductive reasoning, which is focused on making "[…] predictions based on the theory, and then use observation or experiment to test it"[207]. Interpretivism, then, is in opposition to positivism[208] and

> […] argues that truth and knowledge are subjective, as well as culturally and historically situated, based on people's experiences and their understanding of them. Researchers can never be completely separate from their own values and beliefs, so these will inevitably inform the way in which they collect, interpret and analyse data.[209]

Interpretivism, then, is highly contextual. In this approach, contrary to positivism, there is no separate, objective truth to be discovered. Rather, "objective and subjective meanings are deeply intertwined"[210] and "[s]ince human beings are 'meaningful' actors, scholars must aim at discovering the meanings that motivate their actions rather than relying on universal laws external to the actors"[211]. In this way, it is necessary to consider how actors perceive the world around them, what motivates them, and what their contextual basis is. Moreover, because human beings are individuals, with their own motivations and thought patterns, generalisation, as seen in positivism, is impossible.[212]

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[203] Floto, 2007: 28
[204] Ryan, 2018: 44
[205] Ryan, 2018: 47
[206] Bevir, Mark & R. A. W. Rhodes. "Interpretive Political Science". In: Bevir, Mark & R. A. W. Rhodes (eds.). *Routledge Handbook of Interpretive Political Science*. 2015. P. 4; Porta, Donatella della & Michael Keating. "How many approaches in the social sciences? An epistemological introduction". In: Porta, Donatella della & Michael Keating (eds.). *Approaches and Methodologies in the Social Sciences: A Pluralist Perspective.* Cambridge University Press, 2008. Pp. 26, 29
[207] Ryan, 2018: 43
[208] Ryan, 2018: 48
[209] *Ibid.*
[210] Porta & Keating, 2005: 24
[211] *Ibid.*
[212] Porta & Keating, 2005: 24-5

The purpose of the above introduction has been to elucidate the foundation for the approach taken in the current project, as well as to clarify why that choice, and the consequent dejection of the alternative, has been made. As might be inferred from the previous sections, my approach is essentially interpretivist in nature. I have chosen this approach as my project concerns the interpretation of ideas in different contexts, and the ways in which these might clash. Moreover, the data I make use of is qualitative in nature and it is therefore less suited to make bold, sweeping generalisations, nor do I wish to make such. Rather, what I seek to discover is whether there are contexts where impartiality is not necessary to establish legitimacy, or even if there are cases where it is counterproductive.

To this end, I make use of the following two explanatory concepts within interpretivism. First, I adhere to the view that "[h]uman action is historically contingent"[213] and contextual. I therefore follow the historicist line that "[…] beliefs, actions, and events are profoundly contingent because choice is open and indeterminate"[214], and believe that it is necessary to grasp the contextuality of human nature, through understanding and (attempts at) explanation.[215]

Second, following on from the interpretive, historicist approach, I consider that "[…] narratives explain beliefs and actions by pointing to historical causes"[216]. In this way, as "[n]arratives work by relating actions to the beliefs and desires that produce them and by situating these beliefs and desires in particular historical contexts"[217], I consider attention to narratives as important in order to grasp the ways in which impartiality is framed and understood at the different levels, and the way in which these stories might clash, for the stories we tell ourselves, say a lot about us.

Moreover, pragmatist interpretivism, which is "[…] about trying to understand how people (and social scientists) draw inferences in specific social contexts about the kind of situations they are in and about the intentions and motivations of others"[218], pays attention to how "[…] language and discourse shape meaning"[219]. Consequently, pragmatist interpretivism

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[213] Bevir & Rhodes, 2015: 16
[214] *Ibid.*
[215] *Ibid.*
[216] Bevir & Rhodes, 2015: 17
[217] *Ibid.*
[218] Ansell, Chris. "Pragmatist Interpretivism". In: In: Bevir, Mark & R. A. W. Rhodes (eds.). *Routledge Handbook of Interpretive Political Science*. 2015. P. 86
[219] *Ibid.*

emphasises communication and dialogue in its understanding.[220] In this way, "[m]eaning emerges and develops through a recursive dialogic process. But communication is also a challenge due to the plurality of social perspectives"[221]. Considering this, I build on a pragmatist interpretivist approach, in examining how impartiality is negotiated and understood, especially as "action is itself understood to be a central form of communication"[222], meaning that communication is more than what is spoken or written and that human action is symbolic and indicative, and humans in turn use these signs to draw inferences and conclusions from the perceived messages.[223]

Finally, I should like to briefly consider the realist approach, and explain where my study might overlap with this approach, but also how it differs. Realism, as a scientific philosophy, deeply considers power, and most often military power.[224] Though the actual definition of power within realist theory needs further elaboration[225], it is clear that there is some potential for overlap as concerns debates about the robust turn in UN peace operations and potential alternative legitimacy strategies. In this way, the study undertaken here certainly considers power relationships. However, while power plays a part in this project, realism seems to somewhat reject the relational aspect of it, instead focusing more on a zero-sum, military power approach.[226] Instead, I argue that the relational and social aspects are important, at both levels: at the local, where we see the possible tensions between local actors and UN peace personnel, or what might be perceived as a foreign, occupying force; and at the international where we see power dynamics play out in the negotiations and debates seen in policymaking and the interplay of different factions within the UN. Still, I do not reject a view of power that involves military capabilities, in addition to attention to relationality, as perceptions of these invariably seem to play a part in how UN peace operations are met and perceived, especially as debates surrounding the robust turn continue.

In the above, I have attempted to explain the basis on which I 'view the world' and consequently the foundation for my chosen methods. Having adopted an interpretivist approach, I build on historicist and pragmatist interpretivist considerations of contextuality and

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[220] *Ibid.*
[221] *Ibid.*
[222] Ansell, 2015: 89
[223] Ansell, 2015: 87-8
[224] Baldwin, David A. "Realism". In: Baldwin, David A. *Power and International Relations: A Conceptual Approach*. Princeton University Press, 2016. P. 125
[225] *Ibid.*
[226] Baldwin, 2016: 131-8

communication, to understand how impartiality is framed and understood, in order to understand its essentiality or lack thereof.

On this basis, I shall now present my chosen sources and explain the rationale behind my selection process, before presenting my methods and considering some possible limitations to my choices.

Data collection

As my study is multi-levelled, I make use of both primary and secondary sources that pertain to the different levels. At the international, UN level, therefore, I consider the output of the organization, meaning SC and GA resolutions, official reports, and guideline documents, including reports considering the earliest and more recent approaches to peacekeeping, as exemplified in, for example, *The Brahimi Report* and the *Capstone Doctrine*. These have been chosen as official document output illustrates the 'end-result' of negotiation and the 'official line'. Moreover, as the SC consists of only fifteen member states, whereas the GA is a forum for the whole of the UN, it is useful to consider the reception and debates concerning impartiality in both settings, so as to gauge the degree of consensus that might or might not exist, as well as what narratives are constructed.

Locally, I make use of semi-structured interviews with former UN peace personnel, so as to gain an insight into the experiences with impartiality vis-à-vis legitimacy on the ground and to further consider whether impartiality 'works'. Additionally, I make use of news articles, in order to understand how certain events are presented and perceived outside of the UN sphere, and to explore what impact they have on the perception of UN peace operations. As these may also contain interviews with civilian locals, they can provide us with a much-desired civilian perspective, that contributes to a more rounded exploration. Moreover, as peace operations are somewhat contingent on being perceived as legitimate by local civilians, in order to gain compliance, paying attention to their experiences and points of view, seems highly relevant.

Finally, I build upon existing research to ground my findings in a broader web of scholarship, interested in the efficacy of UN peace operations. Doing this allows me to critically utilise the work of scholars who have already greatly contributed to the study of UN peace operations, and who might have had greater access to arenas in which I cannot tread, and therefore are able to elucidate areas of my study that would otherwise remain obscure.

To summarize, then, I build my research upon a mix of primary and secondary sources, as well as on existing research. I have chosen this combination to be able to elucidate and assess the necessity of impartiality for legitimacy in a multi-levelled, rounded way, while remaining aware of the inherent contextuality of human perception.

Data analysis

In order to answer whether or not UN peace operations *need* impartiality to be considered legitimate, I first look at how impartiality has historically been used, how it is currently used, what disagreements exist around its conceptualizations, and how all of this relates to legitimacy conceptions. I do this to get an understanding of what the 'current state of affairs' is and how it has come about, so as to better consider whether impartiality is *always* necessary for the legitimacy claims of UN peace operations to be successful.

Next, I discuss the implication of changes to the nature of conflict for the continued practice of peace operations, as well as how the UN came to shift its 'standards' for what conflicts merited peace operation deployment. I further consider a few alternative legitimation strategies, to consider whether these provide better avenues for legitimacy than the principle of impartiality. The purpose for doing this is to examine the strength of arguments for and against impartiality respectively, which in turn sheds light on the strength of impartiality projections in legitimacy claims.

As my study pertains to the validity of a core principle of UN peace operations, I should like to briefly observe an issue that might seem relevant but that I will not be touching upon, namely UN reform. UN reform, and in particular reform of the SC, is a topic that is much debated.[227] However, while UN reform is a very relevant and, indeed, interesting area of discussion, it is beyond the scope of the present study. It is so because my examination considers the status of impartiality under the *present* framework. How impartiality is negotiated in, for example, the SC, is what it is – so to speak – and while reform might theoretically serve to increase the efficacy of both the SC, the UN, and its peace operations, *possible* reform is not a basis on

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[227] See for example: International Coalition for the Responsibility to Protect. "A "Responsibility Not to Veto"? The S5, the Security Council, and Mass Atrocities". *International Coalition for the Responsibility to Protect*. 18 May 2012 (available at https://icrtopblog.org/2012/05/18/a-responsibility-not-to-veto-the-s5-the-security-council-and-mass-atrocities/); Nadin, Peter. "Vision 2020: A Discussion of UN Security Council Reform". *Our World*. 23 August 2014 (available at www.ourworld.unu.edu/en/vision-2020-a-discussion-of-un-security-council-reform); Tharoor, Ishaan. "The U.N. veto is a problem that won't go away". *The Washington Post*. 2 October 2015 (available at www.washingtonpost.com/news/worldviews/wp/2015/10/02/the-u-n-veto-is-a-problem-that-wont-go-away/?utm_term=.bc9dd1cf9144)

which I can seek to elucidate whether or not impartiality 'works' currently, doing so would be mere conjecture about a state of affairs that might not, and very possibly will not, come to be. It is therefore not within the scope of this study to consider whether or not the UN should be reformed, nor what this would mean for its claims to legitimacy.

Having thus presented my 'plan of attack', I would like to expound upon some of my chosen methods. First, I make use of textual analysis, wherein text is understood in a broad way that includes both written and spoken communication[228], in order to examine the political discourse that takes place in relation to UN peace operations. In this way, I consider how arguments are constructed and framed, and how they are criticised. In doing so, I focus on political discourse as "[…] a form of action"[229], wherein actors frame, interpret, and problematize certain issues, and in doing so essentially construct the issue at hand, meaning that these issues might be viewed differently by different actors[230], as seems to be the case with discourse surrounding impartiality and, in particularly, the robust turn. Criticism of such problematized arguments can thus be framed either as criticism of the conclusion(s) reached, as criticism of the argument's validity, or as criticism of the acceptability of its premise(s).[231] Textual analysis, then, enables a greater understanding of the debates surrounding legitimacy and impartiality, as well as alternative legitimacy strategies.

Second, I make use of historical methods, as contextual interpretation "[…] has always constituted a key element of the historical discipline, where the inquirer needs to accord meaning to actions and occurrences on a strongly individual and contextualized basis"[232]. It is on this basis that I have critically considered the applicability of my sources, as well as their potential biases and limitations. Moreover, historical methods allow for discernment of tendencies and recurring patterns, while still remaining aware of the subjective and contextual nature of human beings.[233] In this way, historical methods provide us with "[…] a controlled way of preparing sources in a way as to unpack meanings, beliefs, and preferences of actors in

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[228] Fairclough, Norman & Isabella Fairclough. "Textual Analysis". In: Bevir, Mark & R. A. W. Rhodes (eds.). *Routledge Handbook of Interpretive Political Science*. 2015. P. 186
[229] Fairclough & Fairclough, 2015: 189
[230] Fairclough & Fairclough, 2015: 191
[231] Fairclough & Fairclough, 2015: 192
[232] Sager, Fritz & Christian Rosser. "Historical Methods". In: Bevir, Mark & R. A. W. Rhodes (eds.). *Routledge Handbook of Interpretive Political Science*. 2015. P. 199
[233] Sager & Rosser, 2015: 208

order to make sense of actions, practices, and institutions"[234], which is highly relevant when considering a multi-levelled, historical process involving multiple contested concepts.

Limitations

One of the primary limitations to the use of any source is bias. Bias is in many ways part of being human, as will also be considered further in my analysis, and it is therefore always possible to question the motivation, and consequently the validity, of a source. In relation to news articles, for example, it is necessary to pay attention to the motivations of the authors, speakers, and interviewees, and to critically assess what they are saying. However, bias is not a detrimental limitation. Rather, paying attention to biases enables us to consider the ways in which different arguments and strategies are enabled, how they gain compliance and why they fail.

Similarly, the output of the UN is the result of anything from bargaining and compromising to steamrolling. In this way, a certain stance might gain predominance due to the status of the expounder, or the ability of said expounder to negotiate and his willingness to compromise. Relying solely on the official output of the UN, therefore, risks undermining alternative viewpoints and consequently makes it impossible to answer any question that seeks to examine tension and contextuality. Moreover, as it is usually the result of compromising or for reasons of political sensitivity, UN output, and reports in particular, will often be vague in its definitions. This means that it might in effect tell us very little concrete about the area of study. However, the output of the UN represents the official stance of the organization and it is therefore important to consider. Regardless of how it came about, it is the stance projected. Therefore, the political bargaining that takes place behind the scenes, do not undermine the usability of the official output. Rather, this compromising and attention to political sensitivities reveal the inter-organizationally contested and sensitive nature of certain issues, such as how impartiality is conceptualized.

Finally, due to my interpretivist approach, the study is highly contextual. Here some may say that relativist and contextual approaches fail to tell us anything concrete about the world, as generalisations cannot easily be made on a relativist basis. However, in the present case, we do not necessarily need to consider whether *all* peace operations can do without impartiality, but rather whether it is possible for *some* to successfully utilise different legitimacy strategies, that

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[234] *Ibid.*

are better suited to the context(s) at hand. What I advocate is not sweeping generalisations, it is contextual awareness in planning and conducting peace operations, in order to enable them to carry out the work they are sent to do.

Impartiality in practice

The story of UN peace operations is not short, nor is it necessarily particularly long. What it is, is certainly not uncomplicated or static, but rather a constant exercise of acting and reacting, learning from experiences, and attempting to adapt those experiences into lessons for future missions. In this way, UN peace operations are often divided into generations, each with its own notable characteristics.[235]

First-generation peace operations, also labelled traditional peace operations, are typified by the core principles of impartiality, consent, and the non-use of force, except in self-defence.[236] A classic example of this type of operations is UNEF, wherein the UN sent forces to first "[…] secure and supervise the cease-fire and the withdrawal of armed forces from the Egyptian territory, and later to maintain peaceful conditions in the area by its deployment along the Egyptian-Israel armistice demarcation line […]"[237]. Moreover, it was highlighted that the intention was not to influence the military and political balance in the conflict.[238] First generation operations, then, were 'overseers' and international in character, relating to "[…] armed conflict among States"[239].

Over time, however, peace operations became more multidimensional and ambitious, and so second-generation operations developed. These operations involved "[…] the implementation of complex, multidimensional peace agreements designed to build the foundations of self-sustaining peace […]"[240]. In this way, they went beyond "[…] military and humanitarian operations to bringing about national reconciliation and re-establishing effective government"[241]. However, second-generation operations have something of a mixed success-rate and ultimately the failures of the UNOSOM in Somalia, UNAMIR in Rwanda and

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[235] Gray, 2018: 624-6; Doyle & Sambanis. 2007: 498-506

[236] Gray, 2018: 624; Doyle & Sambanis, 2007: 498-500

[237] *Summary study of the experience derived from the establishment and operation of the Force: report of the Secretary-General,* para. 10

[238] *Summary study of the experience derived from the establishment and operation of the Force,* para. 12

[239] *Summary study of the experience derived from the establishment and operation of the Force*, para. 14

[240] Doyle & Sambanis, 2007: 502

[241] Gray, 2018: 624-5

UNPROFOR in Yugoslavia would eventually birth the third generation of UN peace operations.[242]

Responding to criticisms of passivity and indifference levelled at the organization after the disasters of the 1990s, UN peace operations became increasingly robust and were now tasked more with peace-enforcement, than traditional peacekeeping.[243] Moreover, the prohibition on the use of force, except in self-defence, has been increasingly expanded to include PoC and defence of the mandate. Similarly, impartiality has come to be considered in an assertive way and the centrality of consent been drastically diminished.[244]

What role impartiality plays in this evolution of approaches, that I have briefly sketched out above, and how it has been received at the local level is something that needs to be considered, before diving into the role (or necessity) of impartiality for the legitimacy of modern UN peace operations.

International impartiality

In this section, I consider what can essentially be called the 'logic' behind the role of impartiality in peace operation policies and how this has been developed, negotiated, and perceived at the UN (i.e. the international) level, before viewing how these played out or clashed at the local level, in order to understand how and why impartiality came to matter in the way it did and what consequences differences in perceptions might have had.

Early impartiality policies

To understand how impartiality has come to be what it is claimed, at the UN level, to be today, we must go back to the beginning, for impartiality is indeed enshrined in the very core of the UN, the Charter. The Charter, after all, rests on a foundation equal rights[245] and the equal status of its member states.[246] This, combined with the state-centred model of the UN, can then provide a clue as to how impartiality came to be so central in relation to the organization's peace operations.

As the earliest peace operations were *inter*-state affairs, that relied on the consent of the parties involved, and as the UN is reliant on its member states to, well, exist, it is not surprising that

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[242] Gray, 2018: 625-6
[243] Gray, 2018: 626; Doyle & Sambanis, 2007: 503; Hunt, 2017: 110
[244] Doyle & Sambanis, 2007: 497-505
[245] *Charter of the United Nations*, art. 1, para. 2
[246] *Charter of the United Nations*, art. 2, para. 1

consent, and consequently the ability for peace operations to be deployed, became contingent on equal, impartial treatment of the disputants, both for the attainment of consent and for their perceived legitimacy.[247]

However, to understand how impartiality came to be one of *the* core principles of UN peace operations, we must consider the work of the second UN Secretary-General, Dag Hammarskjöld.

Born in Sweden in 1905, Hammarskjöld came from a family of civil servants and was thus "[…] groomed in a typical Swedish civil service tradition where the concepts of « duty » and « responsibility » reflected time-honored values"[248], which was reflected in his approach to both the UN and international law. The UN, Hammarskjöld thought, had a duty to respond to demands put to it[249], and for this to be done, he was not above getting creative. In this way, he employed a flexible approach, that placed its emphasis more on the purposes of the UN, than on any written definitions, and it is this innovative approach that allowed him to become the father of UN peace operations, though it might also have been the end of him.[250]

Responding to the evolving Suez crises in 1956, Hammarskjöld and Canadian Foreign Minister Lester Pearson, utilized the GA's *Uniting for Peace* resolution of 1950 to call for an Emergency Session, wherein the "[…] option of a UN mandated military peace operation in the conflict area, with the consent of all parties"[251], was introduced and approved.[252] UNEF was thus established through the GA, though the responsibility for peace operations would be taken over by the SC, where it remains to this day.[253]

In the *Summary study of the experience derived from the establishment and operation of the Force*, Hammarskjöld later reflected on the track record of his experiment. He acknowledged that the conditions that had faced UNEF were contextual, and that it could not "[…] reasonably be expected that they would often be duplicated elsewhere"[254]. Consequently, in each new conflict situation in which the United Nations might be called upon to intervene with military

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[247] Doyle & Sambanis, 2007: 499

[248] Bring, Ove. "Dag Hammarskjöld's approach to the United Nations and international law". *Estudios Internacionales*. 2011. Year 44, No. 170. P. 160

[249] Bring, 2011: 167

[250] Bring, 2011: 159, 161-3; see for example Williams, Susan. *Who Killed Hammarskjöld? – The UN, the Cold War and White Supremacy in Africa*. Oxford University Press, 2012.

[251] Bring, 2011: 163

[252] *Ibid.*

[253] United Nations. "Role of the Security Council". *United Nations Peacekeeping* (available at: https://peacekeeping.un.org/en/role-of-security-council)

[254] *Summary study of the experience derived from the establishment and operation of the Force*, para. 151

personnel, the nature of the actual operation required and its paramilitary aspects would be determined by the particular needs of the situation and could not, therefore, be anticipated in advance.[255] However, he still offered a set of "[…] basic principles and rules which would provide an adaptable framework for later operations that might be found necessary"[256], namely consent of the parties involved; the consent and involvement of the host in deciding force composition; immunity from the criminal jurisdiction of the host state for peace operations personnel; and the right to use force only in self-defence.[257] He further noted, that "[…] a wide interpretation of the right of self-defence might well blur the distinction between operations of the character discussed in [the] report and combat operations"[258], an opinion which seems much changed lately.

Moreover, UNEF had, he noted, been given a clear-cut mandate, that "[…] entirely detached it from involvement in any internal or local problems, and […] enabled it to maintain its neutrality in relation to international political issues"[259].

In this way, then, UNEF reflected the statist nature of the Charter, saw consent as an imperative and viewed impartiality in the traditional sense, where it implies an approach of not taking sides and treating the parties equally.[260] Thus, impartiality as employed by UNEF seems designed to attain the consent, perceived legitimacy, and goodwill of the conflicting parties and host state(s), more than it was designed for any legitimacy claims among the local populations, though this is perhaps not so odd considering, again, the state-centric foundation of early UN peace operations.

Nevertheless, it is worth reflecting on another operation of Hammarskjöld's, that more closely resembles modern peace operations: The United Nations Operation in the Congo (ONUC).

In the Congo, peace personnel would find themselves hard-pressed to contain the violent situation and would face accusation of complicity and of partiality, all of which seemingly remains true to this day[261], as will be considered later. The mission itself "[…] resulted from

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[255] *Ibid.*
[256] *Summary study of the experience derived from the establishment and operation of the Force*, para. 154
[257] *Summary study of the experience derived from the establishment and operation of the Force*, para. 155-81
[258] *Summary study of the experience derived from the establishment and operation of the Force*, para. 179
[259] *Summary study of the experience derived from the establishment and operation of the Force*, para. 149
[260] Doyle & Sambanis, 2007: 499-501
[261] Hintjes, Helen & Serena Cruz. "Continuities of Violence in the Congo: the Legacies of Hammarskjöld and Lumumba". In: C. Stahn & H. Melber (Eds.). *Peace Diplomacy, Global Justice and International Agency: Rethinking Human Security and Ethics in the Spirit of Dag Hammarskjöld*. Cambridge University Press, 2016. P. 218

one of history's least successful cases of decolonisation"[262], wherein Belgian (colonial) interests clashed with the election of nationalistic Patrice Lumumba as prime minister, with a military mutiny, civil unrest and intervention by Belgian paratroopers starting to snowball beyond the control of local authorities only five days after independence.[263] Moreover, the mineral-rich province of Katanga, responsible for half the country's revenues, seceded barely a week after the first unrest had broken out, and this with further Belgian involvement.[264] Subsequently, on 12 July 1960, the Congolese government requested UN assistance[265] and declared that "[…] Belgium had committed aggression against the Congo"[266], leading Hammarskjöld to call together the SC for discussions on the crisis.[267] The peace operation that was subsequently authorised, was with reference to 'military assistance', however, it soon fell prey to Cold War politics, as the US sought to exert its influence over it and Eastern European countries were excluded.[268]

Still, at the end of July 1960, "the Belgian troops had withdrawn from most areas of the Congo and had been replaced by ONUC forces"[269], except, that is, in Katanga, "where the Belgian forces resisted withdrawal and the UN hesitated to enter"[270]. This led to a further SC resolution, granting authority to send ONUC into Katanga with the purpose of removing the Belgian troops. However, it was highlighted that ONUC would not be a party to or used to influence the outcome of any internal conflicts persisting in the country.[271] In this way, "Hammarskjöld's declared belief was that the UN in Congo was there to protect democracy in general, and not the Congolese government"[272].

Though this seems to mirror the impartiality-approach traditionally taken by the UN, Lumumba was not happy. Nor does it seem that Hammarskjöld was a particular admirer of Lumumba, apparently believing that the authority of the UN to decide its mandate was being threatened by Lumumba's insistence.[273] Either way, letters were exchanged between Lumumba and

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[262] Gibbs, David N. "The United Nations, International Peacekeeping and the Question of 'Impartiality':
Revisiting the Congo Operation of 1960". *The Journal of Modern African Studies*. 2000. Vol. 38, No. 3. P. 362
[263] Gibbs, 2000: 362-3
[264] Gibbs, 2000: 363
[265] *Ibid.*
[266] *Ibid.*
[267] *Ibid.*
[268] Gibbs, 2000: 364
[269] Gibbs, 2000: 366
[270] *Ibid.*
[271] *Ibid.*
[272] Hintjes & Cruz, 2016: 223
[273] *Ibid.*

Hammarskjöld, wherein the former asked for military assistance and the latter refused, eventually leading Lumumba to seek help from the Soviet Union, further increasing Cold War tensions.[274]

However, the UN did end up intervening militarily in some ways, and in ways that followed the American line at that. For by supporting Colonel Joseph-Desiré Mobutu, as the UN ended up doing, the organization paralleled policies pursued by the US government. In this way, both the UN and the US ended up funding the Congolese military, increasing Mobutu's political influence.[275] As for Lumumba, though he was certainly not without supporters or zeal, he ended up meeting a brutal end, that has been linked to CIA involvement, once again illustrating the geopolitical chess game, and resulting partiality, that took place in the country at the time.[276]

In the case of ONUC, then, we find a situation wherein there effectively was no peace to keep, where political neutrality was complicated by Cold War power struggles, and where UN principles seemed incompatible with the requests of local leadership. Considering US involvement in the very composition ONUC, it seems unlikely that the mission can be called impartial, thereby raising questions about its actual legitimacy. Moreover, the hesitancy with which the UN dealt with the Belgian presence and the ways in which national vs. international conflict was defined, presents further questions. However, it might be that without UN involvement, superpower intervention had been more forceful.[277] Still, even if the logic of impartiality, as seen in UNEF, was applied to ONUC, the two do not share the same point of reference. Rather, it seems that what faced ONUC – an *intra*-state situation of unrest, albeit with very strong international elements – more closely resembles the situations faced by later peace operations, wherein impartiality and legitimacy is complicated by the conflicting demands and views of the parties involved. Much criticism can probably be laid at the door of the Secretariat for how the Congo crisis was handled and impartiality affected, however, it should be noted that "[t]he concept of impartiality […] is rendered problematic at the outset, since even Hammarskjöld recognized that great powers would play a disproportionate role in framing peacekeeping operations"[278].

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[274] Gibbs, 2000: 367-9
[275] Gibbs, 2000: 375-6
[276] Hintjes & Cruz, 2016: 231
[277] Gibbs, 2000: 377
[278] Gibbs, 2000: 360

In this way, it can once again be questioned why the UN effectively clings to impartiality, if it can appear this unattainable and problematic. Yet, the UN did not do away with impartiality in its policy-planning and, as we shall see, this has over time led to criticisms and forced introspection and reconceptualization.

The 1990s: inaction and reaction

One of these periods of immense criticism came during the 1990s, where the UN became embroiled in a series of humanitarian and geopolitical quagmires, in which the organization seemingly could do nothing right.

The first in this series of calamities was the involvement of the UN in Somalia, wherein peace personnel found themselves sucked into a civil war. There to monitor a ceasefire[279] and to support and facilitate the efforts of humanitarian operations[280], but with no sovereign government to consent[281], the mission quickly ran into legitimacy problems. And these problems only escalated following the killing of twenty-four personnel members in June of 1993, and culminated in October, with the infamous 'Black Hawk Down' incident, in which three US Black Hawk helicopters were shot down, and the bodies of dead US personnel was dragged through the streets of Mogadishu, leading the US to take a more cautious approach to peace operations in the near future.[282]

The lessons learned in Somalia would be carried over into Rwanda, where particularly Western governments were fearful of seeing a repeat of the Somalia-situation, leading to an apparent unwillingness to take action when genocide eventually unfolded in April 1994, leaving roughly eleven percent of the country's total population slaughtered.[283] That this could happen, despite the UN having been actively involved in the country since 1993, including a UN force from October[284], speaks volumes to how traumatised states were following Somalia but it also raises well-known questions about troop compositions and capacities.

Initially, UNAMIR was deployed for a period of six months[285] and was mandated to contribute to the security in Kigali, monitor observance of the Arusha Peace Agreement, monitor the

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[279] United Nations Security Council Resolution 751. S/RES/751 (1992). 24 April 1992. Para. 3
[280] United Nations Security Council Resolution 767. S/RES/767 (1992). 24 July 1992. Para. 2
[281] Rhoads, 2016: 60
[282] Rhoads, 2016: 62-4; Best et al., 2018: 549
[283] Rhoads, 2016: 63; Best et al., 2018: 461, 550
[284] United Nations. "Rwanda – UNAMIR Background". *United Nations Peacekeeping*. (available at: https://peacekeeping.un.org/en/mission/past/unamirS.htm)
[285] United Nations Security Council Resolution 872. S/RES/872 (1993). 5 October 1993. Para. 2

security situation during the final stages of the transitional government and leading up to elections, assist with mine clearance, investigate alleged non-compliance, monitor repatriation of Rwandese refugees, assist with coordination of humanitarian assistance, as well as investigate and report incidents regarding the gendarmerie and police.[286] The mandate, then, was ambitious, and, in theory, the mission was authorised to deal with the coming genocide.[287] However, only 2,548 troops were initially authorised and it took five months to reach that number.[288] Moreover, in April 1994, the SC adjusted the mission mandate, authorising the mission to act as an intermediary between the parties, to assist with resumption of humanitarian relief, and to monitor and report on further developments.[289] Yet, at the same time as the mandate was adjusted and in the wake of genocide, the SC reduced the mission's strength to 270. This, however, would later be raised to 5,500. Though it would again prove difficult to find sufficient troops.[290] Consequently, even if there had been political will to throw the UN fully into Rwanda, issues of troop supplies, added to the mounting obstacles[291] – and the composition of troops that could be found, impacted local perceptions of impartiality and legitimacy, as will be shown later.

Finally, alongside side the events of Somalia and Rwanda, was the rapid disintegration of what had been Yugoslavia. Ethnic divisions in Yugoslavia had been deepening since before the death of Tito in 1980, but in the early 1990s they came to a head and the country violently broke apart along largely ethnic lines, with war breaking out in 1991. However, the crises was at first contained through international pressure, leading to a ceasefire and the deployment of UN forces in early 1992.[292] Yet, the ceasefire proved untenable and the parties unwilling to compromise and submit. Meanwhile, Bosnia-Herzegovina descended into ethnic war, almost immediately following its declaration of independence, where the Bosnian Serbs seized most of Bosnia's territory, proclaiming a Serbian Republic. This led the Bosnian Croats to seize roughly half of what remained and proclaim a Croat Community, leaving the rest of the territory to the Muslim population. What followed was a campaign of ethnic cleansing, primarily conducted by the Serbs, leading to the death, detainment and displacement of thousands of

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[286] UN Security Council Resolution 872, para. 3
[287] Gray, 2018: 626
[288] United Nations. "Rwanda – UNAMIR Background". *United Nations Peacekeeping*. (available at: https://peacekeeping.un.org/en/mission/past/unamirS.htm)
[289] United Nations Security Council resolution 912. S/RES/912 (1994). 21 April 1994. Para. 8
[290] United Nations. "Rwanda – UNAMIR Background". *United Nations Peacekeeping*. (available at: https://peacekeeping.un.org/en/mission/past/unamirS.htm)
[291] Gray, 2018: 626; Rhoads, 2016: 61-2
[292] Best et al., 2018: 550

Muslims.[293] This forced the UN to act and in February 1992 UNPROFOR was established and deployed through SC Resolution 743, albeit as "[…] an *interim* arrangement to create the conditions of peace and security required for the negotiation of an overall settlement of the Yugoslav crisis"[294]. Consequently, UNPROFOR was from the outset ambitious, considering the situation in the Former Yugoslavia. Furthermore, the mission was, through successive resolutions, authorised to carry out a large variation of tasks – some of which appeared contradictory – in the organization's attempts to be both involved *and* impartial.[295]

From a policy-making standpoint the UN's approach to Yugoslavia has been much criticized, with some, such as Betts, arguing that "the West's attempt at limited but impartial involvement abetted slow-motion savagery. The effort wound up doing things that helped one side, and counterbalancing them by actions that helped the other"[296]. Similarly, Weller argues that, in Yugoslavia, "the United Nations simply accepted the unacceptable claims of one party as to what it regarded as unneutral or partial, turning that party's subjective views into apparent legal restraints on UNPROFOR"[297], meaning that policy-making and planning became the playthings of the disputing parties, who did not seem interested in laying down their arms anytime soon, and in the end the UN did indeed prove incapable of bringing the conflict to an end. Instead, it took the horrors of Srebrenica to motivate the US and NATO to step in and put an end to the killings.[298]

While what happened in Bosnia has become particularly symbolic of UN failures, events there where not isolated, nor the most grievous. Some argue that they even paled in comparison with the Rwandan genocide.[299] Still, the individual tragedies do not diminish by comparison and, particularly, Rwanda and the Former Yugoslavia brought with them significant criticisms of and questions regarding UN peace operations and their ability to protect civilians.[300]

Regardless of whether or not these missions failed due to lack of political buy-in or because there simply was no peace to keep – or both – the catastrophes unleashed upon humanity through the perceived failures in Somalia, Rwanda and Yugoslavia, forced the UN to reassess

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[293] Best et al., 2018: 550; Rhoads, 2016: 60
[294] United Nations Security Council Resolution 743. S/RES/743 (1992). 21 February 1992. Para. 5 (emphasis added)
[295] Rhoads, 2016: 63
[296] Betts, 1994: 24
[297] Weller, 1997: 443
[298] Best et al., 2018: 595; Rhoads, 2016: 63
[299] Best et al., 2018: 596
[300] *Ibid.*; Rhoads, 2016: 60

its approach to peace operations, leading to the landmark *Report of the Panel on United Nations Peace Operations*, also known as 'the Brahimi Report', in 2000.[301]

The Brahimi Report and beyond

The Brahimi Report was an attempt to respond to the experiences of the 1990s, with the Panel behind it being charged by the UN[302] to carry out "[…] the first comprehensive review of peacekeeping since its inception"[303]. The result was a series of recommendations, in particular as related to an increased robustness of peace operations and a reconfiguration of the meaning of impartiality.[304]

Impartiality, according to *The Brahimi Report*, meant adherence "[…] to the principles of the Charter and to the objectives of a mandate that is rooted in those Charter principles"[305], which "[…] is not the same as neutrality or equal treatment of all parties in all cases for all time"[306]. We thus see a concrete reinterpretation of the principle of impartiality, and one that mirrors the assertive approach. This is perhaps somewhat logical considering the context of the report and the reasoning behind establishing the Panel in the first place. And it logically follows that the more robust approach to peace operations would be advocated for in *The Brahimi Report*[307], as such an understanding of impartiality allows the UN to treat people based on how their actions correspond to the principles of the Charter and the mandate, rather than the more traditional approach of simply treating them equally at all times. It is nevertheless important to note that while the Panel advocated a robust approach, in accordance with the bedrock principles of consent, impartiality, and non-use of force except in self-defence[308], it stressed that the UN "[…] does not wage war"[309]. Consequently, enforcement action should not be the remit of peace operations, but rather of member states, as authorised by the SC.

This approach to robustness and impartiality, was later paralleled in the 2008 *United Nations Peacekeeping Operations*, also known as the *Capstone Doctrine*, where once again, the basic principles of UN peace operations were confirmed as consent, impartiality, and the non-use of

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[301] Rhoads, 2016: 65; Gray, 2018: 626
[302] Gray, 2018: 626
[303] *Ibid.*
[304] United Nations General Assembly & United Nations Security Council. *Report of the Panel on United Nations Peace Operations ('the Brahimi Report')*. A/55/305, S/200/809. 21 August 2000. Paras. 49-53
[305] *The Brahimi Report*, 2000: para. 50
[306] *Ibid.*
[307] *The Brahimi Report*, 2000: para. 49
[308] *The Brahimi Report*, 2000: para. 48
[309] *The Brahimi Report*, 2000: para. 53

force except in self-defence (which now also included defence of the mandate).[310] Here it was again stressed that "robust peacekeeping should not be confused with peace enforcement […]"[311] and that "[t]he ultimate aim of the use of force is to influence and deter spoilers working against the peace process or seeking to harm civilians; and not to seek their military defeat"[312]. However, even if the aim of the use of force is not military defeat of spoilers, the distinction made by the *Capstone Doctrine* between 'main parties' and 'spoilers' is noteworthy, considering the stressed importance of impartiality. Here 'main parties' are those that consent to the operation[313] and "Spoilers are individuals or parties who believe that the peace process threatens their power and interests, and will therefore work to undermine it"[314], which could possibly be interpreted as anyone who views the mission as illegitimate. While this definition renders spoilers difficult to work with and action against them (possibly) justifiably impartial, if we follow the definition of impartiality as laid out in *The Brahimi Report*, it is important to remember how changes in audience and local context might impact the perceived impartiality and legitimacy of the mission, as will be considered later. Thus, even though an actor or group of actors might be viewed as spoilers at the international level, there is a chance that they are perceived differently by the local population. Distinguishing sharply between main parties and spoilers at the policy level, then, may impact local impartiality and legitimacy perceptions negatively. However, as the *Capstone Doctrine* makes clear that "[i]mpartiality is crucial to maintaining the consent and cooperation of the main parties"[315], it seems possible to argue that there is an inherent bias at work at the policy level, even if impartiality "[…] should not be confused with neutrality or inactivity"[316]. Still, if "a peacekeeping operation must scrupulously avoid activities that compromise its image of impartiality", this differentiation of actors may prove hard to translate into practice, especially if we consider that some so-called rebel groups or spoilers may have sprung up out of a local need for protection among the population.

In a similar vein, the 2015 Report of the High-Level Independent Panel on United Nations Peace Operations, *Uniting Our Strengths for Peace*, stated that "the impartiality of the UN missions should be judged by its determination to respond evenhandedly to actions of different

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[310] United Nations Department of Peacekeeping Operations & Department of Field Support. *United Nations Peacekeeping Operations (Capstone Doctrine)*. 2008. Section 3.1, p. 31-5
[311] *Capstone Doctrine*, 2008: 34
[312] *Capstone Doctrine*, 2008: 35
[313] *Capstone Doctrine*, 2008: 31-2
[314] *Capstone Doctrine*, 2008: 42
[315] *Capstone Doctrine*, 2008: 33
[316] *Ibid.*

parties based not on who acted but by the nature of their actions"[317], though what qualifies as a party can of course still be debated, in particular vis-à-vis 'rebel groups'. Again, however, we see a reiteration of the importance of the core principles of UN peace operations and a conception of impartiality that follows on from *The Brahimi Report.*[318] Yet, we also see an acknowledgement that the image of the UN as impartial has been severely damaged in some areas, and that work must therefore be done to restore said image[319], again highlighting the importance ascribed to the principle of impartiality at the policy level.

Still, even though report after report seemingly reiterates this newer conception of impartiality, it does not necessarily follow that there is agreement among UN member states. Rather, it seems, it is the opposite, for while most, if not all, member states seem to agree that impartiality *is* a bedrock of peace operations, they do not agree on how it should be understood.[320] Consequently, it is in order to foster consensus, according to Rhoads, that "[t]he conception of impartiality as assertive was left purposefully vague and ambiguous"[321]. Still, critics of this more assertive impartiality raise a number of objections.

First, divisions of labour and power differentials means that the ones who make the mandate, are not the ones contributing troops. It is, after all, the SC that creates the mandates and has driven much of the reconceptualization process. Moreover, TCCs increasingly hail from the Global South, while Western deployment is increasingly reduced.[322]

Secondly, there is fear that a more assertive approach encroaches on the principles of sovereignty and self-determination, meaning that robust peace operations risk enabling abuses of power[323] and "[…] imposes a particular normative order reminiscent of the 'standard of civilization' to which many in the global South were subject under colonial and international administration […]"[324]. Moreover, some argue that the inherently political nature of violence is obscured[325], with the fear being "[…] that the purposes which peacekeepers are now expected to serve, such as civilian protection, are conceived of as apolitical, as *impartial*, and may be pursued at the expense of meaningful political engagement to address the root causes of

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[317] *Uniting Our Strengths for Peace – Politics, Partnership and People*. Report of the High-Level Independent Panel on United Nations Peace Operations. 16 June 2015. P. 32
[318] *Uniting Our Strengths for Peace*, 2015: P. x, para. 123
[319] *Uniting Our Strengths for Peace*, 2015: para. 36
[320] Rhoads, 2016: 93
[321] Rhoads, 2016: 96
[322] Rhoads, 2016: 97-9
[323] Rhoads, 2016: 101
[324] *Ibid.*
[325] Rhoads, 2016: 103

conflict"[326]. Especially PoC has gradually become almost an additional core principle, as exemplified in SC Resolution 1856, relating to the mandate of MONUC in the DRC, that gave the protection of civilians the highest priority[327], and in Resolution 1894, *Protection of civilians of armed conflict*, that reaffirms SC practice "[…] of ensuring that mandates of UN peacekeeping and other relevant mandates include […] provisions regarding the protection of civilians […]"[328]. This attention to PoC might put personnel in a complex situation on the ground, both as relates to capabilities, aims and expectations, and does, arguably, risk impacting local perceptions of impartiality where the lines between civilian and combatant might be blurred.

The DRC and assertive impartiality

Despite the contestations of the critics, the reconceptualization of impartiality has become manifest in practice, and especially in the context of operations in the DRC, where debates about its validity and duplicity become highly relevant.

To understand the UN's more recent involvement in the DRC, however, it is necessary to briefly return to Rwanda, for it was during the Rwandan genocide that millions of Hutus took refuge in what was then known as Zaire, once the Tutsi Rwandan Patriotic Front put an end to the slaughter. Moreover, in the refugee camps there was a significant militarized presence, that further exacerbated existing tensions. In this way, the militarized camps along the border played a part in triggering the First Congo War. Moreover, Rwanda and Uganda jointly played their part in ousting Mobutu, leading to the installation of Laurent Kabila as president and bringing about the new Democratic Republic of the Congo. However, Kabila soon expelled all Rwandans from the country, leading the Rwandan army to re-enter the DRC, allying with local forces. This in turn brought Angola and Zimbabwe into the conflict on the side of Kabila, leading to further escalation, drawing in a total of ten African states to differing degrees. When Kabila was assassinated in 2001, his son, Joseph Kabila, took over from his father. However, at this point the war was winding down, ending in 2003, though it is important to note that this seems to be more due to the fact that no side seemed able to clench the victory, rather than any decisive acts or gestures from any side.[329] Though the war only ended in 2003, an attempt at

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[326] *Ibid.*
[327] United Nations Security Council Resolution 1856. S/RES/1856 (2008). 22 December 2008. Para. 3
[328] United Nations Security Council Resolution 1894. *Protection of civilians in armed conflict.* S/RES/1894 (2009). 11 November 2009. Para. 19
[329] Rhoads, 2016: 122-5

peace had been made in 1999 with the Lusaka Ceasefire Agreement, which called for a UN force to oversee its implementation[330], and thus the UN once again entered the territory, this time as MONUC.

MONUC was established by SC Resolution 1258, which authorised "[…] the deployment of up to 90 United Nations military personnel […]"[331], in order to prepare for the larger mission requested by the ceasefire agreement.[332] This was later followed by Resolution 1291, which increased the size of the mission to 5,537 military personnel, including 500 observers[333] and authorised it, under Chapter VII of the Charter, to "[…] take the necessary action, in the areas of deployment, to protect United Nations […] personnel, facilities, installations and equipment, ensure the security and freedom of movement of its personnel, and protect civilians under imminent threat of physical violence"[334].

While MONUC was thus established and deployed, it did not take long before the situation in the DRC once again devolved and the mission became the subject of much hostility from the side of the signatories, who had mainly signed under international pressure anyway and held anti-UN sentiment related to its history in the region. Consequently, from the point of view of the signatories the impartiality and legitimacy of the UN, and therefore also of MONUC, was damaged from the outset. Moreover, Laurent Kabila had been a staunch supporter of Lumumba, whose blood the hands of the organization were not exactly clean of, leading to strong hostility from the country's president. This complexity was further compounded by the other, Rwandan-backed, parties' distrust and dislike of the UN over its handling of the Rwandan genocide and subsequent militarized camps in Zaire.[335] In this way, the UN was forced to face its failures in the DRC, both historic and more recent, and these would continue to frame the way policy was made.

Rwanda, in particular, continued to dominate the way policy was formulated and dictated some of the division over strategy in a SC where Anglophone Western states grappled with remorse and France with lost legitimacy, seeking to find it anew in the DRC. These divisions made it impossible to adopt a common approach and unappealing for member states to commit the

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[330] Rhoads, 2016: 126
[331] United Nations Security Council Resolution 1258. S/RES/1258 (1999). 6 August 1999. Para. 8
[332] *Ibid.*
[333] United Nations Security Council Resolution 1291. S/RES/1291 (2000). 24 February 2000. Para. 4
[334] Resolution 1291, para. 8
[335] Rhoads, 2016: 126-8

resources and personnel necessary for a robust role.[336] The turning point came, tragically familiarly, with a massacre, where, despite their Chapter VII authorization and assertive mandate, MONUC stood by as roughly 180 people were killed and women rounded up and raped in the city Kisangani. Once again, it seemed, the UN had stood idly by while tragedy unfolded. Yet the Kisangani massacre would, if nothing else, galvanize action and decrease tension in the SC, as well as leading to the reaffirmation of PoC in every subsequent related resolution.[337]

Among the resolutions that followed was Resolution 1565, which incorporated PoC into the mandate of MONUC[338] and further mandated the mission to support the Government of National Unity and Transition.[339] Six months later came Resolution 1592, that stressed MONUC's authorization "[…] to use all necessary means […] to deter any attempt at the use of force to threaten the political process and to ensure the protection of civilians under imminent threat of physical violence, from any group, foreign or Congolese"[340]. Additionally, Resolution 1592 welcomed "[…] the African Union's support to further peace in the eastern part of the Democratic Republic of the Congo"[341] and called on it "[…] to work closely with MONUC in defining its role in the region"[342]. This involvement of the African Union seems on the one hand useful for fostering greater regional cooperation and coherence, though on the other, such regional involvement, regardless of politically expedience and practicality where troop contributions are hard to come by, risks undermining perceptions of impartiality and legitimacy locally, through a mixture of history and individual interests. Still, the impact on impartiality-perceptions through the inclusion of other regional actors, pales in comparison to that which might stem from the close cooperation of the UN with the government of the DRC and its armed forces, the FARDC.

With the first democratic elections since 1960s and the swearing in of Joseph Kabila as president in 2006, the UN reviewed the role of MONUC, focusing it on support of the government, so as to consolidate democracy and extend state authority, as well as on the protection of civilians, with a robust mandate to match. These priorities, however, came into tension with each other, especially as Kabila started consolidating power and crushing any

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[336] Rhoads, 2016: 128-9
[337] Rhoads, 2016: 128-31
[338] United Nations Security Council Resolution 1565. S/RES/1565 (2004). 1 October 2004. Para. 4(b)
[339] Resolution 1565, para. 5
[340] United Nations Security Council Resolution 1592. S/RES/1592 (2005). 30 March 2005. Para. 7
[341] Resolution 1592, preamble, p.1
[342] *Ibid.*

opposition, leading the power dynamics in the country to closely resemble those of the war. Moreover, as the FARDC was a corrupt and weak institution, with its own predatory nature, increased hostilities led to mobilization of armed groups, driven by insecurity and a desire for communities to protect themselves.[343]

It is perhaps not surprising, then, that the alliance of MONUC, and later MONUSCO, with the government and the FARDC has raised serious questions about the impartiality and legitimacy of the UN mission in the DRC, especially as the UN was not unaware of allegations against the FARDC.[344] Still, attempts seem to have been made to maintain impartiality at the policy level, in accordance with the assertive understanding of the principle and despite the official relationship between the two entities. This, for example, is indicated in SC Resolution 1856, which mandated MONUC to use force in the protection of civilians against *any* party, which might constitute an imminent, violent threat.[345] However, this same resolution still stressed and reiterated the support of and cooperation with the Congolese government and the FARDC.[346] Furthermore, this cooperative relationship was reaffirmed in Resolution 1906, though with the notable caveat of stressing "[…] that the support of MONUC to FARDC-led military operations against foreign and Congolese armed groups *is strictly conditioned* on FARDC's compliance with international humanitarian, human rights and refugee law and on effective joint planning of these operations"[347].

Though such conditionalities express, at least, an attempt at impartiality based on Charter principles and mandate, as first defined by *The Brahimi Report*, they did not prevent the UN from allying more intensely with the government of the DRC, as was the case in May 2011, when stabilization was emphasised, the mission renamed MONUSCO (to highlight just that), and the UN aligned "[…] even more closely, compromisingly, and invidiously with the Congolese state"[348]. Still, the watershed moment was yet to come and, arguably, did so with Resolution 2098, that raised real questions about the role of the UN in the DRC and whether it had, indeed, become a party to the protracted conflict.

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[343] Rhoads, 2016: 139-42
[344] See for example Resolution 2098, preamble, p.3 & para. 22
[345] United Nations Security Council Resolution 1856. S/RES/1856 (2008). 22 December 2008. Para. 3(a)
[346] Resolution 1856, preamble, p.3, paras. 3(g) & 14
[347] United Nations Security Council Resolution 1906. S/RES/1906 (2009). 23 December 2009. Para. 22 (emphasis added)
[348] Rhoads, 2016: 151

Adopted in March 2013, Resolution 2098 is notable mainly through its authorization of the so-called FIB[349], which would in effect be the teeth of the operation. Beyond the by now standard prioritization of PoC, the FIB was further authorised to neutralize armed groups[350],

> In support of the authorities of the DRC […] either unilaterally or jointly with the FARDC, in a robust, highly mobile and versatile manner and in strict compliance with international law […] to prevent the expansion of all armed groups, *neutralize* these groups, and to disarm them in order to contribute to the objective of reducing the threat posed by armed groups on state authority […][351]

Moreover, although the FARDC was censured for certain human rights violations[352], Resolution 2098 arguably reads as a taking of sides, as *multiple* armed groups are named, condemned, and targeted by the resolution in stronger terms.[353] While such a targeting of groups in violation of international humanitarian and human rights law is legitimate, assuming we ascribe to the assertive conception of impartiality, the close cooperation with the FARDC, in spite of the UN's knowledge of, if nothing else, allegations of gross violations committed by these forces[354], does not reflect well on the status of impartiality in MONUSCO policy-making. Furthermore, the authorization to use force and the very purpose of the FIB, has led to arguments that the UN has become a party to the conflict.[355]

Still, it is important to note that the election 2006 that resulted in the coming to power of Joseph Kabila, was indeed democratic, and considering exactly those principles of self-determination critics of assertive impartiality fear will be encroached upon, the Kabila government was, at least in 2006, *democratically* elected and chosen by the people of the DRC.[356] In this way, the government becomes a legitimate partner for the UN, and in this same vein it can be argued that rebels trying to oust, by force, a democratically elected and internationally recognized leader are themselves illegitimate for denying the will of the people. Nevertheless, the democratic veneer did since go off[357], leaving glaring questions about the legitimacy of the Kabila regime. Still, the DRC did see a peaceful transition of power, albeit following somewhat

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[349] Resolution 2098, para. 9
[350] Resolution 2098, para. 12(a) & (b)
[351] Resolution 2098, para. 12(b) (emphasis added)
[352] Resolution 2098, preamble, p.3 & para. 22
[353] Resolution 2098, preamble, paras. 7 & 8
[354] Resolution 2098, preamble, p.3 & para. 22
[355] Rhoads, 2016: 188; Hunt, 2017: 112-3, 117
[356] Rhoads, 2016: 139
[357] Rhoads, 2016: 140, 183-6

contested election results, in early 2019, with the swearing in of President Felix Tshisekedi[358], though only time will tell how the country will develop under his leadership. Regardless, what seems evident in the case of the UN in the DRC is the desire, or indeed the *need*, for success to make up for deadlock and failure elsewhere[359], which might in turn have made the organization compromise the very impartiality it holds so dear, risking delegitimization and forcing us to wonder about the viability of the principle in the modern context.

What I have attempted to demonstrate in this section is how the international 'policy' practice of impartiality has evolved as the UN has gotten involved in a variety of conflicts and crises, with varied results. While it would seem that the approach to peace operations has changed much since they first came about with UNEF and its clear and defined duties, it seems important to highlight that ONUC was another of these early operations, but it was far from simple and its shadow seems to stretch even into our present day – ONUC, MONUC, MONUSCO, a rose by any other name, would smell as sweet – making it relevant to consider how UN policy affects and is affected at the local level, whether claims to impartiality are taken seriously, and what it means for the legitimacy of operations when they are not.

Local impartiality

In this section, I consider how the policies described above 'worked' in practice, and how these impacted perceptions of both impartiality and legitimacy. I also explore some other variables that might have influenced the legitimacy of the UN and its operations, as well as perceptions of the principle of impartiality.

Early UN peace operations: international but local

While early, or traditional, UN peace operations dealt primarily with inter-state conflicts, wherein the parties were states and the focus therefore statist, some attention was paid to the relationship between the mission and the local population. For example, in his *Summary study*, Hammarskjöld described relations as generally good, but made note of one incident in March 1957.[360] Moreover, he remarked upon the sensitive situation in the Gaza Strip and highlighted the necessity for personnel to respect and behave in compliance with local custom.[361]

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[358] BBC. "Felix Tshisekedi steps out of his father's shadow to lead DR Congo". *BBC*. 24 January 2019 (available at: https://www.bbc.com/news/world-africa-46507814)
[359] Rhoads, 2016: 155
[360] *Summary study of the experience derived from the establishment and operation of the Force*, para. 99
[361] *Ibid.*

Additionally, according to the Secretary-General, "a tradition of goodwill and co-operation ha[d] been built up, to the advantage of both parties"[362], along the international frontier.[363]

Still, it is of course important to remember that UNEF was a monitoring operation and consequently had a more limited impact on the local population compared to some modern operations, where forceful mandates, a prioritisation of PoC and perhaps a sprinkling of scandal leads to deeper entanglements with the local population. Therefore, the scope of the mission was in some ways also much more limited and, it can be argued, so was its ability to 'fail' to the degree seen in the 1990s.

The 1990s in practice

Whereas UNEF had been sent to monitor a seemingly clear ceasefire agreement to which the parties where committed, this was not the case when UNOSOM first deployed to Somalia. Here there was no sovereign state government to offer its consent, but rather warring factions that would offer only momentary acquiescence.[364] Moreover, the mission's impartiality was called into question from the outset due to past and perceived biases of the then Secretary-General, Boutros-Ghali, who had had close relations with former the former Somali president, who was in turn the enemy of one of the main faction leaders, with whom the UN now had to have direct relations.[365]

Consequently, the UN's presence was on shaky ground and belligerents had little respect for its blue helmets[366], meaning that "when peacekeepers arrived in Mogadishu in 1992, they found they were not wanted"[367]. This in turn led to a tense relationship between UN personnel and the local population, as one former UNOSOM personnel member told me. Describing the situation in Somalia as "mysterious", he recounted how, despite being there to see to humanitarian needs, the mission was constantly being attacked by local tribes, making it hard to tell civilians and combatants apart.[368] "Those that we were supposed to help, we did not like,

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[362] *Ibid.*
[363] *Ibid.*
[364] Rhoads, 2016: 60
[365] Rhoads, 2016: 61
[366] BBC. "UN peacekeeping record". *BBC*. 23 August 2000 (available at: http://news.bbc.co.uk/2/hi/americas/892592.stm)
[367] *Ibid.*
[368] Anonymous Interview A, conducted 4 May 2020 (Interviewee A served with the UN in Somalia, Yugoslavia, and Iraq, gaining first-hand experiences of impartiality in practice and the obstacles faced by UN peace operations in these complex contexts; Interviewee A moreover worked with multiple NGOs in the former Yugoslavia, allowing them to compare the differing approaches to impartiality and neutrality)

we were a bit scared of them"[369], he related, highlighting the complex situation in which UN personnel found themselves in Somalia. And it did not take long before all illusion of impartiality burst, when, in June 1993, twenty-four personnel members were killed. The SC subsequently authorised the mission to, essentially, retaliate and even went so far as naming the guilty party. This in turn radically altered both the mission and how it was perceived locally, leading to an escalation in confrontations which culminated in the shooting-down of three US Black Hawk Helicopters and dead personnel members being dragged through the streets of Mogadishu.[370] What followed seems to have been the disillusionment of even the most ardent idealist in the mission[371] and all local perceptions of impartiality and legitimacy appeared lost.[372]

As was the case in Somalia, in Rwanda, too, it seems that the impartiality of the mission was questioned from the start. However, in this case it was less due to any one high-ranking individual, such as the Secretary-General, but rather an evolution in policy that brought with it unintended, though probably somewhat foreseeable, consequences. Unlike early peace operations, such as UNEF, the attention paid to troop composition had changed. No longer were severe restrictions placed on who could contribute troops, rather the assumption now was that most soldiers could serve impartially and be accepted as such.[373] This, of course, ignored the very real role of history in shaping local perceptions and experiences, as well as personnel's ability to act impartially within these contexts. It is therefore perhaps not surprising that violent protest erupted when forces from Belgium, the former colonial overlord of Rwanda, sent forces to join UNAMIR in 1994.[374] Once again, then, it appears that the UN deployed troops into conditions where their claims to both impartiality and legitimacy were already severely hampered.

Still, what most severely damaged the standing of the UN in Rwanda was arguably its response to the genocide in April 1994. At the time of the genocide there was a *small* UN force present in the country, but it is unlikely that it would have been able to deal with the bloodshed,

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[369] *Ibid.*
[370] Rhoads, 2016: 62
[371] Anonymous Interview A
[372] Rhoads, 2016: 62
[373] *Summary study of the experience derived from the establishment and operation of the Force*, para. 44; Rhoads, 2016: 61
[374] Rhoads, 2016: 61

especially as events in Somalia had led to fear among TCCs, leading many to withdraw their troops, further weakening the force.[375]

In Rwanda, then, it does not seem that it was necessarily impartiality, or lack thereof, that crippled the mission and its legitimacy, beyond that mistaken assumption that history does not matter. Rather, the biggest culprit seems to have been resource-scarcity, mixed with a lack of capabilities and TCC fears. This was something with which the UN was forced to reckon in the years following the killings, where Rwanda demanded a public apology for the negligence of the UN, following an investigation that labelled the organization as, essentially, an accomplice to the massacres through its inaction.[376] Furthermore, as shown above, the fallout from Rwanda to some extent continues to plague the organization, and has since shaped impartiality-perceptions in other contexts, meaning that even if impartiality was not at the heart of the troubles in Rwanda, the tragedy has become part of how the impartiality of the UN is perceived in other theatres.

Conversely, in the former Yugoslavia, impartiality seemingly became almost like a weapon in its own right, as belligerents manipulated the UN's need to be perceived as impartially legitimate.[377] At the same time, the UN's doctrinal adherence to principles of neutrality and impartiality became downright passivity, albeit enforced from the policy level, in many cases, such as, in August 1995, when UNPROFOR troops were forced to watch as disabled civilians were executed in a school in Dvor, Croatia.[378]

The school had become a place of refuge for civilians fleeing the fighting. However, as belligerents were closing in, those who could had moved on, leaving behind those that could not vulnerable and defenceless. "From their observation post, just 35 metres away, the peacekeepers had an unobstructed view of the main hall, where they saw some soldiers enter, leading elderly and disabled people with their hands behind their heads"[379], before eventually

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[375] BBC. "UN peacekeeping record". *BBC*. 23 August 2000 (available at: http://news.bbc.co.uk/2/hi/americas/892592.stm)

[376] Danmarks Radio. "Rwanda vil have en undskyldning af FN". *Danmarks Radio*. 17 December 1999 (available at: https://www.dr.dk/nyheder/udland/rwanda-vil-have-undskyldning-af-fn)

[377] Weller, 1997: 443; Rosenblum, Mort. "U.N. Probably Can't Make 'Safe Havens' Safe, Officers Say With PM-Yugoslavia". *Associated Press*. 2 June 1993 (available at: https://apnews.com/8813bfb311df4356b016c10e30dc01d7)

[378] Larsen, Georg & Kasper Vedsmand. "When the UN watched a massacre unfold in Croatia". *Al Jazeera*. 29 May 2016 (available at: https://www.aljazeera.com/indepth/features/2016/05/watched-massacre-unfold-croatia-XXXXXX-XXXX29629.html; Danmarks Radio. "Danske FN-Soldater stoppede ikke massakre på handicappede". *Danmarks Radio*. 24 April 2011 (available at: https://www.dr.dk/nyheder/indland/danske-fn-soldater-stoppede-ikke-massakre-paa-handicappede)

[379] *Ibid.*

executing nine people, in clear view of UN troops, such as Jan Wellendorf Pedersen.[380] Pedersen, among others of his fellow soldiers, has since reflected on the inactivity of the unit, expressing frustration at the lack of permission to fire, to do something.[381] Similarly, unit commander Jørgen Kold eventually returned to Dvor, hoping to find out who had been responsible for the killings of which both Serbian and Croatian forces denied responsibility. Here he met Ljubica Janjanin, who, as a nurse, had helped evacuate patients to the school in the first place, and related: "We looked at you and expected you to come to us. But no one came. […] We looked so much at your soldiers that it was impossible for you not to see us"[382], while remembering UN personnel turning away, negating the civilian's previous experience of UN always taking care of them.[383] Yet, the unit had not been allowed to leave the camp, let alone interfere – despite later reconstructions proving that they could have taken action in a number of ways – even after observations of soldiers approaching the school had been relayed to command.[384] In this way, the mandate obstructed tangible action, with Kold thinking that "[…] the people who defined it never accounted for "how to help those around us""[385] and others again feeling that the UN effectively "[…] allowed murder to be committed without doing anything"[386].

Still, the school in Dvor is but one example of how civilians have come to feel failed by the UN and its "broken promises of protection"[387], and while it is easy and arguably justified for many to feel outraged by these failures, we must not forget that the mandate shaped how personnel was able to act, and it in turn was shaped by political bargaining and apparent manipulation. Thus in an attempt to appear as impartial as ever, the mission was restrained, yet still expected to carry out an ambitious mandate, as described above, leading observers to

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[380] Larsen, Georg & Kasper Vedsmand. "When the UN watched a massacre unfold in Croatia". *Al Jazeera*. 29 May 2016 (available at: https://www.aljazeera.com/indepth/features/2016/05/watched-massacre-unfold-croatia-XXXXXX-XXXX29629.html

[381] *Ibid.*

[382] *Ibid.*

[383] *Ibid.*

[384] Larsen, Georg & Kasper Vedsmand. "When the UN watched a massacre unfold in Croatia". *Al Jazeera*. 29 May 2016 (available at: https://www.aljazeera.com/indepth/features/2016/05/watched-massacre-unfold-croatia-XXXXXX-XXXX29629); Danmarks Radio. "Danske FN-Soldater stoppede ikke massakre på handicappede". *Danmarks Radio*. 24 April 2011 (available at: https://www.dr.dk/nyheder/indland/danske-fn-soldater-stoppede-ikke-massakre-paa-handicappede)

[385] Larsen, Georg & Kasper Vedsmand. "When the UN watched a massacre unfold in Croatia". *Al Jazeera*. 29 May 2016 (available at: https://www.aljazeera.com/indepth/features/2016/05/watched-massacre-unfold-croatia-XXXXXX-XXXX29629.html

[386] *Ibid.*

[387] BIRN. "'Pillar of Shame' for the UN's Srebrenica Role". *Balkan Insight*. 14 May 2010 (available at: https://balkaninsight.com/2010/05/14/pillar-of-shame-for-the-un-s-srebrenica-role/); BBC. "UN peacekeeping record". *BBC*. 23 August 2000 (available at: http://news.bbc.co.uk/2/hi/americas/892592.stm)

question the UN's ability to protect civilians already in 1993.[388] In this way, through uneven troop quality and sub-par coordination, combined with contempt from the side of belligerents and instances of corruption, tainting the mission's legitimacy among local civilians, the restraints that already existed from the political level were compounded and, particularly, Muslim leaders seemed to have lost faith in the UN and its ability to help their population[389], thereby further undermining the local legitimacy of the mission.

Furthermore, according to one interviewee, it was at times difficult for personnel to tell who were the 'good' and who were the 'bad', describing impartiality as simple – "until the shooting started"[390]. Another former UNPROFOR member also elaborated on the challenges faced by the mission through corruption, troop contributions and political chess games, relaying a story of Ukrainian forces selling fuel to locals on the black market, describing it as "technically impartial, but profiting of and abusing the system, thereby sending wrong signals in relation to the mandated mission"[391]. He further recounted how some TCCs deployed contingents that were ill-equipped and needed to be fully supplied by the mission upon arrival, as well as how the existing relationship between Russia and Serbia necessitated a change in confidentiality classifications later on.[392]

What these experiences highlight, is the very complex position UNPROFOR found itself in. The situation in Yugoslavia was far from black and white. The political restraints placed on a mission with such an expansive mandate, led to an inability to act, let alone meet the hopes and expectations of civilians, for fear of being perceived as partial by one or more of the parties involved. This in turn had disastrous effects on the safety of both civilians and UN personnel, undermining the faith of many in UN peace operations in general, and consequently frustrating future legitimacy claims.

Of course, this failure at the local level also made it into *The Brahimi Report*, which derided UN operations for failing to distinguish between victims and aggressors[393] and highlighted the universality of the organization, stating that "[p]eople everywhere are fully entitled to consider

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[388] Rosenblum, Mort. "U.N. Probably Can't Make 'Safe Havens' Safe, Officers Say With PM-Yugoslavia". *Associated Press*. 2 June 1993 (available at: https://apnews.com/8813bfb311df4356b016c10e30dc01d7)
[389] *Ibid.*
[390] Anonymous Interview A
[391] Anonymous Interview B, conducted 14 May 2020 (Interviewee B served with the UN in Yugoslavia, gaining first-hand experiences of impartiality in practice and the obstacles faced by UN peace operations in these complex contexts; Interviewee B moreover served with NATO in Yugoslavia, enabling them to compare this more assertive and proactive policy to the one adopted by the UN)
[392] *Ibid.*
[393] *The Brahimi Report*¸ executive summary, p. ix

that it is *their* organization, and as such to pass judgment on its activities and the people who serve it"[394]. As such, the Panel stressed the need to be prepared for spoilers, as well as the fact that "local parties sign peace accords for a variety of reasons, not all of them favourable to peace"[395], something that had apparently not been considered neither in Somalia, nor in Yugoslavia. Moreover, the report expresses an acute awareness of the need to engage actively with local parties, and to do so in a multidimensional way, in order to effectively build peace.[396] Here it is of course possible to question whether it should be the job of peace operations to 'build peace', yet it is still commendable that the Panel observed the expectations flowing from the mere presence of a UN peace operations.[397]

In this way, and as seen in, for example, the UNPROFOR case, civilians and belligerents alike will have certain expectations to a peace operation, but civilians in particular will not necessarily have the most nuanced understanding of the resources and capabilities of a mission and its mandate. This is especially the case when it comes to mandated prioritization of PoC, for it is almost impossible to nuance the concept of protection. Consequently, expectations of protection might change the actions of civilians, possibly exposing them to greater risk than would otherwise have been the case.[398] Moreover, when these expectations are not met, it risks undermining the credibility and legitimacy of the operation in question, as well, potentially, the UN and its general framework of peace operations.

The DRC: impartial allies?

In the DRC, a robust mandate, prioritising PoC, raised expectations and increased the legitimacy-stakes in a number of ways. For one thing, "to many Congolese, it simply looked the part […] it had the accoutrements of a modern, professional military"[399]. To this was added expectations generated by the mandate and its explicit goal of PoC and ensuring peace, which was heavily communicated to the local population, as well as efforts to engage with the local population on protection issues and the establishment of early-warning systems, that of course raised expectations that UN personnel would respond when notified.[400] Finally, cases where the UN operation did indeed use force to protect civilians, further heightened expectations by

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[394] *The Brahimi Report*, executive summary, p. xiv
[395] *The Brahimi Report*, para. 21
[396] *The Brahimi Report*, para. 37
[397] *The Brahimi Report*, para. 63
[398] Rhoads, 2016: 107, 176-7
[399] Rhoads, 2016: 175
[400] *Ibid.*; Resolution 1856, para. 16

setting precedents.[401] And these expectations did in some cases motivate people to remain in unsafe conditions, sure of UN protection, or to travel to UN compounds in hope of the safety they might provide. Such actions obviously rendered civilians more vulnerable and exposed, especially as the mission repeatedly failed to meet expectations, sometimes by not taking any action at all.[402]

This perceived failure to meet expectations has undeniably led to frustration and disappointment among the civilian population, and examples of this frustration turning violent abound. Such was the case, when in late November 2019, protests erupted and spread in the eastern part of the country over the perceived failure of local and international forces to protect civilians. Moreover, demonstrators expressed a desire for the UN to withdraw, asking why it was there at all, as a UN base was burned down in one town and attempts were made to attack UN staff in another.[403] Barely a week later, as anti-UN protests continued, at least two people had been killed in demonstrations and anger continued to boil, as protesters accused both the FARDC and MONUSCO of not doing enough to stop rebel attacks on civilians.[404] Nor was this the first case of civilian protests, rather the DRC operation has seen repeated and violent demonstrations by frustrated civilians accusing it of being inefficient.[405]

Such frustrations once again highlight that it is not only the perception of impartiality, or lack thereof, that impact the credibility and legitimacy of a UN peace operation, and in order for us to make sense of them, they should of course be placed within their given context. In the DRC that means a context of conflict between multiple, and at times changing, parties. This complex situation and the pressure placed upon the UN operations by the expectations of civilians are then further compounded by a chronic lack of resources – the DRC, after all, is an immense territory, but the UN has less than 20,000 troops stationed there – and an expansive mandate whose drafters, according to some, have not adequately considered the practicalities of

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[401] Rhoads, 2016: 176
[402] Rhoads, 2016: 176-8
[403] Al Jazeera. "Protests spread in east DRC as fury against UN peacekeepers rises". *Al Jazeera*. 27 November 2019 (available at: https://www.aljazeera.com/news/2019/11/protests-spread-east-drc-fury-peacekeepers-rises-XXXXXX-XXXX11102.html); BBC. "DR Congo crowd burns UN base and Beni town hall". *BBC*. 25 November 2019 (available at: https://www.bbc.com/news/world-africa-50544588)
[404] Al Jazeera. "Heavy gunfire erupts as DR Congo's anti-UN protests continue". *Al Jazeera*. 2 December 2019 (available at: https://www.aljazeera.com/news/2019/12/heavy-gunfire-erupts-dr-congo-anti-protests-continue-XXXXXX-XXXX21580.html)
[405] BBC. "DR Congo: UN peacekeepers killed in attack in North Kivu". *BBC*. 8 December 2017 (available at: https://www.bbc.com/news/world-africa-42285871)

implementation.[406] However, such factors are not easy for civilians to factor in to their expectation-making. The mission, to them, "[…] represents the international community which has unlimited resources, so they can't understand why they never had the power to protect them"[407].

However, it is not simply a perceived failure to live up to an ambitious mandate that is at fault in the DRC. The behaviour of UN personnel and its ally, the FARDC, should not be overlooked. As such, repeated allegations of rape and sexual abuse perpetrated by UN personnel[408], does not reflect well on the mission or the organization as a whole, especially considering a 2017 *Associated Press* report that the DRC operation holds the record for such cases.[409] Adding to the negative impact of such instances, is the fact that any punishment of alleged perpetrator is the preserve of their home country.[410] Consequently, according to the *Associated Press*, "[…] victims of car accidents involving U.N. vehicles are more likely to receive compensation than victims of rape […] Because those injuries were inflicted during the course of the U.N. worker's "official duties""[411]. Moreover, the FARDC have themselves been known to carry out kidnappings and mass rapes, at a scale that implies more than a case of 'a few rotten apples'.[412]

In the DRC, then, we see a multitude of factors, beyond perceptions of impartiality, that might impact the legitimacy of the UN operation. However, the alignment of first MONUC, and then MONUSCO, with the FARDC did raise serious questions about the impartiality of the mission, and these in turn, arguably, impacted its legitimacy on the ground. For example, the previously discussed Resolution 2098 and the FIB has had the effect, according to some, that UN personnel can no longer credibly claim immunities and special protections afforded to non-combatants under IHL.[413] If this line of reasoning is followed, attacks on the UN mission in the DRC, no longer amounts to war crimes and the UN personnel therefore potentially qualify as

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[406] BBC. "Can DR Congo cope without UN force?". *BBC*. 27 May 2010 (available at: https://www.bbc.com/news/10175593)

[407] *Ibid.*

[408] Resolution 1565, para. 25; Resolution 1592, para. 11; BBC. "DR Congo: UN peacekeepers face fresh sexual abuse claims". *BBC*. 28 April 2017 (available at: https://www.bbc.com/news/world-africa-39745357); Larson, Krista & Paisley Dodds. "UN peacekeepers in Congo hold record for rape, sex abuse". *Associated Press*. 23 September 2017 (available at: https://apnews.com/69e56ab46cab400f9f4b3753bd79c930)

[409] Larson, Krista & Paisley Dodds. "UN peacekeepers in Congo hold record for rape, sex abuse". *Associated Press*. 23 September 2017 (available at: https://apnews.com/69e56ab46cab400f9f4b3753bd79c930)

[410] *Ibid.*

[411] *Ibid.*

[412] Rhoads, 2016: 154, 173; Resolution 2098, preamble, p.3 & para. 22

[413] Hunt, 2017: 117

legitimate military targets.[414] And even this argument is deemed invalid, it does appear that there is an increased risk that personnel will be perceived as biased and partial, and might suffer attacks for this reason. Additionally, the civilian components of the mission might be at a higher risk of becoming targets, due to simply being more accessible and vulnerable than their military counterparts.[415] It therefore might appear strange that the UN is aligned with DRC forces and thereby risks negatively impacting its personnel, but here again we must refer back to the core principle of consent and remember that in the DRC, where among the declared purposes are stabilization and extension of state authority, consent of the democratically elected government seems necessary to establish a presence. Of course the democratic credentials of the DRC government during the Kabila regime remain suspect, and it still seems too soon to tell which way the new government will go, but there have nonetheless been democratic elections, such as in 2006 when Kabila was first elected. Moreover, taking into consideration the role of history generally, and the UN's history in the country in particular, a presence without consent would most likely *not* be able to establish credible and stable legitimacy at all. Memories of colonization and the UN's role first in ONUC, then in Rwanda and in the following camps in Zaire, seem ever present, as illustrated in 2015, when "government officials accused the UN of 'neo-colonization'"[416], meaning that the UN could not rely solely on legitimacy through its universality in membership and international status.

However, just as the civilian population had their expectations of the mission, so, too, had the DRC government and its forces. Forgetting that "[…] the United Nations does not wage war"[417] and that "[p]eacekeeping soldiers aren't used to win wars, but rather to preserve the peace"[418], it seems that the FARDC wanted, and was expecting, the UN to wage war *for* them, rather than providing the support stipulated in the mandate and the multiple SC resolutions.[419] Moreover, despite the language of resolutions such as that of Resolution 1906, that made support contingent on FARDC adherence to IHL and human rights law[420], and Resolution 1856, that allowed the use of force to protect civilians from *any* party threatening them[421], the DRC operation was unable to respond to FARDC violations. And how could it? After all, it was

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[414] *Ibid.*
[415] Hunt, 2017: 117-8
[416] Rhoads, 2016: 156
[417] *The Brahimi Report*, para. 53
[418] Doyle & Sambanis, 2007: 500
[419] Rhoads, 2016: 183-5
[420] Resolution 1906, para. 22
[421] Resolution 1856, para. 3(a)

mandated to work with FARDC and one can hardly imagine an effective and trusting relationship, where one party has fired on the other (though the FARDC has indeed fired on its UN ally repeatedly).[422] This cooperative relationship, wherein the FARDC had more or less free reign, further exacerbated perceptions of partiality, leading NGOs and the local population alike to lose faith in the impartial status of the UN in the DRC, which then further diminished its access to reliable information and its ability to act as a credible and impartial mediator of peace.[423]

Finally, adding to the impartiality conundrum that is MONUC/MONUSCO, is the increased inclusion of regional actors. While the Security Council welcomed "[…] the African Union's support to further peace in the eastern part of the Democratic Republic of the Congo"[424] and called upon "[…] the African Union to work closely with MONUC in defining its role in the region"[425], the involvement of such regional actors arguably raises additional questions about the ability for the mission to be impartial, and the composition of the FIB does not diminish this line of questioning, "comprised as it was of troops from Kabila's regional allies"[426].

Still, this inclusion of regional actors, is not unique to the DRC case, it was also true, for example, in the 1990s[427], and it is somewhat provided for in the UN Charter.[428] Again, though, UN peace operations are not provided for in the Charter and the provision for regional arrangements is thus in relation to enforcement action. It is of course possible to argue, on the one hand, that UN peace operations are becoming increasingly like enforcement actions, and, on the other, that while not *expressly* provided for, they are in line with the principles of the Charter, as Hammarskjöld originally did[429], and that therefore the provision for regional actors can also be applied to peace operations. Still, this does not alter the fact that humans often tend to be partial and biased, and particularly in their own backyards. This, too, was something which Hammarskjöld was aware of and stressed in the earliest formulations of peace operations' guidelines.[430] It seems, then, that the UN has in some ways forgotten part of what made impartiality work in practice, though this might also be due to changes in the requirements and complexities of operations. After all, as was seen repeatedly in the 1990s,

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[422] Rhoads, 2016: 133-4, 142, 187
[423] Rhoads, 2016: 188-9
[424] Resolution 1592, preamble, p.1
[425] *Ibid.*
[426] Rhoads, 2016: 190
[427] Rhoads, 2016: 61
[428] *Charter of the United Nations*, Chapter VIII, art. 52, para. 3 & art. 53, para. 1
[429] Bring, 2011: 159, 161-3, 167
[430] *Summary study of the experience derived from the establishment and operation of the Force*, para. 44

under-resourcing hampers peace operations, and sometimes disastrously. With this in mind, it is perhaps not strange that the organization will take what troop contributions it can get, even if actors come with their own partial motivations, as long as they can act in accordance with the new, assertive impartiality, relating to the mandate. But that is assuming that they can act in such a way, ignoring that TCCs, contributing to higher risks missions, will very likely have motivations that are more calculated than well-meaning.[431] Additionally, according to one of my interviewees, allowing 'anyone' to contribute, including clearly interested parties, both hampers the efficiency of the mission and damages any image of credible impartiality. This in turn puts it in a delicate situation regarding legitimacy, for good opinion once lost, might be lost forever and credibility is *hard* to rebuild.

In the above, I have attempted to sketch out the ways in which impartiality has been conceived and reconceived, as well as what other factors might have impacted perceptions of legitimacy once boots hit the ground. In closing, then, I should once again like to note that many factors will undeniably impact the perceived legitimacy of UN peace operations. And most striking of these is probably the potential gap between local expectations and post-deployment realities. Still, impartiality remains an apparent enabler for these operations, but observations made in the preceding about how it has evolved over the years, as well as how this has worked in practice, forces a consideration of the merits of impartiality and whether assertive impartiality, as seen in, for example, the DRC, can even credibly be termed impartiality. In short, is impartiality suited to modern contexts and can it be credibly applied to them? Is impartiality, as it were, *necessary*?

Discussing impartiality

As shown in the preceding sections, impartiality continues to be a staple of UN peace operations, although its very meaning has been shaped, moulded and, arguably, stretched over time, to respond to changes in norms, values, and contexts. In this way, practitioners seem to have positioned themselves, or been caught, between the more traditionally statist nature of international politics and the increasingly less statist nature of modern conflicts. For conflict has, arguably, changed, yet the UN and its Charter are founded on statist principles, so how do peace operations and the principle of impartiality even apply to contexts wherein they are

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[431] Rhoads, 2016: 61; Boulden, 2005: 154

increasingly asked to 'make' or 'build' peace and where mandates align them with parties to the conflict?

To explore this impasse, I should first like to consider what Christine Chinkin and Mary Kaldor have dubbed 'new wars', where war is understood "[…] less as a contest of wills by well-organised hierarchical fighting groups and more as a kind of mutual enterprise among loosely organised networks that have an interest not in winning but in the economic and political gains to be achieved from fighting"[432], with war being defined broadly as "[…] the collective use of force involving two or more actors"[433]. Consequently, the key thing about modern conflicts, according to Chinkin and Kaldor, is the difference in logic. 'New wars' are not fought on traditional geopolitical grounds, but rather in the name identity, which in turn is constructed through a combination of war and 'othering'.[434] Nor are the actors members of traditional armies. Instead they tend to be "[…] loose and fluid networks of state and non-state actors that cross borders"[435]. Additionally, the goal is no longer to win battles, but to seek the continuation of violence, as a form of intimidation, in order to gain control. Consequently, parties to 'new wars' often engage in atrocities and civilians suffer worst, though it might at times be difficult to separate civilian from combatant.[436] But what is most notable about 'new wars' is the logic behind the continuation of the violence inherent in them, for in 'new wars' the identity politics and profiteering, renders such a continuation the most efficient way to retain the upper hand[437], establishing "[…] a predatory set of social relations that are difficult to contain in time and space"[438] and that "[…] are disseminated through identity politics"[439]. This has the implication that "[n]ew wars are difficult to end because few of the participants have an interest in winning; rather, they prefer the perpetuation of violence and/or disorder"[440].

Considering the situation in, for example, the DRC, Chinkin and Kaldor's conceptualization of modern conflict, or 'new wars', seems highly applicable. After all, in the DRC, we see a conflict that is intra-state, but not solely domestic in nature, where ostensibly all parties engage in atrocities, and where a continuation of violence seems to benefit them more than any

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[432] Chinkin, Christine & Mary Kaldor. *International Law and New Wars*. Cambridge University Press, 2017. P. 380
[433] Chinkin & Kaldor, 2017: 4
[434] Chinkin & Kaldor, 2017: 8-9
[435] Chinkin & Kaldor, 2017: 11
[436] Chinkin & Kaldor, 2017: 13-5
[437] Chinkin & Kaldor, 2017: 18
[438] *Ibid.*
[439] *Ibid.*
[440] Chinkin & Kaldor, 2017: 19

peaceful resolution ever could, begging the question of how the core principle of impartiality can be applied to such conflicts, as well as whether it is even the business for peace operations to get involved, where no peace seems imminent.

Still, peace operations are deployed into contexts that qualify as 'new wars', and, as we have seen, in order to respond to such contexts, mandates have been massively expanded. No longer are peace operations more or less exclusively about separating disputants, rather, they are diverse and multidimensional in their responsibilities and tasks.[441] However, as we have also seen, the UN had indeed dipped its toes in such complex missions already in the early stages, namely with the deployment of ONUC to the Congo in 1960. Yet, this mission did not generate a policy change towards more active involvement and a move away from the core principles. Instead, as the mission was regarded as a failure, it set a negative precedent, becoming a lesson in 'what not to do' and strengthening the belief in the importance of consent, impartiality, and non-use of force.[442]

Considering, then, the changing context on the one hand, and the subpar history of more multifaceted operations on the other, why did the UN change its approach to peace operations, thereby forcing a change in impartiality conceptualizations, in the first place?

According to Michael Lipson, this change was facilitated by a combination of factors around the end of the Cold War, wherein a 'policy window' was produced and seized by 'norm entrepreneurs', allowing peace operations to be viewed as a solution to intrastate conflict.[443] Meaning that

> [t]here was never a discrete direction to create a new generation of peacekeeping. Rather, the new practices of peacekeeping were developed on an ad hoc basis through the planning of individual missions through the late 1980s and 1990s, changing the nature of peacekeeping incrementally over time.[444]

This reasoning has some merit, and certainly helps explain why the UN increasingly started to apply its peace operations to situations where it before had considered every other response possible.[445] Moreover, considering that "the frequency of ethnic conflict did not increase with

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[441] Chinkin & Kaldor, 2017: 394-5
[442] Chinkin & Kaldor, 2017: 396; Lipson, Michael. "A "Garbage Can Model" of UN Peacekeeping". *Global Governance*. 2007. Vol. 13, No. 1. p. 88
[443] Lipson, 2007: 80-3
[444] Lipson, 2007: 84
[445] Lipson, 2007: 81

the end of the Cold War"[446], we must find and explanation for this policy change that does not rest with the nature of the conflict at hand, especially if we also consider that the logic behind modern conflict, as espoused in Chinkin and Kaldor's 'new wars', does not necessarily entail a desire to end the fighting. According to Lipson, then, the facilitating factors behind the policy change should be found in "civil and ethnic conflict becom[ing] more salient as the Cold War receded, and media attention and evolving norms of humanitarianism helped connect the newly critical problem of intra-state conflict to the solution of humanitarian intervention"[447]. Additionally, successes, such as that of UNTAG in Namibia, helped lay the foundation for these more encompassing and proactive operations. Yet, UNTAG had had roughly a decade's worth of planning, due to various roadblocks and delays along the way, to ensure that it was ideally suited to the context into which it was deployed. Nevertheless, the success did indeed set a precedent, leading subsequent mission mandates to include more extensive civilian and peacebuilding elements.[448] The development seen at the end of the Cold War would of course culminate in *The Brahimi Report*, the impact of which Lipson explains through a fortuitous combination of 'policy windows', created by the failures of the 1990s, and proactive 'norm entrepreneurs'[449], proposing the previously discussed redefinition of impartiality that attempts to strike a balance between core principles and the changing contexts peace operations were increasingly found themselves in.

Having thus considered the changing nature of conflict and how the UN came to be embroiled in such conflicts, it is necessary to consider the impact of the resulting reconceptualization of impartiality.

Assertively (im)partial?

As described above, impartiality has increasingly come to be viewed in a more assertive light, were it is based on and in relation to the principles of the UN Charter and the mission mandate, albeit with objections from some sides. In this way, UN peace personnel is supposed to be able to respond to violations of Charter and mandate without being viewed as partial. Yet what has been seen in, for example, the DRC is that when force is used in this way, it is used against certain parties committing infractions, but not against others, specifically the FARDC, with

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[446] Lipson, 2007: 87
[447] *Ibid.*
[448] Lipson, 2007: 88-9
[449] Lipson, 2007: 92-3

whom the UN is aligned. This then begs the question: *is* assertive impartiality truly impartiality?

The answer, according to one of my interviewees, depends on whether or not personnel is allowed to shoot at everyone, for "it is only impartiality if you are allowed to shoot at both sides"[450]. In this view, impartiality as seen in the DRC, is *not* impartiality, for "if the UN is allied with the government, they should throw away their blue helmets"[451]. And he is not the only one to hold such a view, as it was further mirrored by my other interviewee, who in particular expressed concern that the UN is essentially becoming a mercenary army in the DRC.[452] Moreover, beyond alignment with the government, was the worry that the UN is essentially hollowing out the very legitimacy of the principle of impartiality in its peace operations by including whichever state wishes to contribute troops, and especially if these be regional actors. This is partly because the quality of troops might vary from contributor to contributor, but also because interested parties will, on the one hand, damage any image of impartiality and, on the other, very likely be unable to act in truly impartial ways.[453] And this is not a wholly unrealistic or unreasonable view, for "impartial judgments are […] socially bound […] valid, true, and good only insofar as the basis for judgment reflects shared purposes and resonates with social values"[454]. Consequently, for assertive impartiality to exist with the involvement in the mission of so-called interested parties, such parties must set aside their personal or national interests and act on the basis of the mandate and the UN Charter. Moreover, there should be uniformity in how transgressors are dealt with. Allies should not be allowed to commit atrocities or conduct spoiling activities unpunished, while others are punished, for fear of losing said allies. Moreover, "[t]he risk is that by adopting an uncompromising moral line that condemns particular actors or groups, UN officials will find it increasingly difficult to retreat from such firm denunciations and engage in negotiations with these same actors […]"[455], meaning that the UN may essentially be backing itself into a corner and will consequently be unable to uphold its primary responsibility of ensuring international peace and security, especially if it condemns some transgressors, but aligns with others.

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[450] Anonymous Interview A

[451] *Ibid.*

[452] Anonymous Interview B

[453] *Ibid.*

[454] Rhoads, 2016: 200

[455] Rhoads, 2016: 203

In this way, it can most certainly be discussed if assertive impartiality, whether as theoretically formulated or as practiced in the DRC, does indeed qualify impartiality, as "the imperative to protect may compromise another imperative that for a generation defined UN diplomacy as well as peacekeeping: namely, to treat both sides as equal"[456]. Additionally, at the risk of playing devil's advocate, one might question whether the greater attention paid to PoC impacts impartiality. Civilians, of course, are not parties to the conflict according to IHL, insofar as they take no active part in hostilities[457], nor do I advocate that they should be considered as such, but, as noted, in 'new war' settings, telling disputants and civilians apart is increasingly difficult. Moreover, the acceptance of and cooperation with civilians are at times required, and usually desired, for UN operations to be able to function. And, as we have seen, a UN presence can impact and alter the behaviour of the civilian population. All of this combined illustrates that civilians do have some agency and are capable of informed, rational decision-making, while also bringing their own sets of biases and expectations to the table. Thus, civilians can impact the conduct and efficacy of an operation in ways that are both intentional and unintentional, and just as parties to the conflict may manipulate the impartiality principle in one way or another, so, I venture, might civilians. In the end, civilians, too, are people and people are valuing and judging creatures, and as the lines between civilian and disputants become blurred, it might also be necessary to consider how impartiality and PoC can co-exist, when the civilians in questions at time engage in disrupting or even self-endangering activities.

Yet, PoC is a core part of the new assertive impartiality, forcing us once again to ask whether it truly *is* impartiality, and, taking that question one step further, whether peace operations are themselves naturally impartial. After all, as illustrated above, states, diplomats, and troops alike, are at their core human and humans are biased. Yet, this does not mean that they are not able to create policies and act in ways that are impartial. Rather, it seems that in cases where the parties are in agreement and willing to adhere to a peace agreement or ceasefire, impartiality is achievable.[458] But in these cases, such as those of more traditional peace operations, the mandate is clear and limited, and has the clear consent of the parties involved. Since the 1990s,

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[456] *Ibid.*

[457] International Committee of the Red Cross. *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.* Arts. 48, 50-1; International Committee of the Red Cross. *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.* Arts. 13-4; International Committee of the Red Cross. "Direct participation in hostilities". *Casebook ICRC* (available at: https://casebook.icrc.org/glossary/direct-participation-hostilities)

[458] Anonymous Interview A

and Yugoslavia in particular[459], however, things are not so clear cut. No longer does it seem that the UN can simply interpose a force between the warring parties, especially where these are not interested in peace. Additionally, in these more complex and protracted conflicts, it is necessary to take more points of view into account, rather than 'just' the disputing states. Nor do these points of view necessarily emanate from states, which, for a statist institution such as the UN, offers some complications. Yet, the core principles *are* designed on a statist foundation, where consent refers, primarily, to that of the host *state*. Moreover, the developments regarding the prohibition on the use of force, adds to the complications. Where beforehand mandates were framed in a way where the use of force would not, in effect, be necessary, it is now increasingly included. Yet, the use of force might increase retaliatory attacks, especially on civilians, thereby potentially creating a vicious spiral of usage of force damaging perceptions of impartiality, leading to more retaliatory attacks, and so on.[460]

This, then, leads us back to the question: are peace operations impartial or do they merely claim to be?

If we follow the view presented by Chinkin and Kaldor, the issue stems primarily from 'old war' thinking being applied to 'new war' contexts[461], where "[…] perhaps the biggest failure is cognitive; the continuing tendency to perceive conflict in terms of a contest of wills with a clear ending"[462]. Consequently, the problem is that the mindset and principles developed in response to 'old wars' and statist contexts, are difficult to apply to modern conflicts, a view that was also somewhat mirrored by my interviewees and their experiences. Moreover, according to both, the impartiality of the mission was impacted by the ability or inability of the individual mission member to act impartially, meaning that these need a firm basis for decision-making, wherein they know what degree of autonomy they have and what is expected of them, but also an ability to step outside of their personal biases, both in relation to their colleagues and actors around them – something which may be hard when one is being shot at for no other reason than provocation or spoiling activities. In the end then, the answer to the above question is contingent upon a variety of factors. It depends on the formulation of the mandate, which then depends on the degree of impartiality and bias present at the policy level. It depends on the experiences and perceptions of the deployed personnel, that makes up the mission, and how

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[459] *Ibid.*
[460] Chinkin & Kaldor, 2007: 403-4
[461] Chinkin & Kaldor, 2007: 380-429
[462] Chinkin & Kaldor, 2007: 421

these react to the resistance they face. And it depends upon how local actors, disputants, and civilians alike, perceive the mission, for if it is not *perceived* as impartial, or at least attempting to be so, whether or not it acts impartially, has limited impact on its legitimacy.

Yet, this is relevant only insofar as we accept that impartiality is *the* method for establishing legitimacy. For even though there have certainly been peace operations that have been effective and successful, including more recently, when peace operations fail, they seem to fail massively.[463] While such failures can hardly be laid at the door of the principle of impartiality alone, considering how impartiality has been reconceptualized, stretched even, in attempts to prevent future failures, leads one to wonder whether more could have been done to avoid or mitigate such failure if impartiality, assertive or otherwise, was not clung to in such a way.

Alternative strategies

Particularly since the 1990s, it has been considered whether impartiality can truly lay the foundation for legitimate and effective UN peace operations, with some, like Betts, arguing that it is difficult, if not impossible, to put an end to hostilities without taking a side, allowing one side to win, as it were[464], for "[…] wars are rarely accidents, and it is no accident that belligerents often continue to kill each other while they negotiate"[465].

Consequently, it seems relevant to ask whether there are contexts where partiality might be considered reasonable or permissible. This, however, might be a question that is best examined in a more philosophical light, as questions about biases and partiality, as well as impartiality, are often referred back to morality. Of course, the principle of impartiality originally had more to do with practicality, yet the increasing linkage between peace operations and PoC does seem to have some grounding in morality, or at least in the moral outrage that followed the failures of the 1990s.

From a philosophical standpoint, then, it has been argued that "[…] any coherent morality will make room for partiality"[466], and this in such a way where the reasoning behind said partiality has an impact on whether subsequent actions are deemed as right or wrong.[467] Following this logic, it seems that protecting civilians from atrocities, for example, would be a moral right,

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[463] Doyle & Sambanis, 2007: 496
[464] Betts, 1994: 22
[465] Betts, 1994: 21-2
[466] Scheffler, Samuel. "Morality and Reasonable Partiality". In: Feltham, Brian & John Cottingham. *Partiality and Impartiality: Morality, Special Relationships, and the Wider World*. Oxford University Press, 2010. P.99
[467] *Ibid.*

even if it entails taking actions that might be perceived as partial. Moreover, "[w]e might […] be downright morally *required* to show greater consideration for the interests of certain people"[468]. In this way, we may then also find a justification for the targeting of specific parties. If, for example, the UN values democratic principles and believe in the right of the people to choose who governs them, then it follows that the alignment of the UN with the democratically elected government would qualify as permissible partiality. Moreover, considering the special attention paid to PoC, it would follow that the UN would be allowed to be partial in a way that targets actors endangering the civilian population. This is not to say that the UN cannot be impartial in some contexts, rather, a contextual compartmentalising might be in order. For if impartial and partial principles constrain and modify each other, "[w]hich principle should get priority when a partial principle conflicts with an impartial principle depends on the nature of the situation and the stringency of the principles at stake"[469]. In this way, the UN ought, theoretically, to determine its (im)partiality policy from operational context to operational context, on the basis of reliable information, to be able to optimise the efficacy of its missions. However, the UN should be careful not to compromise its legitimacy by acting partially in ways that are ill-informed or in contexts where other approaches are better suited. In traditional monitoring peace operations, for example, partiality would almost definitely be counterproductive. Yet, in modern contexts where impartiality is being redefined in ways that, to some, changes the concept fundamentally, and there is a fear that the credibility of the UN is being undermined and troops are being placed in danger unnecessarily.[470]

At a basic level, though, it seems that what the UN might benefit the most from in the planning of its operations, is a degree of pragmatism. Principled pragmatism, to be more specific. This is something that was even observed in *The Brahimi Report*, which stated that: "The recommendations that the Panel represents balance principle and pragmatism, while honouring the spirit and letter of the Charter […]"[471].

Simply put, pragmatism implies "solving problems in a sensible way that suits the conditions that really exist now, rather than obeying fixed theories, ideas, or rules"[472] – i.e. not deifying

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[468] Stroud, Sarah. "Permissible Partiality, Projects, and Plural Agency". In: Feltham, Brian & John Cottingham. *Partiality and Impartiality: Morality, Special Relationships, and the Wider World*. Oxford University Press, 2010. P. 133
[469] Musschenga, 2003: 8
[470] Rhoads, 2016: 93-112; Chinkin & Kaldor, 2007: 398
[471] *The Brahimi Report*, para. 6
[472] Cambridge Dictionary. "Pragmatic". *Cambridge Dictionary* (available at: https://dictionary.cambridge.org/dictionary/english/pragmatic)

the original core principles of peace operations if they are not suitable to modern contexts. Building on this, principled pragmatism is a *pragmatic*, strategic approach to policy making and diplomacy, wherein one still holds true to one's principles.[473] In this view, "[i]deals are necessary, for they indicate the overall direction. But you also need a concrete plan of action on how to follow that direction"[474]. Accordingly, the UN need not give up on its values and principles, but rather apply them more pragmatically. This means some degree of compartmentalising, working with some actors or states on some levels, but not on others, and, importantly, *not* avoiding dialogue, for no influence can be exerted and change affected by avoiding the actor in question.[475] Applying principled pragmatism to its policy planning and implementation, then, might allow the UN to retain a hard line on, for example, human rights violations, while still allowing it to engage with belligerents with a view of ceasing hostilities.

Similarly, the UN might engage in strategies of 'organized hypocrisy', referring to "[…] inconsistent rhetoric and action"[476] – i.e. saying one thing and doing another. While such hypocrisy can in some cases be damaging, in others it can be an efficient tool for mitigating tensions between theory (or policy) and practice. Here "[t]alk and decisions '*compensate for*' inconsistent action, and vice versa"[477], enabling, for example, successful action in the field to compensate for inconsistencies or failures at the policy level.

While we may think of hypocrisy in negative terms, it is important to note that the very nature of the UN, as an international, multifaceted organization, will inevitably, at times, entail enormous tensions. Moreover, the domestic level of the individual member state might also be in tension with its international dimension, as values and norms may vary, and as such domestic-international tensions will most likely exist in as many ways as there are member states, only increasing this complexity and tension.[478] Additionally, the UN is a *political* organization, and it is therefore responsible for reflecting "[…] its member's conflicting preferences through discussion, debate, and by issuing declarations, resolutions and other forms of organizational talk and decisions"[479]. Consequently, "[t]he UN produces talk and

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[473] Biscop, Sven. *European Strategy in the 21st Century: New Future for Old Power*. Routledge, 2019. Pp. 31-2, 52, 71-3
[474] Biscop, 2019: 35
[475] Biscop, 2019: 31-2, 35, 64, 71-3
[476] Lipson, Michael. "Peacekeeping: Organized Hypocrisy?". *European Journal of International Relations*. 2007. Vol. 13 (1). P. 6
[477] Lipson, 2007 (2): 10
[478] Lipson, 2007 (2): 11-2
[479] Lipson, 2007 (2): 13

decisions more than it solves problems through action"[480], invariably creating friction with both its goals and the expectations placed upon it. Therefore, "the UN must both enact the inconsistent values of international society and produce effective coordinated action"[481], and this can, for example, be done through methods of decoupling, allowing the organization "[…] to manage inherently conflictual demands in their environments, which cannot be reconciled"[482]. Decoupling, then, "[…] refers to the gaps that tend to emerge between institutions' structures, policies, and practices"[483], and would thus allow the UN to say one thing and do another, by decoupling talk from action. In the case of peace operations, the UN might continually reinforce its adherence to impartiality, but in practice apply a more pragmatic, 'hypocritical' approach wherein it truly does place the goals and duties stated in its mandates above all else, in that way generating output or performance legitimacy[484], assuming, at least, that its methods are successful. In this way,

> […] internal participants and external constituents can collude in avoiding, being discreet about, or overlooking glaring departures from normatively mandated structures or practices […] rhetorical practices of hypocrisy, euphemizing, and indirect speech can be deployed by those seeking to preserve an institution's legitimacy[485]

in order to shift focus onto or highlight the, ideally successful, performance of the mission, as the "[…] 'output' mode of legitimacy is indispensable in that any institution's legitimacy must depend, to some extent, on its capacity to fulfil its goals"[486].

Consequently, the UN might, through principled pragmatism, organized hypocrisy, and decoupling, maintain its outwardly, official adherence to the principle of impartiality, while in practice being able to adjust to the requirements and complexity of the given context, essentially allowing for greater contextual awareness, which might in turn position the given mission in such a way that it would be better able to meet its goals and undertake its responsibilities, generating performance-based legitimacy in its own right. For while the legitimacy of the UN as a universal, international organization and the authority derived from

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[480] *Ibid.*
[481] *Ibid.*
[482] Lipson, 2007 (2): 19
[483] Stephen, 2018: 105
[484] Stephen 2018: 99; Whalan, 2013: 69
[485] Stephen, 2018: 105
[486] Stephen, 2018: 107

there, might help establish some initial legitimacy for the mission[487], overall, the mission will very likely have limited legitimacy upon its first arrival, despite being dependent on it almost immediately.[488]

The continued relevance of impartiality

Bearing all of the above in mind, I would now like to consider some of the arguments in favour of the continued adherence to the principle of impartiality.

First, an operation that acts in an impartial manner, and is perceived and accepted as such, has the protection and immunities, under IHL, of a non-combatant.[489] Of course, there will likely, in some cases, be parties to or actors otherwise engaged in the given conflict, who do not abide by IHL, but these would then be committing war crimes by attacking the UN operation in question[490], and could potentially be prosecuted for this, which might in turn act as a deterrent for future action by the same or other actors.

Secondly, as mentioned above, peace operations have generally been effective, and where I above highlighted the magnitude of the failures that have happened, that same argument could be turned on its head, instead asking whether the few instances of failure, which arguably had a lot more to do with local hostilities and under-resourcing, rather than the principle of impartiality alone, should tar the overall image of UN peace operations. In this view, it is not the core principles themselves that are at fault, but instead variables outside of UN control. Of course, it is here possible to argue that the principles restrained the UN and its operations in terms of how they could respond to the challenges they faced. Yet, there will always be factors beyond the control of the policy planners. After all, man makes plans and god laughs. Still, it should be possible to remain true to one's principles in the face of adversity, without the principles being at fault in the case of failure. Returning to the case of Yugoslavia, for example, where instances such as Srebrenica heaped scorn upon the principle of impartiality and the inaction that was perceived to flow from it, undermining the legitimacy of peace operations.

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[487] Anonymous Interview A

[488] Whalan, 2013: 71

[489] International Committee of the Red Cross. "Practice Relating to Rule 33. Personnel and Objects Involved in a Peacekeeping Mission". *IHL Database – Customary IHL* (available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule33); Hunt, 2017: 116-7

[490] Geneva Conventions, Additional Protocol I, arts. 11, 85; International Committee of the Red Cross. *Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949.* Art. 50; International Committee of the Red Cross. *Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949*. Art.147

Let us consider what would have happened had the vastly outnumbered UN troops stood their ground, instead of surrendered the so-called safe haven. Is it not likely that they would have been mowed down, letting the city fall regardless?[491] And then what would have been the criticism? In my view, it is feasible that they would partly have been accused of abandoning the principles of the UN for nothing. Essentially, they were damned if they did and damned if they did not. And even if we conceive of impartiality in assertive terms, wherein they would have been permitted to respond, it is still highly likely that variables, such as under-resourcing, would have let to the demise of the UN personnel members, on top of the civilian casualties. Now, are the lives of UN personnel inherently worth more than those of civilians? No, but such casualties, that could possibly be perceived as unnecessary, risk deterring TCCs from contributing in the future, further straining already stretched resources. However, this attention paid to the safety of UN personnel has become so strong, that it in turn risks undermining the local legitimacy of operations, by putting more effort into protecting them, rather than the civilians they are in fact mandated to protect[492], once more illustrating how legitimacy might be damaged by factors other than adherence to impartiality.

Considering this 'othering', that UN operations seem to be inadvertently engaging in, through their separate, enhanced security arrangements and recognisable accoutrements, which in some cases even gain them the nickname of 'tourists'[493], as well as the variety of external variables that will otherwise affect a mission, it is important to note that impartiality, at least in theory, brings with it an idea of fair and equal treatment and consequently a legitimacy that is hard to get from other sources. Indeed, this is what I have found repeatedly, that while the practice of impartiality may be flawed, it remains one of the most effective ways of establishing legitimacy[494], provided of course that it is credible and accepted by local actors, who then, hopefully, will accept the mission as, at least partly, legitimate.

Of course, practice matters. As do results. Still, there will almost inevitably be actors who will never view the UN operation in question as legitimate, especially in 'new war' contexts where actors are heterogeneous and motivated by factors beyond those of political ideology and territorial gain. In short, spoilers will (attempt to) spoil. The question, then, is do UN operations

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[491] This was at least the opinion of one of my interviewees; Anonymous Interview B

[492] Chinkin & Kaldor, 2007: 408

[493] *Ibid*.; Oladipo, Tomi. "The UN's peacekeeping nightmare in Africa". *BBC*. 5 January 2017 (available at: https://www.bbc.com/news/world-africa-38372614)

[494] This view was also expressed by both my interviewees, who both highlighted the principle's essentiality, as well as the difficulties present in acting in accordance with it.

need to be perceived as legitimate by them, if such a perception can even be established, or should the focus instead be on not alienating the local population and relevant actors, even if spoilers are also parties to the conflict? This is not a question that is easily answered, nor is there a uniform answer, for it will likely depend on the context at hand. Instead, it illustrates, again, that legitimacy is in large part contingent on subjective perceptions. Consequently, if impartiality enables local actors to feel like they are being treated in a fair and equal manner, regardless of the basis for decision-making (although this will also have to be accepted as legitimate), motivating them to if not cooperate with, then at least not actively oppose the presence of a UN operation, then it remains an effective foundation for establishing legitimacy.

All in all, what becomes clear is that the UN is in a tricky situation. Repeatedly backed into a corner by member state interests and the principles of sovereign equality and non-intervention, enshrined in the Charter, it must navigate changing contexts of conflicts, wherein consent is proving increasingly fickle and illusive, yet remains necessary. Similarly, where the more proactive use of force was before envisioned to be beyond the scope of peace operations, it is now becoming something of a moral imperative, as norms concerning human rights and humanitarianism continue to gain traction and popularity. This has the implication that the principle of impartiality is at once apparently the best option for establishing some level of legitimacy, but also becoming progressively harder to practice. For impartiality is easy when the parties agree, but when 'peace' has been forced on one or more of them, or only some have agreed to the presence of the mission, it seems unlikely that they will ever accept the UN presence, at times even opposing it, rendering it highly difficult for UN personnel to act impartially, as they become wary of the very people they are supposed to protect.[495]

Nevertheless, impartiality does seem necessary if the UN wishes to engage in peace operations. I, however, remain hesitant about whether or not assertive impartiality can be accepted as impartiality, at least as it is conducted in, for example, the DRC. Similar to my interviewees, I hold that impartiality, regardless of on what basis, cannot exist when there is an overt alliance with any of the parties to the conflict. Though the government in the DRC is the democratically elected, legitimate head of the state, its forces have still been known to carry out the very atrocities that the UN readily targets others for committing. If, however, assertive impartiality really does entail responding such breaches, regardless of their source, there is hope for it yet. Still, only time can tell how the principle will further develop, and it stands that the UN must

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[495] Anonymous Interview A

remain aware of local contexts when planning its missions, as well as be wary of how the interests of its planners and TCCs will shape the perceptions of its impartiality and legitimacy on the ground.

Conclusion

In the preceding pages, I have sought to explore the necessity of impartiality for the legitimacy of modern peace operations, through a historical exploration of the development of the principle and the contexts that shaped and reshaped it.

While numerous scholars have sought to examine how impartiality has developed, been (re)conceptualized, and utilized, most, if not all, maintain its centrality for peace operations from the outset. While I overall agree with this premise, I have in my analysis adopted a more critical stance to this claim, as I believe it essential to be critical of one's own beliefs in order to better understand them and their flaws. What I have found is that impartiality remains the best avenue for peace operations towards establishing credible and tenable legitimacy, but that this impartiality has to be practiced in a way that is accepted as impartial by local actors. However, the dual nature of UN peace operations, being both international and local, complicates this matter by bringing different perspectives of what constitutes impartiality, as well as legitimacy, into tension. Additionally, impartiality is not the only element in determining whether the legitimacy claims of a peace operation will be accepted as valid or not. Instead, a variety of contextual factors play their part, and these, of course, vary from context to context.

Consequently, we find that in some cases, like in the DRC, the historical record of UN action in the country has a lot to say. For in the DRC we find a country that has a long and less than positive history of UN engagement, from the 1960s where the UN (or perhaps more specifically the US through the UN) ended up taking sides in the conflict following decolonization, leading to the death of Lumumba and the ascension of Mobutu and the following dictatorship, to the militarized camps that sprung up on its borders following the Rwandan genocide, where the UN was blamed for its inaction and seemingly tried to atone by supporting these very camps, that only added to the insecurity.[496] Moreover, considering the 1990s – a period that was ushered in by a wave of optimism[497] – we find contexts that the UN was ill-prepared and ill-

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[496] Rhoads, 2016: 62-4, 122-4
[497] *The Brahimi Report,* art. 20

equipped to deal with through the tool of peace operations, but that it nonetheless engaged with, caught up in an atmosphere that allowed these problems to be linked with this solution. Here impartiality and legitimacy were frustrated by unstable contexts and actors who were more than willing to oppose and manipulate the UN operations for their own ends.

Not surprisingly, then, the continued credibility of the principle of impartiality has been questioned repeatedly. This tendency has arguably been a justified and understandable response to some of the failures of UN peace operations, but when it has been focused solely on impartiality, it risks overlooking that peace operations do not operate in a vacuum and are contingent on the cooperation and acceptance of local actors, as well as adequate resourcing and international backing. For without these, any operation will be severely hampered, if not completely powerless. And power does indeed lie at the heart of any discussion of legitimacy, as power is, essentially, the ability to affect the behaviour of those around you and legitimacy exerts the compliance pull to inspire such behavioural changes. Consequently, when considering the workings and foundations of peace operations, it is necessary to take a more holistic approach, rather than ignore variables beyond the specific target for investigation. In this way, I have attempted to illustrate what other factors might influence the credibility and legitimacy of peace operations, while still focusing primarily on the understanding, conceptualization, and implementation of the principle of impartiality. What I have found is that the implementation and practice of impartiality has become increasingly complex as peace operations have moved from *inter*-state monitoring operations to *intra*-state multidimensional behemoths. In early peace operations, then, impartiality was simple, at least insofar as there was a ceasefire or peace agreement to which the parties adhered. Yet, more recently this is frequently not the case. Increasingly, the 'old war', statist thinking has been confronted with 'new war' realities, where the actors are many and motivated to continue the violence, rather than build peace, forcing the UN to reassess its approach. The result was a more assertive impartiality, defined by equal treatment based on the mandate of the operation in question and the UN Charter. In this approach, parties that violate principles of the mandate and the UN Charter by, for example, committing human rights violations, may be punished, and should be punished. This, then, is impartiality not in the sense that all parties are treated the same at all times, but that they can expect the same treatment if they transgress. It is in essence a change in the *basis* on which decisions are made. Yet, some states have repeatedly expressed fears that assertive impartiality and the concurrent robust approach to peace operations risk making troops more vulnerable, as they risk being perceived as parties to the given conflict. And these

fears seem all the more justified when considering the policies adopted in the DRC, where the UN is indeed allied with one of the parties, albeit a (supposedly) democratic government, and regional actors are frequently involved. What is evident, is thus that the UN attempted to respond to changes in the nature and manner of conflict, not by replacing its core peace operation principles, but by refashioning them.

In this way, the UN stood by its principles and the belief that these would imbue its operations with legitimacy. But legitimacy is in itself a complex and fickle thing. Highly subjective and relational in nature, it must be continually maintained[498] and its sources must be considered. For peace operations this complexity is made all the greater, for they will often have very little initial legitimacy, but will be tasked with such responsibilities that require it immediately.[499] Of course, some legitimacy might be gained through the international status and authority of the UN and in its universal membership. Yet, conversely, the UN status and its accoutrements might damage the legitimacy of an operation in contexts where the track record of the organization has served to sow distrust among the population – something that can then be utilized by spoilers and other actors opposing the mission. Consequently, legitimacy derived from the performance of a peace operation is crucial, as is an attention to the values and perceptions of relevant local actors. Yet, the international dimension cannot be neglected, meaning that any UN operation must attempt to strike a balance between the two levels or risk legitimacy drifts or crises at one or both.

The principle of impartiality seems to strike such a balance. At the local level, it brings with it ideas of fair and equal treatment, and at the international level, it reassures states that UN troops will not be used in geopolitical chess games or to wage wars. In this way, impartiality seems the best method towards establishing a legitimacy that can be maintained. Of course, impartiality alone will most likely not gain the mission full or tenable legitimacy. Yet, it still seems a vital component of any legitimacy strategy.

In closing, however, when considering recent developments and reconstructions made to the principle of impartiality, that have led to a more robust and assertive stance, one question remains. Is impartiality, though necessary, impossible?

I ask this not to undermine the concept or to negate the preceding roughly eighty pages, but to highlight the crossroads that the UN finds itself at. Torn between emerging norms and

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[498] Stephen, 2018: 101
[499] Whalan, 2013: 62

traditional principles, burdened by failures that it could likely not have avoided with the resources at its disposal, and confronted by a fundamental shift in the logic behind conflict that might be incompatible with the statist Charter, the UN must decide what matters. Is it the civilians it seeks to protect, the institution of peace operations, or its continued credibility and international legitimacy? While this question is essentially an existential one and beyond the scope of the present project, and while I encourage scholars to shine more light on this tension, I argue that there is a way to balance all of these through the principle of impartiality. But what is seen in the DRC is *not* impartiality. Instead, to me, it seems more likely to lead the organization down a slippery slope, from which there might be no return. Currently, then, impartiality does indeed appear impossible.[500] The question that remains is: does it have to be?

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[500] As was also expressed by Interviewee A

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