

**United Nations Robust Peacekeeping:
How a Reassessment Can Impact the Comprehension of
Robustness**

*An Interdisciplinary Analysis of the Division of Roles, the Use of
Force, and Building Peace in the United Nations' Mandates for
MONUSCO, UNMISS, and MINUSMA*

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ABSTRACT

Ever since the horrific genocides in both Somalia, Rwanda and Bosnia, the United Nations have taken a more proactive turn in its peacekeeping work. A turn that has created robust peacekeeping operations with the purpose of hindering future mass atrocities.

This thesis presents how a reassessment of parts of United Nations robust peacekeeping, can help in creating coherence between the United Nations Security Council's mandates from its written form to its execution. All to contribute to future robust operations. To make this assessment United Nations Security Council resolutions for three robust operations have been analysed with focus on three elements chosen concurrently with reading the resolutions. Founded in an analytical tool developed by the authors, resolutions for the robust peacekeeping operations of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, the United Nations Mission in South Sudan and the United Nations Multidimensional Integrated Stabilization Mission in Mali have been analysed and interpreted. An analysis with focus on three identified elements, being *the division of roles*, *the robustness exercised*, and *fostering a good post-conflict environment*, and how these influence the interpretation of robust peacekeeping. These elements have subsequently been discussed to contribute with two things. First, assessing different point of views on how to grasp the problems they are facing in implementing mandates. Second, to show different approaches that could be considered in future execution of robust operations. The arguments put forward are discussed in the light of the Just War Theory, and how the degree of justification can contribute to a legitimisation of the reassessment presented in the analysis and discussion. The conclusion is based on outcomes illustrating that a room for improving robust peacekeeping remains. Some of these improvements can be sought in establishing a more templated process for several of the elements, as well as enhancing focus on civilian populations than on state authorities.

It should though be noted in the reassessment for future praxis, that the outcomes within this thesis are just fractions of the many elements influencing robust peacekeeping operations.

LIST OF ACRONYMS AND ABBREVIATIONS

ADF	Allied Democratic Forces
AFISMA	African-led International Support Mission to Mali
APCLS	Alliance of Patriots for a Free and Sovereign Congo
AQIM	Al-Qaeda in the Islamic Maghreb
ARCSS	Agreement on the Resolution of the Conflict in the Republic of South Sudan
Art.	Article
AO	Advisory opinion
ASF	the African Standby Force
AU	the African Union
AU PSC	the African Union Peace and Security Council
CIL	Customary International Law
CPA	Comprehensive Peace Agreement
DDR	Demobilisation, disarmament and reintegration
DRC	the Democratic Republic of the Congo
ECOWAS	the Economic Community of West African States
EU	the European Union
FARDC	Armed Forces of the Democratic of the Congo
FDLR	Democratic Forces for the Liberation of Rwanda
FIB	Force Intervention Brigade
FNL	National Force of Liberation
HIPPO	the High-level Independent Panel on Peace Operations
IHRL	International Human Rights Law
ICGLR	International Conference on the Great Lakes Region
IGAD	the Intergovernmental Authority on Developments
IHL	International Humanitarian Law
JWT	the Just War Theory
LRA	the Lord's Resistance Army
M23	March 23 Movement
MDSF	Malian Defence and Security Forces
MINUSMA	United Nations Multidimensional Integrated Stabilisation Mission in Mali
MNLA	the Movement of the National Liberation of Azawad

MUJAO	the Movement for Unity and Jihad in West Africa
MONUC	the United Nations Mission in the Democratic of the Congo
MONUSCO	United Nations Organisation Stabilisation Mission in the DR Congo
NCP	National Congress Party
ONUC	the United Nations Operations in the Congo
P3	the Permanent Three
P5	the Permanent Five
Para.	Paragraph
PKO	Peacekeeping operation
PoC	Protection of Civilians
PSC Framework	Peace, Security and Cooperation Framework
R-ARCSS	Revitalised Agreement on the Resolution of the Conflict in South Sudan
Res.	Resolution
RTF	Regional Task Force
RPK	Robust peacekeeping
RPKO	Robust peacekeeping operation
RSS	the Republic of South Sudan
SADC	South African Development Community
SOFA	Status of forces agreement
SPLA	the Sudan People's Liberation Army
SPLM	the Sudan People's Liberation Movement
SPLM-FD	Sudan People's Liberation Movement Former Detainees
SPLA-IO	the Sudan People's Liberation Army-in-Opposition
SPLM-IO	the Sudan People's Liberation Movement-in-Opposition
SRSG	Special Representative of the Secretary-General
SSOA	South Sudan Opposition Alliance
SSR	Security and Sector Reform
TGoNU	Transitional Government of National Unity
TPCC	Troop and Police Contributing Country
UN	the United Nations
UN DPKO	the United Nations Department of Peacekeeping Operations
UNCT	United Nations Country Team

UNGA	the United Nations General Assembly
UNMISS	United Nations Mission in South Sudan
UNSC	the United Nations Security Council
UNSG	United Nations Secretary-General
USG DPKO	Under-Secretary-General for Peacekeeping Operations
VCLT	the Vienna Convention on the Law of Treaties

Table of Content

ABSTRACT	2
LIST OF ACRONYMS AND ABBREVIATIONS	3
INTRODUCTION	1
PROBLEM STATEMENT	1
INTERDISCIPLINARY FOCUS	5
RELEVANCE AND LIMITATION OF TOPIC	5
STRUCTURE.....	7
DEFINITION OF TERMS	8
<i>The Basic Principles of Peacekeeping</i>	8
<i>Robust Peacekeeping and Peace Enforcement</i>	8
<i>Multidimensional Operations</i>	9
<i>The Principles of Humanity and Distinction</i>	9
<i>The Principles of Military Necessity and Proportionality</i>	10
HISTORICAL BACKGROUND	10
<i>The United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)</i>	11
<i>The United Nations Mission in the Republic of South Sudan (UNMISS)</i>	12
<i>The Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA)</i>	14
METHODICAL AND THEORETICAL FRAMEWORK	15
THE ANALYTICAL TOOL	15
<i>Holistic and Comparative Approach</i>	20
PRESENTATION AND LEGITIMISATION OF THE JUST WAR THEORY	21
PRESENTATION OF EMPIRICAL DATA	24
METHODICAL CHOICES	24
<i>The Choosing of the Three Elements</i>	24
<i>The Stance on the Use of Force</i>	25
<i>Moving Pass the Idea of Making a Conceptualisation</i>	26
ANALYSIS AND DISCUSSION OF MONUSCO, UNMISS, AND MINUSMA	26
THE DIVISION OF ROLES IN ROBUST PEACEKEEPING	27
<i>The Loosely Defined Role of the African Union</i>	28
The Problem of the Role of the AU	28
How Does It Show in the Resolutions?	29
Discussing the Room for Improvement	35
Gaps in Resources and Capabilities.....	37
The North-South Division	40
Applying the Just War Theory.....	42
<i>Summary</i>	44
<i>Increasing Responsibilities of the Special Representative of the Secretary-General</i>	45
The Problem with the Role of the SRSG	45
How Does It Show in the Resolutions?	47
Discussing the Room for Improvement	51
Shifting Responsibilities.....	52
Personal Latitude	53
Applying the Just War Theory.....	56
<i>Summary</i>	58
THE ROBUSTNESS EXERCISED	58
<i>When Force is Used to Stabilise</i>	59
The Problem with Stabilising Operations	59
How Does It Show in the Resolutions?	60
Discussing the Room for Improvement	67
Blurred Boundaries.....	68
The Use of Force Colliding with Impartiality	70
Applying the Just War Theory.....	74
<i>Summary</i>	77
<i>Decreasing the Robustness of Mandates Through Civilians</i>	78

The Problem of Excluding Civilians in Robust Peacekeeping	78
How Does It Show in the Resolutions?	79
Discussing the Room for Improvement	86
The Use of Force in Current Robust Peacekeeping Operations	87
A People-Centred Approach	89
Applying the Just War Theory	91
Summary	93
FOSTERING A GOOD POST-CONFLICT ENVIRONMENT	94
<i>Strengthening United Nations' Departure Through Peacebuilding</i>	95
Problem with Peacebuilding and Exit Strategies	95
How Does It Show in the Resolutions?	96
Discussing the Room for Improvement	100
Thinking Long-term Strategy from the Beginning	101
Drawing on the Past	104
Applying the Just War Theory	106
Summary	108
<i>Agreements Consolidating the Aftermath</i>	109
The Problem with Peace Settlements	109
How Does It Show in the Resolutions?	110
Discussing the Room for Improvement	115
The Robust Path to Peace	116
All Men On-board	120
Applying the Just War Theory	123
Summary	125
CONCLUSION	126
BIBLIOGRAPHY	134
APPENDIX 1 - DIVISION OF WORKLOAD AND KEYSTROKES	153
APPENDIX 2 – LIST OF UNITED NATIONS SECURITY COUNCIL RESOLUTIONS	157

INTRODUCTION

Problem Statement

*For many, peace operations are not simply something the United Nations does but what the United Nations is.*¹

When the world shows itself from its most cruel side, when innocent people get killed while the international society does not know what to do – that is a constant problem mankind has been confronted with throughout history.² In recent decades the nature of conflict has changed which means that the international community have been forced to re-evaluate its response to such violence. Since the aftermath of the Second World War, the United Nations (UN) have been the global common organ in charge of maintaining international order and the balance of international peace and security. A responsibility that is being upheld through the treaty of the *United Nations Charter* (Charter). When peace is hard to find, and measures must be taken to trace back to it, peacekeeping operations (PKOs) are one of the tools to restore peace. A tool that has existed ever since the first PKO was deployed in the Middle East in 1948, and a tool that has developed ever since.³ The UNs peacekeeping is “governed” by three basic principles: consent of the parties, impartiality, and the non-use of force except in self-defence or in defence of the mandate.⁴

PKOs have a long tradition of being an impartial force, deployed to help in whatever way possible without the use-of-force. But the peaceful way of dealing with conflicts backlashed in the late 1980s and in the beginning of the 1990s with not one, but three genocides taking place with the

¹ The High-level Independent Panel on Peace Operations, *Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people*, 17 June 2015, 6

² Dansk Udenrigspolitisk Institut, *Kapitel VII – Konklusion*, Gullanders Bogtrykkeri, 1999, 125

³ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 20

⁴ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 31

UNs forces standing by in Somalia,⁵ Rwanda,⁶ and Bosnia.⁷ *The Report of the Panel on United Nations Peace Operations*, also called *the Brahimi Report*, acknowledged in 2000 the need for responding to such critical situations.⁸ This brought along a rapid change in peacekeeping, as criticisms of passivity arose, and mandates became more robust with a proactive use of force creating the term of robust peacekeeping (RPK).⁹ This term has generated confusion since its first mentioning, indicating a need for a reassessment of it, therefore, this thesis will revolve around RPK.

To make this reassessment, the authors have selected three robust peacekeeping operations (RPKOs), namely *the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo* (MONUSCO), *the United Nations Mission in South Sudan* (UNMISS), and *the Multidimensional Integrated Stabilisation Mission in Mali* (MINUSMA), to further develop the comprehension of RPK. This has been done by analysing the United Nations Security Council (UNSC) resolutions of the three operations by focusing on three elements being: the division of roles, the use of force and efforts in building peace. Following this, the elements will be discussed to display that there is still room for improvement in RPK. The Just War Theory (JWT) will hereafter be used to contribute to legitimize the elements of RPK. The purpose of this thesis is therefore: *how can a revitalised assessment of elements of United Nations robust peacekeeping create a coherence between the United Nations Security Council's mandates on paper and in praxis for future operations?* In answering this purpose, this thesis concludes that there continues to be a room for improving RPK. Parts of this, can be found in establishing templates for several of the processes in peacekeeping work, as well as enhancing the focus on the inclusion of civilians in their own protection.

⁵ Ismail Einashe & Matt Kennard, *In the Valley of Death: Somaliland's forgotten genocide*, 22 October 2018, (available at: <https://pulitzercenter.org/reporting/valley-death-somalilands-forgotten-genocide?fbclid=IwAR2R8Hv40BD7FZRjtTu7anO7Qu6iE7-h3VhUE6oxadnZrBEGRu2Lf0BG39o>)

⁶ The Outreach Programme on the Rwanda Genocide and the United Nations, *Rwanda: A Brief History of the Country*, (available at: <https://www.un.org/en/preventgenocide/rwanda/historical-background.shtml>)

⁷ The United Nations International Criminal Tribunal for the former Yugoslavia, *The Conflicts*, (available at: <https://www.icty.org/en/about/what-former-yugoslavia/conflicts>)

⁸ The Panel on United Nations Peace Operations, *Report of the Panel on United Nations Peace Operations*, 21 August 2000, 10

⁹ Charles T. Hunt, *All necessary means to what ends? The unintended consequences of the 'robust turn' in UN peace operations*, 4 April 2016, (available at: <https://peacesciencedigest.org/unintended-consequences-robust-un-peace-operations/>)

Peacekeeping, including RPK, is in general not explicitly described in the Charter,¹⁰ but a part of the UNs repertoire to restore and maintain international peace and security, that also includes *conflict prevention, peacemaking, peace enforcement, and peacebuilding*.¹¹ When not prescribed in the Charter, PKOs are more flexible and adjustable to the current situation it is created to handle and not bound to certain rules and procedures from the Charter. This means that PKOs are developed on a case-by-case basis.¹² PKOs are deployed to assist in implementing a ceasefire- or peace agreement as well as assisting in both peace-making and peacebuilding efforts.¹³ Facing and dealing with these conflicts, is a relentless tightrope walking between what is the politically, morally, and legally right thing to do.

RPK is arguably a “grey area” of peacekeeping,¹⁴ in spite of the UNs attempt to hedge their bets in both demanding the consent of the host government as well as to have the authorisation from the UNSC to use force. Great emphasis is given to the fact, that RPK is not peace enforcement and therefore not solely a Chapter VII mandate of the Charter.¹⁵ It is argued in spheres outside the UN, that it can be categorised as a “Chapter VI½” -mandate. This is because the operations are adopted under Chapter VII in the Charter, but it still maintains the three basic principles – a fine balance that have shown itself difficult to meet.¹⁶ According to *United Nations Peacekeeping Operations – Principles and Guidelines* (“the Capstone Doctrine”), RPK involves:

*The use of force at the tactical level with the authorization of the Security Council and consent of the host nation and/or the main parties to the conflict.*¹⁷

This means that force is allowed, not only in self-defence, but also among others, to protect civilians. That is, force being used in a defensive manner and not offensive which belongs under the

¹⁰ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 13

¹¹ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 17

¹² Marco Longobardo, *Robust Peacekeeping Mandates: An Assessment in Light of Jus Post Bellum*, 2019, 4

¹³ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 19

¹⁴ Marco Longobardo, *Robust Peacekeeping Mandates: An Assessment in Light of Jus Post Bellum*, 2019, 9

¹⁵ The United Nations Department of Peacekeeping Operations; The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 34

¹⁶ Marco Longobardo, *Robust Peacekeeping Mandates: An Assessment in Light of Jus Post Bellum*, 2019, 7

¹⁷ The United Nations Department of Peacekeeping Operations; The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 19

umbrella of peace enforcement.¹⁸ There are those like Marco Longobardo who argues that RPK is the example of when the case-by-case approach is taken a bit too far, and the flexibility of the term of peacekeeping is put under a lot of pressure.¹⁹ It is by the UN itself referred to as “although the line between “robust” peacekeeping and peace enforcement may appear blurred at times, there are important differences between the two.”²⁰ Today, this robustness is present and available more than ever before in the history of peacekeeping, being greatly visualised in the emphasis on the allowance of the use of force.²¹

That force is allowed in RPK makes it even more vital that the troops deployed by the UN comply with international rules, and this includes the applicability of International Humanitarian Law (IHL).²² Here there is an important distinction to remember, being the distinction of *jus ad bellum*, *jus in bello* and *jus post bellum*. Jus ad bellum governs the right to the use of force under Public International Law, whereas jus in bello governs the conduct of hostilities under IHL. A less defined concept is the jus post bellum which has been increasingly studied by Just War theorists, international lawyers, political scientists etc. in their consideration of a path from war to peace.²³ IHL applies to a RPKO when this becomes a party to the conflict constituting a non-international armed conflict (NIAC). This creates two problems: it creates a mismatch with the basic principle of impartiality, as well as it makes the potential for the UNs troops to be considered legal targets. As will become visible in the analysis of the three operations in the Democratic Republic of the Congo (the DRC), the Republic of South Sudan (the RSS) and Mali, there are several cases where the use of force has been allowed to carry out the mandate. Cases that can either imply one or more of the following: the protection of civilians (PoC), stabilising activities, protection of UNs personnel, or to create safe conditions for national elections to take place. All of which qualifies these operations to

¹⁸ Charles T. Hunt, *All necessary means to what ends? The unintended consequences of the ‘robust turn’ in UN peace operations*, 4 April 2016, (available at: <https://peacesciencedigest.org/unintended-consequences-robust-un-peace-operations/>)

¹⁹ Marco Longobardo, *Robust Peacekeeping Mandates: An Assessment in Light of Jus Post Bellum*, 2019, 5

²⁰ The United Nations Department of Peacekeeping Operations; The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 19

²¹ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the ‘robust turn’ in UN peace operations*, *International Peacekeeping*, 2017, 114

²² International Committee of the Red Cross, *Peacekeeping operations: ICRC statement to the United Nations*, 27 October 2017, (available at: <https://www.icrc.org/en/document/peacekeeping-operations-icrc-statement-united-nations-2017>)

²³ Jens Iverson, Jennifer S. Easterday, and Carsten Stahn, *Epilogue: Jus Post Bellum – Strategic Analysis and Future Directions*, Oxford University Press, 2014, 544

be governed by IHL.²⁴ As the topic of robustness in mandates is of a both legal, political and moral kind, the analysis will be followed by a discussion considering these aspects of the three elements. Subsequently, the Just War Theory will be applied to weigh the moral implications of this discussion, as this will contribute to both the legal and political repercussions that are a constant debated matter. Conclusively, this thesis will provide its own suggestions to what is necessary to consider in future deployment of RPKOs. The usage of relevant scholars and their assessments on the term RPK have laid the foundation for the authors' analytical contribution to the interpretation of this term.

A detailed allocation of workload and keystrokes between the authors is to be found in *Appendix 1 – Division of Workload and Keystrokes*.

Interdisciplinary Focus

The choosing of the theoretical and methodological tools, is selected on the basis that the premises for this thesis is interdisciplinary. Meaning, that it both investigates the legalistic and the political aspect of the chosen topic, and by that attempts to make a connection between public international law and security policy when investigating the meaning of RPK and how it functions in the sphere of the international community. The analytical tool is intended to create the basis of understanding RPK, whereas the discussion will function as the security political aspect. The theoretical element will then be applied to evaluate the level of justification for RPK. The purpose of making a legalistic analysis, is the intend to look beyond political aspects. That is why an analytical tool has been created, to analyse resolutions made by the UNSC, which will function as the primary legal source because of their binding nature, in accordance to Art. 25 of the Charter.²⁵

Relevance and Limitation of Topic

There are multiple reasons why it is relevant to look deeper into the grey area of RPK. To do this properly, the authors have been necessitated to limit the scope of RPK. The first reason for limiting our focus was to only consider PKOs with a robust mandate as these challenge the three basic

²⁴ Katarina Grenfell, *International Humanitarian Law and UN Peacekeeping Operations*, 21 January 2016, (available at: <https://www.alnap.org/help-library/international-humanitarian-law-and-un-peacekeeping-operations>)

²⁵ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 14

peacekeeping principles.²⁶ Robust mandates can deploy force at the tactical level where both consent from the host state and authorisation by the UNSC are acquired.²⁷ The RPKOs chosen are all authorised to use all necessary means in performing the tasks of their mandates which includes the use of force.²⁸

Second reason for the limitation is a geographical demarcation. In total, there has been 71 peacekeeping operations where 13 of these are still active. Seven of these are taking place in Africa, four in Asia, and two in Europe. The authors chose to concentrate on the African continent and based the decision on two factors namely that Africa historically has had the largest concentration of PKOs and currently has the largest amount of ongoing PKOs.²⁹ Of the seven current operations in Africa, the authors chose MONUSCO, UNMISS, and MINUSMA. The following paragraphs will outline reasons for this choice. The three RPKOs chosen, are the largest ongoing UN operations in Africa. The largest in terms of uniformed personnel is MONUSCO with a total of 18,316 out of 18,553, being uniformed personnel. This includes both military and police units.³⁰ The second largest is MINUSMA with total personnel of 15,610 where 15,209 are uniformed including military and police units.³¹ The final operation is UNMISS with 7,900 out of the operation's 16,117 personnel are uniformed.³²

Third, there is a complex political North-South division between peacekeeping doctrine and current praxis.³³ The gap shows itself with blue helmet operations primarily consisting of troops from countries within the Global South but the mandates and the tasks to be carried out are decided by the P5 in New York.³⁴ The deployment of peacekeeping troops is often hampered by differing

²⁶ The United Nations Department of Peacekeeping Operations; The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 31

²⁷ The United Nations Department of Peacekeeping Operations; The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 19

²⁸ Patryk Labuda, *How Much Force is Necessary to Protect Civilians?*, *The Global Observatory*, 24 September 2019, (available at: <https://theglobalobservatory.org/2019/09/how-much-force-necessary-protect-civilians/>)

²⁹ The United Nations, *List of Peacekeeping Operations 1948-2019*, (available at: https://peacekeeping.un.org/sites/default/files/unpeacekeeping-operationlist_3_1_0.pdf)

³⁰ The United Nations Peacekeeping, *MONUSCO Fact Sheet*, (available at: <https://peacekeeping.un.org/en/mission/monusco>)

³¹ The United Nations Peacekeeping, *MINUSMA Fact Sheet*, (available at: <https://peacekeeping.un.org/en/mission/minusma>)

³² The United Nations Peacekeeping, *UNMISS Fact Sheet*, (available at: <https://peacekeeping.un.org/en/mission/unmiss>)

³³ Seun Abiola, Cedric de Coning, Eduarda Hamann & Chander Prakash, *The large contributors and UN peacekeeping doctrine*, 2017, 154

³⁴ Seun Abiola, Cedric de Coning, Eduarda Hamann & Chander Prakash, *The large contributors and UN peacekeeping doctrine*, 2017, 152

Rules of Engagement, absence of unity of command, and lack of joint training and planning. These are all factors which makes it difficult for troops to engage in RPK.³⁵ In the words of the former United Nations Secretary-General (UNSG) Ban Ki-moon, “those who mandate missions, those who contribute uniformed personnel and those who are major funders are separate groups (...) tensions and divisions are inevitable, with potentially negative impacts on our operations.”³⁶ The general problem in the African operations is that parties within the UNSC, especially the P5 with their veto powers, lack a clear strategic vision for these RPKOs and are themselves not willing to engage with local leaders to find political solutions or deploy own troops to the region.³⁷

Structure

This thesis is divided into five different sections, where the first contains introductory remarks on MONUSCO, UNMISS, and MINUSMA. This part will outline the context of the three operations and the situations in which they operate. The second section deals with the analytical method which entails a combination of Art. 31 and Art. 32 of the *Vienna Convention on the Law of Treaties* and the *International Court of Justice's* (ICJ) Advisory Opinion (AO) on *Namibia (S.W. Africa)* from 1971, which has been used to construct the authors' own textual analytical instrument to apply to the UNSC resolutions of the three RPKOs. Furthermore, the JWT will be presented and the authors will legitimise its relevance for this thesis. The third section of the thesis is the textual analysis of the three RPKOs with a view to reassessing the current gap between mandates on paper and its implementation in praxis. This is done via the division of roles, the use of force, and fostering a good post-conflict environment, to further develop the contemporary understanding of RPK. The discussion of these three elements will depart from the idea that there is still room for improving RPK. Additionally, the JWT will be applied in the discussion to argue whether the ideas for improvement are more justifiable than current praxis. The final section that constitutes the conclusion, will sum up status of RPK in hindsight of the elements, as well as to highlight the constant sceptics surrounding RPK. Following this the authors, based on the three elements from the analysis/discussion, will provide suggestions for future praxis of RPK. The purpose is not to

³⁵ Fred Tanner, *Addressing the Perils of Peace Operations: Toward a Global Peacekeeping System*, 2010, 211

³⁶ Seun Abiola, Cedric de Coning, Eduarda Hamann & Chander Prakash, *The large contributors and UN peacekeeping doctrine*, 2017, 152

³⁷ Seun Abiola, Cedric de Coning, Eduarda Hamann & Chander Prakash, *The large contributors and UN peacekeeping doctrine*, 2017, 212

change the legal framework for these operations, but instead to change work procedures to ensure better implementation of UNSC mandates.

Definition of Terms

The Basic Principles of Peacekeeping

Regarding peacekeeping there are three basic principles which are mutually reinforcing and serves as a guideline for maintaining international peace. These are also applicable to RPKOs. The principles are: consent of the parties, impartiality, and non-use of force except in self-defence or in defence of the mandate. RPKOs are deployed with consent of the main parties to a conflict. This means that there is a requirement of commitment from these conflicting parties to engage in political processes as well as accept that RPKOs are mandated to supports such a process.³⁸ Impartiality concerns that RPKOs must implement their mandate without favouring any part of the conflict. This is often meddled with the word of neutrality, but the operations must be impartial in dealing with the parties. However, operations cannot be neutral in the execution of their mandate.³⁹ Finally, the non-use of force refers to peacekeeping adhering to the idea that force must only be used as self-defence of peacekeepers, but has also come to include that peacekeepers are to use force at the tactical level to defend the mandate. RPKOs are deployed by the UNSC to proactively use “all necessary means” in deterring and preventing disruption of political processes, that are attempting to improve security and lay the foundation for a long-term peace.⁴⁰

Robust Peacekeeping and Peace Enforcement

The boundaries between traditional peacekeeping and peace enforcement has become increasingly blurred. Even though, RPKOs are in principle supposed to support implementation of ceasefire- and peace agreements, they have become more prone to playing an active role in peace-making. The difference between RPK and peace enforcement lies in the way of using force. RPK may use force

³⁸ The United Nations Department of Peacekeeping Operations; The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 31

³⁹ The United Nations Department of Peacekeeping Operations; The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 33

⁴⁰ The United Nations Department of Peacekeeping Operations; The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 34

at the tactical level with consent of the host state, whereas peace enforcement use force at the strategic level, formally prohibited by article 2(4) of the Charter unless authorised by the UNSC.⁴¹

Multidimensional Operations

These operations draw upon a mix of both military and civilian instruments as well as a wide range of actors, such as regional, and sub-regional organisations as well as the UN member states, working to strengthen future conduct of such operations. The work of a multidimensional operation takes place between security and development to fulfil their assigned mandate.⁴² In multidimensional operations the four ‘peace’ tools of peace-making, peacekeeping, peacebuilding and peace enforcement have gradually merged as the boundaries between military and civilian tools are diminishing.⁴³

The Principles of Humanity and Distinction

IHL is based on two principles: the principle of humanity and the principle of military necessity. The principle of humanity attempts to humanise the conduct of war by limiting means and methods in warfare and is a part of CIL. It includes protection of certain categories of persons, humane treatment of prisoners, as well as to limit unnecessary suffering. The principle of distinction derives from the principle of humanity, and is written in the Additional Protocol I to the Geneva Conventions Art. 48,⁴⁴ Art. 51(2),⁴⁵ and Art. 52(2).⁴⁶ Distinction refers to that parties to a conflict must distinguish combatants and military objects from civilians and civilian objects and provide

⁴¹ The United Nations Department of Peacekeeping Operations; The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 19

⁴² Louise Riis Andersen & Peter Emil Engedal, *Blue Helmets and Grey Zones: Do UN Multidimensional Peace Operations Work?*, 2013, (available at: https://www.diis.dk/files/media/publications/import/extra/rp2013-29_lan_blue-helmets_web.pdf), 14

⁴³ Louise Riis Andersen & Peter Emil Engedal, *Blue Helmets and Grey Zones: Do UN Multidimensional Peace Operations Work?*, 2013, (available at: https://www.diis.dk/files/media/publications/import/extra/rp2013-29_lan_blue-helmets_web.pdf), 15

⁴⁴ International Committee of the Red Cross (ICRC), *Protocol I Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts – Wounded, sick and shipwrecked*, 7 December 1978, Art. 48

⁴⁵ International Committee of the Red Cross (ICRC), *Protocol I Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts – Wounded, sick and shipwrecked*, 7 December 1978, Art. 51(2)

⁴⁶ International Committee of the Red Cross (ICRC), *Protocol I Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts – Wounded, sick and shipwrecked*, 7 December 1978, Art. 52(2)

protection to the latter.⁴⁷ Because of the CIL status of these principles the UN is bound to adhere to them, despite the UN not being a party to the Geneva Conventions.

The Principles of Military Necessity and Proportionality

The principle of military necessity entails the allowance of belligerents to use means and methods that are lawful in waging war to battle an opponent. From this, the principle of proportionality is derived, governing the rule that any damage done to civilians and civilian object in military action, may not exceed the anticipated advantage from it.⁴⁸ These principles are not explicitly mentioned in the Charter but they are a part of CIL,⁴⁹ and consistent with the Charter. In particular Chapter VII, which sets the framework for the use of force,⁵⁰ as well as being two principles the UNSC is bound to adhere to because of their CIL status.⁵¹ Both principles are a fundamental part of IHLs applicability to armed conflict, being both present in jus ad bellum as well as in jus in bello.⁵²

Historical Background

The first PKO to be dispatched was *the United Nations Truce Supervision Organisation (UNTSO)* in 1948 in the Middle East.⁵³ In the years from 1948 to 1991, the timespan of the Cold War, the objective of PKOs were limited to stabilisation and maintaining already made ceasefires – operations that are labelled as traditional peacekeeping. Several of them are still active to this day.⁵⁴ The excruciating horrible experiences of the genocides in Somalia (1987-89), Rwanda (1994), and Bosnia (1995), pushed the evolution of peacekeeping and made a demand for a better response.⁵⁵ Therefore, in the post-Cold War era, the UNSC began to engage more actively in peace work in regional conflicts such as in the DRC, the RSS, and Mali.

⁴⁷ Nicholas Tsagourias and Alasdair Morrison, *Fundamental Principles of International Humanitarian Law*, Cambridge University Press, 2018, 39

⁴⁸ Nicholas Tsagourias and Alasdair Morrison, *Fundamental Principles of International Humanitarian Law*, 2018, Cambridge University Press, 2018, 39

⁴⁹ Christine Gray, *The Use of Force and the International Order*, Oxford University Press, 2018, 612

⁵⁰ Dansk Udenrigspolitisk Institut (DUPI), *Politiske og moralske aspekter af humanitær intervention*, 1999, 113

⁵¹ Mary Ellen O'Connell, *The United Nations Security Council and the Authorization of Force: Renewing the Council through Law Reform*, 2005, 58

⁵² Judith Gail Gardam, *Proportionality and Force in International Law*, 1993, 391

⁵³ The United Nations, *The United Nations Truce Supervision Organisation*, (available at: <https://untso.unmissions.org/background>)

⁵⁴ The United Nations Department of Peacekeeping Operations; The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 20

⁵⁵ Marco Longobardo, *Robust Peacekeeping Mandates: An Assessment in Light of Jus Post Bellum*, 2019, 6

The United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)

Prior to MONUSCO, was the United Nations Operation in the Congo (ONUC) in 1960 and the United Nations Mission in the Democratic Republic of the Congo (MONUC) in 1999. In this thesis emphasis, will be on MONUSCO. In 2010 on the 1 July, the UNSC secured the continuation of MONUC by renaming it MONUSCO in res. 1925.⁵⁶ It was an operation deployed amid civil war, to protect civilians and to support the DRC Government in a stabilisation process.⁵⁷ Only a few months after the completion of res. 1925, UN troops were put under great pressure, when 300 people were raped in one mass attack by a militia in August 2010 in North Kivu. Several attacks occurred and this led to MONUSCOs, in cooperation with the Armed Forces of the Democratic Republic of the Congo (FARDC), robust actions against militias in both South and North Kivu.

The situation intensified after a previous independent rebel group 23 March Movement (M23) committed mutiny in April 2012. The FARDC and MONUSCO troops tried in cooperation to halt the rebellion by the M23. To confront the underlying reasons for the continuing conflict, the Peace, Security and Cooperation Framework (PSC Framework) for the DRC and the region was signed between the DRC, 11 countries in the region, the Chairs of the African Union, the International Conference on the Great Lakes Region (ICGLR), the Southern African Development Community (SADC) and the UNSG on 24 February 2013 in Addis Ababa, Ethiopia.⁵⁸ Due to this peace agreement, MONUSCO was also able to establish the Force Intervention Brigade (FIB) with the UNSC res. 2098 on 31 March 2013. The FIB was not only defensive, but created with an offensive mandate, as written in res. 2098.⁵⁹ Despite having a “clear exit strategy,”⁶⁰ it was reaffirmed in 2014,⁶¹ 2015,⁶² 2016,⁶³ 2017,⁶⁴ 2018,⁶⁵ and 2019.⁶⁶

⁵⁶ Security Council resolution 1925, S/RES/1925, 28 May 2010, 3

⁵⁷ Alan Doss, *United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO)*, 2015, 805

⁵⁸ The United Nations, *United Nations Organization Stabilization Mission in the DR Congo*, (available at: <https://monusco.unmissions.org/en/background>)

⁵⁹ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 12(b)

⁶⁰ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 10

⁶¹ Security Council resolution 2147, S/RES/2147, 28 March 2014, para. 1

⁶² Security Council resolution 2211, S/RES/2211, 26 March 2015, para. 1

⁶³ Security Council resolution 2277, S/RES/2277, 30 March 2016, para. 24

⁶⁴ Security Council resolution 2348, S/RES/2348, 31 March 2017, para. 26

⁶⁵ Security Council resolution 2409, S/RES/2409, 27 March 2018, para. 29

⁶⁶ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 22

In 2017, MONUSCO experienced the worst attack in 24 years on peacekeepers, 15 were killed and 53 wounded.⁶⁷ The attack was committed by one of the more than 100 active rebel groups in the DRC.⁶⁸ A situation that triggered demonstrations, where the Congolese population showed their dissatisfaction with the level of protection.⁶⁹ On 28 February 2020, the Congolese Government signed a peace agreement with the rebel group “governing” the area of Bunia Eastern DRC, to bring peace and security to this province.⁷⁰ In March 2020, the Chargé d’affaires of the Permanent Mission of the DRC sent a letter to the President of the UNSC. In this, he stated that inter-communal violence by national and foreign armed groups remains an issue in Eastern Congo, despite the signing of the above-mentioned agreement.⁷¹

The United Nations Mission in the Republic of South Sudan (UNMISS)

The RSS gained its independence from the Republic of Sudan on 9 July 2011, following a referendum in which almost 99% of the South Sudanese people voted for separation and independence.⁷² It was the culmination of a six-year peace process, which was initiated by the signing of the *Comprehensive Peace Agreement (CPA)* on 9 January 2005. The CPA was signed by the Government of Sudan and the *Sudan People’s Liberations Movement (SPLM)*, ending the longest civil war in Africa.⁷³ However, in November 2011, the High Commissioner for Human Rights reported violent clashes between armed communities and rebel fractions, which undermined stability and posed a major threat to civilians.⁷⁴

⁶⁷ Diego Salama & Ortrun Merkle, *Is the UN Ready for a Peacekeeping Mission in Syria?*, 15 May 2018, (available at: <https://ourworld.unu.edu/en/is-the-un-ready-for-a-peacekeeping-mission-in-syria>)

⁶⁸ Eleanor Beevor, *The Allied Democratic Forces: the DRC’s most deadly jihadist group?*, 16 January 2019, (available at: <https://www.iiss.org/blogs/analysis/2019/01/adf-jihadist-group-drc>)

⁶⁹ The United Nations Organisation Stabilisation Mission in the DR Congo, *UN Working to Prevent Attacks on Civilians in Eastern Congo*, 29 November 2019, (available at: <https://monusco.unmissions.org/en/un-working-prevent-attacks-civilians-eastern-dr-congo>)

⁷⁰ The United Nations Organisation Stabilisation Mission in the DR Congo, *North Kivu: FARDC and MONUSCO Repel ADF Attack in Mbau*, 12 February 2020, (available at: <https://monusco.unmissions.org/en/north-kivu-fardc-and-monusco-repel-adf-attack-mbau>)

⁷¹ United Nations Security Council, *Letter dated 23 March 2020 from the Chargé d’affaires a.i. of the Permanent Mission of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council*, 30 March 2020, 2

⁷² Robert O. Collins, Ahmed Alawad Sikainga, Mohy el Din Sabr, Jay L. Spaulding, *South Sudan*, (available at: <https://www.britannica.com/place/South-Sudan/The-arts#ref300720>)

⁷³ The United Nations, *United Nations mission in South Sudan*, (available at: <https://unmiss.unmissions.org/background>)

⁷⁴ The United Nations Security Council, *Chronology of Events: South Sudan*, (available at: <https://www.securitycouncilreport.org/chronology/south-sudan.php>)

Therefore, on 9 July 2011, the UNSC on recommendation of the UNSG established UNMISS with res. 1996. This PKO was deployed with a robust multi-dimensional mandate under Chapter VII of the Charter to focus on state-building, reconciliation and the protection of civilians. Critics of UNMISS have pointed to the problem that the operation favoured the Dinka-dominated government, and thereby contributed to help President of the RSS Salva Kirr's support-network at the expense of meaningful decentralisation to other communities.⁷⁵

In December 2013, civil war broke out in the RSS and has been described as an ethnic conflict between the Dinka-dominated government of President Kirr and the Nuer communities who supported Vice President Riek Machar.⁷⁶ The outbreak of conflict increased humanitarian needs in the RSS due to grave abuses by state security services.⁷⁷ Approximately two million people were displaced within the RSS and more than two million became refugees in neighbouring countries.⁷⁸ In May 2014, the UNMISS mandate shifted from one primarily focusing on state-building to the protection of civilians (PoC), facilitating humanitarian delivery, human rights, and support of the peace process. In August 2015, Kirr and Machar signed the *Agreement on the Resolution of the Conflict in the Republic of South Sudan* (ARCSS). In July 2016, the peace deal crumbled and hostilities between the government and the opposition resumed.⁷⁹

On 15 March 2019, the UNSC extended the mandate for an additional year as violence continued in RSS.⁸⁰ On 22 February 2020, the UNSG welcomed the formation of the Transitional Government of National Unity (TGoNU). This was a significant achievement in implementing the 2018 *Revitalised Agreement on the Resolution of Conflict in South Sudan* (R-ARCSS) and the attempt to establish a lasting peace.⁸¹ Despite this progress, the parties to the R-ARCSS continues to disagree on the actual implementation of it. During the first quarter of 2020 inter-communal violence continuous and has resulted in more than 600 lives lost.⁸²

⁷⁵ Adam Day, *Assessing the Effectiveness of the United Nations Mission in South Sudan/UNMISS*, 2019, 32

⁷⁶ Adam Day, *Assessing the Effectiveness of the United Nations Mission in South Sudan/UNMISS*, 2019, 38

⁷⁷ Adam Day, *Assessing the Effectiveness of the United Nations Mission in South Sudan/UNMISS*, 2019, 37

⁷⁸ Adam Day, *Assessing the Effectiveness of the United Nations Mission in South Sudan/UNMISS*, 2019, 33

⁷⁹ Adam Day, *Assessing the Effectiveness of the United Nations Mission in South Sudan/UNMISS*, 2019, 32

⁸⁰ Security Council resolution 2471, S/RES/2471, 30 May 2019, 1

⁸¹ The United Nations, *UN chief welcomes South Sudan's Unity government, lauds parties for 'significant achievement'*, 22 February 2020, (available at: <https://news.un.org/en/story/2020/02/1057941>)

⁸² Security Council Report, *June 2020 Monthly Forecast: South Sudan*, 29 May 2020, (available at: <https://www.securitycouncilreport.org/monthly-forecast/2020-06/south-sudan-9.php>)

The Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA)

The UN established MINUSMA on 25 April 2013 by res. 2100.⁸³ MINUSMA took over tasks from the African-led International Mission in Mali (AFISMA) from 1 July 2013. It was established as a response to fights between government forces and Tuareg rebels in January 2012, that resulted in an occupation of northern Mali by armed Islamist groups.⁸⁴

Mali was traditionally a multi-ethnic and secular democratic country and could be categorised more or less stable. Despite this, things changed severely in March 2012, only a month before Mali's planned elections on 29 April 2012, in Mali's capital Bamako due to a military coup and an armed conflict began in Northern Mali sparking a civil war. The rebellion was mostly led by Tuareg groups disappointed with the state of governance and development in Northern Mali, so they merged together under *the National Movement for the Liberation of Azawad* (MNLA) taking over the province.⁸⁵

A temporary government was established on the 12 April 2012 led by President Dioncounda Traore.⁸⁶ Cooperation was difficult to find between the government and Islamic rebel groups. A political negotiation process was launched, which was finalised in the Framework Peace Agreement.⁸⁷ Conflict still developed between the MNLA and other rebel groups, escalating the terrorism threat in the region. To respond to the situation, the AU and the Economic Community of West African States (ECOWAS) deployed the regional operation AFISMA⁸⁸ with the French supported Operation Serval from January 2013.⁸⁹ ⁹⁰ The Malian government in power requested that AFISMA was turned into a UN PKO⁹¹ and in July 2013, AFISMA became MINUSMA.⁹²

⁸³ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 7

⁸⁴ The United Nations, *Implementing peace deal only path for stabilization in Mali: UN peacekeeping chief*, 15 January 2020, (available at: <https://news.un.org/en/story/2020/01/1055362>)

⁸⁵ Walter Lotze, *United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)*, 2015, 4

⁸⁶ Philipp Sandner, *Timeline of the crisis in Mali*, 2015, (available at: <https://www.dw.com/en/timeline-of-the-crisis-in-mali/a-18453016>)

⁸⁷ Walter Lotze, *United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)*, 2015, 5

⁸⁸ Security Council resolution 2085, S/RES/2085, 20 December 2012

⁸⁹ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 18

⁹⁰ Walter Lotze, *United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)*, 2015, 1

⁹¹ Walter Lotze, *United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)*, 2015, 7

⁹² Walter Lotze, *United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)*, 2015, 9

In August 2013, President Traore was succeeded by President Ibrahim Boubacar Keita.⁹³ A month later, three Tuareg movements, including the MNLA, suspended their partaking in the Framework Peace Agreement⁹⁴, which led to the UNSC adopting res. 2164 on 25 June 2014, establishing benchmarks for MINUSMA in an increasingly unstable situation and in the fight against international terrorism.⁹⁵ MINUSMA assisted the peace process between the Malian Government and armed groups that ended in *the Agreement on Peace and Reconciliation in Mali – Resulting from the Algiers Process* (the Agreement) on the 20 June 2015.⁹⁶

Both North and central Mali has become more destabilised because of attacks from armed Islamist groups, making the Malian government and the Malian Defence and Security Forces (MDSF) retaliate, creating an unsustainable cycle of violence. MINUSMA has been mandated to help stabilising this situation since 2018 in res. 2423.⁹⁷ The latest UNSC res. 2480 renewed the mandate for MINUSMA for one more year from the 28 June 2019.⁹⁸ From the Security Council's monthly forecast for June 2020, it is expected that the mandate of MINUSMA is to be extended for another year. This source also announces signs of further progress on the implementation of the Agreement.⁹⁹

METHODICAL AND THEORETICAL FRAMEWORK

The Analytical Tool

To do a reassessment of RPK it is necessary to have a tool to analyse relevant material for this task. Resolutions made by the UNSC is the data-foundation for this reassessment, since they are the one defining the mandate under which the operations are being executed. The list of resolutions used for this analysis is evident from *Appendix 2 – List of United Nations Security Council Resolutions*.

⁹³ Andrew Lebovich, *Mali re-elects Ibrahim Boubacar Keita: What you should know*, Aljazeera, 17 August 2018, (available at: <https://www.aljazeera.com/news/2018/08/mali-elects-ibrahim-boubacar-keita-180817182856703.html>)

⁹⁴ Walter Lotze, *United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)*, 2015, 9

⁹⁵ Security Council resolution 2014, S/RES/2164, 25 June 2014, para. 13

⁹⁶ The Malian Government, the Coordination des mouvements de l'Azawad & the Platform Coalition of Armed Groups, *Agreement for Peace and Reconciliation in Mali - Resulting from the Algiers Process*, 2015

⁹⁷ Security Council resolution 2018, S/RES/2423, 28 June 2018, para. 38(b)

⁹⁸ Security Council resolution 2018, S/RES/2480, 28 June 2019, para. 20

⁹⁹ Security Council report, *June 2020 Monthly Forecast: Mali*, 29 May 2020, (available at:

https://www.securitycouncilreport.org/monthly-forecast/2020-06/mali-9.php?utm_medium=email&utm_campaign=29%20May%202020%20Campaign%201&utm_content=29%20May%202020%20Campaign%201%20CID_88ce1a7feb10e582723b7a85c1113730&utm_source=Email%20Newsletter&utm_term=Mali&fbclid=IwAR3QI5mlNVNBkKFcKIX2km0Rs7Rmq5UQ4tvX2xmQqWEq4fPb1VACZn6I3GU)

To prescribe a suitable and adequate tool for analysing the UNSCs resolutions and the mandates provided from these, two legal documents have been used as point of departure. One being the *Vienna Convention on the Law of Treaties* (VCLT) from 1980, the other being the *International Court of Justice's* (ICJ) Advisory Opinion (AO) on *Namibia (S.W. Africa)* from 1971. The reason for choosing these, is despite of UNSC resolutions' binding nature, there is yet no specific instrument used for their interpretation. The legality of the resolutions made by the UNSC affirmed in Art. 25 of the Charter, states that Member States are obligated to follow through with the decisions reached by the UNSC in agreement with the Charter.¹⁰⁰ ¹⁰¹ This also counts for resolutions not related to enforcement adopted under Chapter VII in the Charter.¹⁰² This is secured by Art. 48 and Art. 49 of the Charter.¹⁰³ The AO on *Namibia (S.W. Africa)* also precisely states the power of the UNSC:

*The precise determination of the acts permitted or allowed - what measures are available and practicable, which of them should be selected, what scope they should be given and by whom they should be applied - is a matter which lies within the competence of the appropriate political organs of the United Nations acting within their authority under the Charter.*¹⁰⁴

In the AO on *Reparation for Injuries Suffered in the Service of the United Nations*, the ICJ recalled the legality of the UNSCs resolutions in the auspices of the UN and in the international community, stating that "It [the UN Charter] has defined the position of the Members in relation to the Organisation (...) and to accept and carry out the decisions of the Security Council."¹⁰⁵

¹⁰⁰ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 10

¹⁰¹ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 112

¹⁰² The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 113

¹⁰³ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 17

¹⁰⁴ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 120

¹⁰⁵ The International Court of Justice, *Reparation for Injuries Suffered in the Service of the United Nations*, 11 April 1949, 178

As it is clear from the title, the VCLT is strictly concerning treaties contracted between states, confer Art. 1,¹⁰⁶ and as Art. 2(a) states:

*For the purposes of the present Convention: (a) 'treaty' means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.*¹⁰⁷

For the interpretation of treaties, the VCLT is the tool. The VCLT is codified both in Art. 31 on the *general rule of interpretation* and Art. 32 on *supplementary means of interpretation*. According to Art. 31, a treaty is meant to be interpreted according to five means: in *good faith*, meaning that the expectation is that when parties sign up for an agreement, they also intend to live up to its commitments. *Ordinary meaning to be given to the terms*, also known as wording, meaning one must interpret the exact words. *Context*, meaning all the material and history leading up to and surrounding it. *Object and purpose*, being the sole purpose of the entrance of the treaty and *practice*, being how this purpose is being used.¹⁰⁸ Art. 32 supplements these elements, by extending the tool to also consider preparatory work and what circumstances that might have occurred during its finalisation that can have a say in how to interpret it.¹⁰⁹

Both Art. 31 and Art. 32 are to be used in a holistic manner, meaning that all elements of the articles are to be considered when used as analytical tool, because this will result in a suitable interpretation of the intentions of the treaty,¹¹⁰ which is also mentioned in *Namibia (S.W. Africa)*.¹¹¹ It is important to remember that it is not a step-by-step recipe, and in spite of having a logical sequencing to it,¹¹² each component should not be applied isolated.¹¹³ This is described in the *International Law Commission's (ILC) Commentary on the draft of the articles in 1969*:

¹⁰⁶ Malcolm D. Evans, *The Vienna Convention on the Law of Treaties (1969)*, Oxford University Press, 2017, 135

¹⁰⁷ Malcolm D. Evans, *The Vienna Convention on the Law of Treaties (1969)*, Oxford University Press, 2017, 135

¹⁰⁸ Malcolm D. Evans, *The Vienna Convention on the Law of Treaties (1969)*, Oxford University Press, 2017, 140

¹⁰⁹ Malcolm D. Evans, *The Vienna Convention on the Law of Treaties (1969)*, Oxford University Press, 2017, 141

¹¹⁰ Richard K. Gardiner, *A Single Set of Rules of Interpretation*, 2008, 8

¹¹¹ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 53

¹¹² Richard K. Gardiner, *A Single Set of Rules of Interpretation*, 2008, 9

¹¹³ Richard K. Gardiner, *A Single Set of Rules of Interpretation*, 2008, 30

*All the various elements, as they were present in any given case, would be thrown into the crucible, and their interaction would give the legally relevant interpretation.*¹¹⁴

Because these articles solely concern treaties it is not possible to directly use the instruments for interpretation that they prescribe, since the data used for this analysis is resolutions. Therefore, guidance has been sought in the ICJs AO on *Namibia (S.W. Africa)*. The question asked to the Court concerned “*what are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?*”¹¹⁵ The reasoning for the relevance of this AO in creating the authors’ interpretational tool, is based on the Court’s procedural approach to the AO on *Namibia (S.W. Africa)*. The AO made use of previous United Nations General Assembly’s (UNGA) and the UNSCs resolutions in determining the outcome on the question put before the court.¹¹⁶

The following is an extraction of experience from the AO, which the authors then juxtapose with the VCLT to create the authors’ analytical tool. But first of all, very important for the analysis of resolutions, the AO emphasise that a resolution made by an organ in the UN, created in accordance with the principles of the Charter, must be a valid resolution and should therefore be followed in accordance to *good faith*, as written in the VCLT Art. 31.¹¹⁷ This is also the reasoning for why *good faith* is not going to be considered an element in this specific analytical tool. One must assume that contractors will live up to obligations of a treaty or other legal binding documents, which is implicit in the signing and ratification of it.

The first element in the analytical tool, the concrete language of resolutions, is important to consider when making an interpretation. The reasoning for analysing the wording in a resolution is to conclude which binding decisions the UNSC has made. It is also to properly determine whether

¹¹⁴ The United Nations International Law Commission, *The United Nations Conference on the Law of Treaties*, 1971, para. 8

¹¹⁵ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, 5

¹¹⁶ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 108

¹¹⁷ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 20

the powers the UNSC possess confer with Art. 25 of the Charter have been used for each individual case.¹¹⁸ This sounds as Art. 31 of the VLCT that prescribes the tool of *ordinary meaning to be given to the terms* (wording), in making interpretations.

Second, the AO emphasise the importance of underlying aspects of the mandate provided in the resolution. Whether that be the nature of the mandate, the history of the mandate e.g. in the shape of previous resolutions or previous paragraphs in the same resolution, because these can create a cumulative effect when combined.¹¹⁹ Also events taking place prior to adoptions of resolutions,¹²⁰ the political history,¹²¹ the legal system of the time of interpretation; that be general principles, the Charter, Customary International Law (CIL), and erga omnes obligations.¹²² Additionally, the preamble and what it says about the character of the resolution and what it reaffirms,¹²³ discussions leading up to the resolution, provisions from the Charter being invoked, and all circumstances that may assist in determining the legal consequences of the resolution.¹²⁴ These things relate to Art. 31 of the VLCT that prescribes the tool of *context* in making interpretations as well as Art. 32 of the VCLT prescribing supplementary means for making interpretations.

Third, *object & purpose* and *practice* are also important in interpreting resolutions, because as written in *Namibia (S.W. Africa)* violating obligations according to the resolution, can destroy the

¹¹⁸ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 114

¹¹⁹ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 39, para. 44, para. 108

¹²⁰ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 51

¹²¹ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 52

¹²² The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 44, para. 126

¹²³ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 92, para. 108

¹²⁴ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 114

sole object and purpose of the relationship entered into by creating the resolution.¹²⁵ When it is not possible for the UNSC to uphold their primary responsibility of Art. 24(1) in the Charter,¹²⁶ then the UNSC have the power to act in accordance to Chapter VI, VII, VIII, and XII of the Charter confer Art. 24(2).¹²⁷ ¹²⁸ When considering the UNSCs resolutions and situations describing a breach to peace, it is important to consider both the resolution but also the preamble in determining what practice to apply. Both in terms of the UNSC acting in accordance to its primary responsibility, but also to avoid members or non-member states acting in a way that “undermines the authority of the UN.”¹²⁹ This sounds as Art. 31 of the VCLT that, among more, prescribes the tool of *object and purpose* and *practice* in making interpretations.

Taking all the above into consideration, the analysis of the resolutions concerning MONUSCO, UNMISS, and MINUSMA will depart from a fusion of Art. 31 and Art. 32 of the VCLT and the AO on *Namibia (S.W. Africa)*. The elements of our analysis will therefore be the following: *wording, context, and object, purpose and practice*. Wording refers to the concrete linguistic meaning. Context, being prior and current political and legal history, preparatory work, and the preamble of the resolution. Finally, object, purpose and practice refer to the obligations vested in the contracting parties to reach the purpose of the resolution. The analytical tool created to analyse the resolutions is made to enable a comparison between commonalities and differences dealt with. This is done in a holistic and comparative manner, because despite having resolutions as the focal point, it is still crucial to consider the surroundings of these, as this will contribute to their interpretation.

Holistic and Comparative Approach

When approaching something holistically, one must not only focus on one component of the whole, but focus on all in its entirety, including the surroundings. This means, that when this thesis

¹²⁵ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 95

¹²⁶ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 14

¹²⁷ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 14

¹²⁸ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 110

¹²⁹ The International Court of Justice, *Namibia (S.W. Africa): Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, 21 June 1971, para. 109

analyses the UNSCs resolutions to create a reassessed understanding of RPK, the authors will consider both history prior to the resolution, events taking place during deployment of operations, as well as consider RPK efforts for future praxis. This is done to look at UNSC resolutions in a broader perspective, focusing on elements going all the way from the desks of the UN offices down to the UN personnel on the ground.¹³⁰ Because three RPKOs are being analysed, it is appropriate to compare them, since a comparison of the resolutions and their surroundings is necessary in detecting developments and interpreting their effects. It is a natural choice to incorporate the comparative method in this thesis, because in viewing the process of these RPKOs the authors compare the resolutions for the given operations in order to examine patterns, similarities, and differences.¹³¹

Presentation and Legitimation of the Just War Theory

The JWT is a longstanding theory committing itself to provide moral foundations and justifications for both the initiation and conduct of armed conflicts.¹³² According to international law there are limited circumstances for justifiable use of force. The moral root of the just war tradition is the principle that no good can come from evil behaviour, but that evil behaviour can justify interventionist methods to halt harmful atrocities.¹³³ The theory itself stems from classical Greco-Roman and Christian thought and is often credited to the Christian theologian St. Augustine, who in his *Book XIX of The City of God* considers conditions for the use of force. According to Augustine, one must distinguish just from unjust causes to pursue the most noble ends with requirements of moral credibility for initiating war (*jus ad bellum*) and for its conduct (*jus in bello*). This argument has later laid foundation for thinkers such as St. Thomas Aquinas who specified three criteria for *jus ad bellum* being that 1) only legitimate public authorities can declare wars, 2) it must be waged for a just cause (often confined to self-defence) and, 3) wars require a right intention. Refinements of these thoughts produced additional criteria to be fulfilled for the initiation of war to be just. These

¹³⁰ Liam Mahony & Roger Nash, *A framework for a holistic approach to UNSC Resolutions on Protection of Civilians Children and Armed Conflict and Women Peace and Security*, 10 November 2008, 4

¹³¹ Alexander Stafford, *Comparative Analysis Within Political Science*, 4 November 2013, (available at: <https://www.e-ir.info/pdf/44275>)

¹³² Seth Lazar, *Just War Theory: Revisionists versus Traditionalists*, 11 Jan. 2017, (available at: <https://www.annualreviews.org/doi/pdf/10.1146/annurev-polisci-060314-112706>), 38

¹³³ Tom Woodhouse, Robert Bruce & Malcolm Dando, *Peacekeeping and Peacemaking: Towards Effective Intervention in Post-Cold War Conflicts*, 1998, 31

criteria include 4) war must have a proportionate cause, 5) must have a reasonable chance of success, and 6) the use of force must be last resort.¹³⁴

All the above belongs within the category of *jus ad bellum*. When these conditions are satisfied for initiating an armed conflict, the criteria of proportionality and discrimination must be considered which belongs under *jus in bello*. *Jus in bello* concerns the justice within armed conflict meaning that there must be a correct conduct of battle after a decision has been made to wage an armed conflict. An armed conflict remains just if innocent people and non-combatants are unharmed, if appropriate force is used, and internationally agreed conventions, which regulates armed conflicts, are obeyed. There also exists a third section known as *jus post bellum*, which deals with justice after the conclusion of an armed conflict. This concerns establishing peace and upholding the responsibility and accountability of parties to the conflict following its conclusion.¹³⁵ When evaluating these conditions for the moral legitimacy of using force, it is up to those responsible of applying force to decide if their actions will be for the common good.¹³⁶

Philosopher Michael Walzer draws on the previously mentioned medieval JWT to provide justifications for waging war as well as to limit its conduct. His book, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* from 1977, is an attempt to present contemporary ethics of warfare. This publication has been considered one of the most influential modern works on the laws of war, as it rejected amoral realism and pacifism. Instead Walzer focused on the revival of the tradition itself by separating *jus ad bellum* and *jus in bello* arguing that a state can be engaged in a just war but fight with illegal means. Furthermore, he praises the principle of non-combatant immunity meaning that states cannot intentionally target civilians and property not partaking in hostilities. In short, Walzer replaced the foundation of the JWT, which relied on natural law, and instead sought a liberal approach in which he understood politics in terms of individual rights.¹³⁷

¹³⁴ Michael M. Uhlmann, *The Use and Abuse of Just-War Theory*, Summer 2003, (available at: <https://claremontreviewofbooks.com/the-use-and-abuse-of-just-war-theory/>)

¹³⁵ Christine Emba, *Just War Theory: A Primer*, 30 November 2015, (available at: <https://www.washingtonpost.com/news/in-theory/wp/2015/11/30/just-war-theory-a-primer/>)

¹³⁶ Michael M. Uhlmann, *The Use and Abuse of Just-War Theory*, Summer 2003, (available at: <https://claremontreviewofbooks.com/the-use-and-abuse-of-just-war-theory/>)

¹³⁷ John Yoo, *Michael Walzer, Just and Unjust Wars (1977)*, 6 February 2019, (available at: <https://www.hoover.org/research/michael-walzer-just-and-unjust-wars-1977>)

The JWT has traditionally been applied to state-centric wars, but in the second half of the twentieth century the nature of conflicts has changed the norm of non-intervention. This is due to an increase in domestic insurgencies, rebellions, and full-fledged civil wars, which have turned out to be major challenges to the stability of the international system. Not said that the principle of non-intervention is discharged, as this would be improbable, rather there is a more loose definition on the principle, which has established moral justifications for peacekeeping and peace-making interventions.¹³⁸ However, it has become gradually difficult to distinguish between what is just and what is not. The international society is in dire need of fundamental and far-reaching changes in relation to policies and institutions such as the UN for them to exercise responsibility towards human and state security more effectively.¹³⁹ However, the justification for authorising the use of force in RPKOs remains a debated issue as there is a lack of coherence between prerogatives in UNSC resolutions and what happens on the ground.¹⁴⁰

One might question the relevance of applying the JWT to robust peacekeeping as it is traditionally an ethic relating to the initiation of war. However, the JWT can despite its name, generally function as an ethical guide for soldiers' judgement whether it is within conventional warfare or in a RPKO.¹⁴¹ Therefore, the authors have deemed the JWT relevant, as it will be used to evaluate the moral justifications for the robust turn in peacekeeping. Therefore, this thesis will not consider justification for initiating wars but instead the initiation and conducts of RPKOs, such as MONUSCO, UNMISS, and MINUSMA, and their relation to the criteria of the JWT. Considering the criteria of just cause, robust operations are arguably considered just as these operations are deployed to prevent suffering of innocent civilians as well as to keep warring parties apart and encourage a peace settlement. In considering the just cause of interventions, it provides insurance that such operations are deployed for the right reasons.¹⁴² The criteria must be used prospectively to make moral justification for military action in RPK with the purpose of limiting agents, such as the troops, from performing unjust military actions within the states they are deployed to.¹⁴³

¹³⁸ Tom Woodhouse, Robert Bruce & Malcolm Dando, *Peacekeeping and Peacemaking: Towards Effective Intervention in Post-Cold War Conflicts*, 1998, 31

¹³⁹ John W. Lango, *The Ethics of Armed Conflict: A Cosmopolitan Just War Theory*, 2014, 18

¹⁴⁰ Frauke Lachenmann & Rüdiger Wolfrum, *The Law of Armed Conflict and the Use of Force*, 2017, 972

¹⁴¹ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 9

¹⁴² David M. Barnes, *Intervention and the Just War Tradition*, United States Military Academy, Unknown Year, (available at: <http://isme.tamu.edu/JSCOPE00/Barnes00.html>)

¹⁴³ John W. Lango, *Generalizing and Temporalizing Just War Principles: Illustrated by the Principle of Just Cause*, 2007, 76

Presentation of Empirical Data

The data used for the analysis will consist of UNSC resolutions, which are formal expressions of the will of different UN organs. Dealing with MONUSCO the authors have focused on res. 1925 from 2010 which established the operation and until the latest res. 2502 from 2019. In relation to UNMISS, focus has been on res. 1996 from 2011 until the most recent one res. 2514 from 2020. Finally, MINUSMA deals with res. 2100 from 2013 until the most recent one res. 2480 from 2019. For a more detailed overview of the resolutions used in this thesis turn to *Appendix 2 – List of United Nations Security Council Resolutions*.

Methodical Choices

The Choosing of the Three Elements

When analysing the resolutions of MONUSCO, UNMISS, and MINUSMA, the authors decided to focus on three elements in reassessing the robust turn of peacekeeping. Peacekeeping scholars have tended to focus on the phases leading up to the deployment of PKOs as well as the actual implementation of mandates. Therefore, it was decided that this thesis would consider both the process of implementing the mandate as well as the aftermath following the withdrawal of a PKO. Additionally, an element of structure was added, with the intention of focusing on specific actors within RPKOs. Here, focus has been on the division of roles including the role of the AU and the SRSG. The phase of the implementation of the mandates have focused on the use of force, including stabilising efforts as well as the protection of civilians. Finally, the aftermath phase of peacekeeping has focused on building a post-conflict environment with focus on peacebuilding efforts as well as the role of peace agreements.

These sub-categories were settled upon after reading the resolutions of the three cases. On the division of roles, the AU was chosen as MONUSCO, UNMISS, and MINUSMA are all taking place in Africa, where the AU is considered an important actor. However, the mentioning of this regional organisations was limited despite an appraisal from the UN on its work in peacekeeping. The role of the Special Representative of the Secretary-General (SRSG) was chosen due to the authors intention to include a field-based actor of peacekeeping. At first the intention was to look at the role of the United Nations Force Commander/head of military component, however, it quickly became clear that finding literature on this position was rather difficult, and the limited number of

sources would have been inadequate for the thesis. Examining the role of the SRSG, it also became clear that this person in many ways carries a bigger responsibility than the Force Commander, being an extension of the UNSG in carrying out the task of taking a theoretical mandate on paper and converting it to something practical on the ground. The amount of literature on SRSGs, both of the academic kind and of the UNs own reports, was also of a vast amount compared to the Force Commander.

With focus on the implementation phase it was decided that the use of force would be the best objective as the thesis deals with RPK. When force is used as a tool in peacekeeping it is with the intend of stabilising the situation in conflict-affected areas. Several objects of the three RPKOs are with the purpose of providing stabilisation efforts which also includes the protection of civilians. This element is an essential part of robust mandates, and a primary task of all three operations. Therefore, by reading the resolutions of these robust operations it was decided to elaborate on the primary task, being stabilising the states by using all necessary means.

Lastly, the phase on the aftermath of peacekeeping was chosen as this part of the process is tasked with extending peace after a RPKO has left, by both considering peacebuilding and exit-strategies. The focus when choosing this, was to consider how the UN becomes able to withdraw robust operations as well as how these kinds of operations can create a foundation for keeping peace after UN withdrawal. All these considerations are founded upon the fact that all three operations struggle to implement peace agreements and achieve a stable post-conflict environment. Peacebuilding efforts are mentioned in the resolutions of all three operations, however, it is only MONUSCO that includes considerations of an explicit exit-strategy.

The Stance on the Use of Force

Dealing with RPK it has often been discussed what point of view the authors should take on the use of force. The authors ended up arguing that it would be too progressive to be overly in favour of force, but it would at the same time, be too utopian to believe it was possible to conduct RPKOs without any use of coercive means. Therefore, a middle way has been sought in this thesis, stating that some situations will continue to require the use of force.

Moving Pass the Idea of Making a Conceptualisation

Originally, the purpose of this thesis was to create a new conceptualisation of RPK which would have improved the tactical level of UN peacekeeping. After working on this idea, it became clear to the authors, for several reasons, that this would not be possible. First and foremost, to make such a reconceptualization would be much too comprehensive, considering the temporal limitation of this thesis. Second, to get the above-mentioned six sub-categories to talk into one another in improving the tactical level, did not prove efficient. Third, to make a new in-depth conceptualisation, a concrete roadmap would be required, which demanded access to sources that the authors could not access. It was, therefore, decided not to change the concept of RPK, but instead reassess what the ‘robust turn’ means for peacekeeping.

ANALYSIS AND DISCUSSION OF MONUSCO, UNMISS, AND MINUSMA

The problems of RPK arise from the fact that operations are often deployed in the midst of conflict in areas with little or no peace to keep. One overall description that unfortunately can define the countries of the DRC, the RSS, and Mali, is that they are fragile states. They are states that have difficulties with developing sustainable, full-scale democratic political structures, that shows itself in the lack of internal legitimacy of the authorities. As in MINUSMA where governmental structures are somewhat uncompleted and temporary,¹⁴⁴ or in UNMISS where governmental resistance to improvements and kleptocracy are an issue.¹⁴⁵ It can also be based in the population’s non-acceptance of the legitimacy of their state’s authority, as in the DRC, where armed groups attempt to make authorities parallel to the state authority.¹⁴⁶ The UN response to these humanitarian crises has been aligned with the Capstone Doctrine’s definition of RPK, however, there remain a blurred area in regards to RPK and what such kind of operations entail, and how these adhere to the IHL – by all parties.

In relation to MONUSCO, UNMISS, and MINUSMA it has become visible that RPK could benefit from modifications, in reassessing this type of mandate. The overall purpose of the analysis and discussion is to revise RPK with the intention of contributing with an improvement of aspects for future RPKOs. By applying the authors’ analytical tool to the UNSC resolutions for the RPKOs

¹⁴⁴ Security Council resolution 2100, S/RES/2100, 25 April 2013, 1

¹⁴⁵ Security Council resolution 2155, S/RES/2155, 27 May 2014, 1

¹⁴⁶ Security Council resolution 2076, S/RES/2076, 20 November 2012, para. 3

chosen and comparing these, three elements have demonstrated reoccurring problems for implementing robust mandates. Three elements that represent before, under and after operation, considered in a holistic manner. This will revolve around the *division of roles*, that be the role of the AU in RPKOs, and the role and responsibilities of the SRSG. The second part will consider *the robustness exercised* in terms of the use of force, that being the interaction with the civilian component in relation to PoC mandates, and the use of force to stabilise. Lastly, *the fostering of a good post-conflict environment* will be assessed, that being peacebuilding, exit-strategies, and peace agreements.

Through the analysis of the three elements it is evident that the current concepts, tools, operation structures and doctrines of peace implementation are not fit for their purpose as there is a need for clarification of RPK. The problems stressed in the analysis will be further examined in a discussion. The discussion will approach ways to handle the problems stated in the analysis, weighing the benefits and their counterparts, assessing them in accordance with the elements of the JWT, presented in the theory-section, to make suggestions to further-develop the three elements of RPK. When extending the JWT to peacekeeping it is with the intention of the UN to maintain rather than create peace in future peacekeeping.¹⁴⁷ For RPKOs the preferred outcome is a settlement in the shape of “a resolution by conciliation among the competing parties, rather than termination (of the conflict) by force.”¹⁴⁸ This permits nonviolent resolutions of conflicts but does at the same time not exclude the use of force to solve conflicts.¹⁴⁹ In this analysis and discussion it is important to remember that the benefit of hindsight is applied in order to make the reassessment. This is the case because the operations are ongoing and are not yet terminated.

The Division of Roles in Robust Peacekeeping

As there are many actors involved in RPKOs the authors have chosen to limit the analysis to two actors namely the African Union (AU) and the SRSG. The section dealing with the AU will focus on the explicit mentioning of the AU in MONUSCO, UNMISS, and MINUSMA to highlight the loosely defined role of the AU and the tasks they are assigned in these robust operations. The current role of the AU will be discussed based on factors including the North-South division of roles in RPKOs as well as the AUs lack of capabilities and resources. Additionally, the role of the

¹⁴⁷ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 9

¹⁴⁸ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 10

¹⁴⁹ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 10

AU will be discussed whether this organisation should play a more prominent role to maintain peace and security in Africa.

When the UNSC deems that a situation threatens international peace and security it delegates tasks to the UNSG.¹⁵⁰ Under Art. 101 of the Charter, the UNSG can appoint staff of his choosing to the position of *Head of Mission* also known as the SRSG which the second section of the analysis of the division of roles will focus on.¹⁵¹ The SRSG is responsible of reporting on the situation on the ground to the UNSG through the Under Secretary-General for Peacekeeping Operation (USG DPKO).¹⁵² In the analysis, the specific tasks of the SRSGs in the three RPKOs will be outlined. Hereafter, the discussion will focus on whether this role can take on more tasks from the UNSG to lift some of the heavy burden of peacekeeping from his shoulders, to contribute with more field-based knowledge beneficial for the entirety of the operations.

The Loosely Defined Role of the African Union

The Problem of the Role of the AU

Under international law the Charter provides the constitutional basis for involving regional organisations such as the AU in maintaining international peace and security under Chapter VIII.¹⁵³ The importance of participation by regional organisations in peacekeeping grew to a large extent following the end of the Cold War. The UN embraced the idea that states must take on the responsibility of security within the state to affect the entire stability of the region. On the African continent, this idea was epitomised with the words ‘African solutions to African problems’. This has become the maxim of the AU and embodied in the African Peace and Security Architecture which amongst other institutions include the Peace and Security Council (AU PSC) and the African Standby Force (ASF).¹⁵⁴ In the 1992, *An Agenda for Peace*, the former UNSG Boutros Boutros-Ghali, argued that cooperation between the UN and regional organisations such as the AU could “lighten the burden of the Council [the UNSC] but also contribute to a deeper sense of participation,

¹⁵⁰ John Karlsrud, *Special Representative of the Secretary-General as Norm Arbitrators? Understanding Bottom-up Authority in UN Peacekeeping*, December 2013, 534

¹⁵¹ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 25

¹⁵² United Nations Department of Peacekeeping Operation and Department of Field Support, *Authority, Command and Control in United Nations Peacekeeping Operations*, February 2008, para. 22

¹⁵³ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 18

¹⁵⁴ Remofiloe Lobakeng, *African solutions to African problems: a viable solution towards a united, prosperous and peaceful Africa?*, October 2017, 1

consensus and democratization in international affairs.”¹⁵⁵ This portrays a vision of a partnership in which different actors understand their role in a greater political project, capable of sharing the various burdens of peacekeeping.¹⁵⁶

In the last decade, African states and political leaders have played frontline roles in mediation of peace agreements which sought ways to end regional conflicts. AU member states have never deployed more troops to PKOs than they do now, constituting approximately 50 percent of the current 110,000 peacekeepers.^{157 158} This increase in amount of African troops can be attributed to the AU and other sub-regional organisations in Africa investing in establishing the ASF, which have boosted confidence and paved way for a more prominent role of the AU in conflict management in Africa.¹⁵⁹ Despite this, the African continent is still heavily affected by conflicts, which remain difficult to solve because of their complicated nature. According to the High-level Panel on Peace Operations (HIPPO) report from 2015, partnerships with regional organisation remains vital for solving internal conflicts as those in the DRC, the RSS, and Mali. However, partnership between the UN and the AU is rather loosely defined relying on voluntary coordination instead of a clearly defined agreement on division of roles in peacekeeping.¹⁶⁰

How Does It Show in the Resolutions?

The mentioning of the AU in the resolutions of MONUSCO, is relatively limited. The very first mentioning of the organisation is in res. 1991 (2011), where the UNSC in good faith calls upon the AU and other relevant sub-regional organisations to *object* themselves to “further engage in support of the stabilization efforts,”¹⁶¹ especially regarding matters of security. This is a reoccurring theme throughout the resolutions respective of MONUSCO with the UNSC asking the AU to partake in

¹⁵⁵ The United Nations Secretary-General, *An Agenda for Peace Preventive diplomacy, peacemaking and peacekeeping*, A/47/277, 17 June 1992, para. 64

¹⁵⁶ Remofiloe Lobakeng, *African solutions to African problems: a viable solution towards a united, prosperous and peaceful Africa?*, October 2017, 2

¹⁵⁷ Remofiloe Lobakeng, *African solutions to African problems: a viable solution towards a united, prosperous and peaceful Africa?*, October 2017, 7

¹⁵⁸ Cedric de Coning, *African and UN Peace Operations: Implications for the Future Role of Regional Organisations*, 2019, 213

¹⁵⁹ Cedric de Coning, *African and UN Peace Operations: Implications for the Future Role of Regional Organisations*, 2019, 214

¹⁶⁰ Cedric de Coning, *African and UN Peace Operations: Implications for the Future Role of Regional Organisations*, 2019, 227

¹⁶¹ Security Council resolution 1991, S/RES/1991, 28 June 2011, 2

restoring peace and security in the DRC.¹⁶² In the resolutions that followed, the UNSC reiterated its call upon the AU explicitly, to further support ongoing stabilisation efforts in the DRC in regards to security as well as to counter illicit exploitation and trade of natural resources.¹⁶³ The AU has also been praised for its efforts in restoring peace with the explicit mentioning of the improved situation in the Eastern DRC.¹⁶⁴ The UNSC has continuously encouraged the Government of the DRC to ensure cooperation with both the AU and other relevant international parties,¹⁶⁵ with the *purpose* of achieving national development and peace.¹⁶⁶ In res. 2409 (2018), the UNSC once again called for close coordination between the UN, the AU and other key actors in ensuring the implementation of the *Comprehensive and Inclusive Political Agreement*. This was considered a vital part of the stabilisation process in the DRC,¹⁶⁷ and the UNSC welcomed amongst other the AU in its support of the electoral process and its contribution to the establishment of a joint team of experts to support peace efforts in the DRC.¹⁶⁸

In MONUSCO, one of the specific *objects* of cooperation between the AU and the UN is in the coordination of stabilising the DRC, through AU facilitation of regional action against the militant group known as the Lord's Resistance Army (LRA).¹⁶⁹ A militant group waging war against the Government of Uganda and nearby states including the DRC since the end of the 1980s.¹⁷⁰ In *context*, several armed groups are present in the conflict in the DRC, but the AU has been tasked with providing help to MONUSCO with the primary focus on handling the LRA due to its far-reaching negative influence on the African continent.¹⁷¹ In continuation hereof, the AU in 2012, initiated a regional effort known as the Regional Task Force (AU-RTF) with the support of the UN and the US to counter the LRA. This initiative faced several challenges because of regional instability as well as logistical and funding issues, but did manage to contribute to a decrease in attacks on civilians.¹⁷² In res. 2053 (2012), the UNSC welcomed the intention of MONUSCO to

¹⁶² Security Council resolution 2076, S/RES/2076, 20 November 2012, 1

¹⁶³ Security Council resolution 2053, S/RES/2053, 27 June 2012, 3

¹⁶⁴ Security Council resolution 2078, S/RES/2078, 28 November 2012, 2

¹⁶⁵ Security Council resolution 2211, S/RES/2211, 26 March 2015, 1

¹⁶⁶ Security Council resolution 2348, S/RES/2348, 31 March 2017, 3

¹⁶⁷ Security Council resolution 2409, S/RES/2409, 27 March 2018, para. 5

¹⁶⁸ Security Council resolution 2409, S/RES/2409, 27 March 2018, para. 9

¹⁶⁹ Security Council resolution 1991, S/RES/1991, 27 June 2012, para. 14

¹⁷⁰ Ikwebe Bunting, *Lord's Resistance Army – Rebel Organization*, 24 August 2017, (available at: <https://www.britannica.com/topic/Lords-Resistance-Army>)

¹⁷¹ Security Council resolution 1991, S/RES/1991, 28 June 2011, para. 14

¹⁷² World Peace Foundation, *AU Regional Task Force Against the Lord's Resistance Army Mission*, 2017, (available at: <https://sites.tufts.edu/wpf/files/2017/07/Lords-Resistance-Army-Mission.pdf>), 1

provide logistical support to the establishment of an AU-RTF Sector Headquarters in Dungu and to share information on its implementation.¹⁷³ In the same resolution the UNSC expressed support of initiatives both taken by the UN and the AU to facilitate regional action against the LRA. The *purpose* of this was to protect civilians as well as encouraging relevant parties to enhance cooperation.¹⁷⁴ The UNSC encouraged the AU-RTF to continue its efforts against the LRA,¹⁷⁵ and additionally asked for even more efforts,¹⁷⁶ including cooperation with other PKOs.¹⁷⁷ On top of that, the UNSC supported that sanctions on arms would not apply to the supplies of assistance, advice, arms, and training which were to be used by MONUSCO and the AU-RTF in countering threats with the *object* of protecting civilians.¹⁷⁸ It is not the sole responsibility of the UN and the AU to protect civilians in the DRC, but a responsibility of the Congolese state and all involved parties to the conflict to protect the civilians against threats posed by the LRA.¹⁷⁹

Considering the role of the AU in UNMISS it is evident that there since the beginning of the operation has been an emphasis on the important role of the UN in supporting national authorities, in close cooperation with international partners.¹⁸⁰ Both with the *purpose* of consolidating peace in the RSS and to prevent the return of violence to the area. Throughout its resolutions it is continuously mentioned that close cooperation between the UN and the AU is important.¹⁸¹ However, in these resolutions the UNSC is aware of the loosely defined division of roles amongst involved actors and in good faith explicitly mentions that there is a need for “forging stronger and well-defined partnerships among the United Nations, development agencies, bilateral partners and other relevant actors, regional and subregional institutions (...).”¹⁸² The UNSC requires more clarity about roles, responsibilities, and collaboration amongst these partners if implementation of national strategies are to be effective.¹⁸³

¹⁷³ Security Council resolution 2053, S/RES/2053, 27 June 2012, 3

¹⁷⁴ Security Council resolution 2053, S/RES/2053, 27 June 2012, para. 21

¹⁷⁵ Security Council resolution 2098, S/RES/2098, 28 March 2013, 2

¹⁷⁶ Security Council resolution 2147, S/RES/2147, 28 March 2014, 2

¹⁷⁷ Security Council resolution 2277, S/RES/2277, 30 March 2016, para 23

¹⁷⁸ Security Council resolution 2293, S/RES/2293, 23 June 2016, para 3(a)

¹⁷⁹ Security Council resolution 1991, S/RES/1991, 28 June 2011, para 14

¹⁸⁰ Security Council resolution 1996, S/RES/1996, 8 July 2011, 2

¹⁸¹ Security Council resolution 2223, S/RES/2223, 28 May 2015, 2

¹⁸² Security Council resolution 1996, S/RES/1996, 8 July 2011, 2

¹⁸³ Security Council resolution 2057, S/RES/2057, 5 July 2012, 2

The previously mentioned threat by the LRA is not only present in the DRC, but also in the RSS. In this RPKO, the UNSC calls upon the UNSG to update the UNSC on cooperation between UNMISS, the AU and other relevant regional and international partners with the *object* of addressing threats posed by the LRA.¹⁸⁴ As a response to these threats the AU and the UN have together in res. 2304 (2016), endorsed the deployment of a Regional Protection Force to UNMISS to be based in Juba with the responsibility of providing a more secure environment.¹⁸⁵ This was to be done in close cooperation with the Government of the RSS.¹⁸⁶ The *purpose* of the AU throughout the resolutions of UNMISS has been to support the implementation of the *Comprehensive Peace Agreement* (CPA). This was signed by Sudan and the RSS in 2005 through the AU High-level Implementation Panel, and deals with negotiations on post-secession relations.¹⁸⁷ Furthermore, the AU was also *object* for bringing the parties to the conflict to implement the ARCSS,¹⁸⁸ signed by President Salva Kiir Mayardit representing the Sudan People's Liberation Movement and Army (SPLM/SPLA) and First Vice President Riek Machar representing the Sudanese People's Liberation Movement/Sudanese People's Liberation Army in Opposition (SPLM/SPLA-IO), as well as other stakeholders.¹⁸⁹ The *purpose* of the agreement was to promote reconciliation.¹⁹⁰ On 29 January 2016, the AU PSC called via a communiqué on all South Sudanese parties to uphold this last mentioned agreement and further encouraged AU member states and the international community to support its implementation.¹⁹¹ In res. 2290 (2016) the UNSC welcomed the commitment of the AU to “fully play its role in the implementation process together with (...) the United Nations and other concerned international stakeholders (...).”¹⁹²

Continuing on the RSS, Chapter V of the ARCSS provides for the establishment of the Hybrid Court which would be under the auspices of the AU with the *object* of delivering sustainable justice to victims of international crimes committed.¹⁹³ The UN invited the AU to share information on

¹⁸⁴ Security Council resolution 2057, S/RES/2057, 5 July 2012 para. 19

¹⁸⁵ Security Council resolution 2304, S/RES/2304, 12 August 2016, para 8

¹⁸⁶ Security Council resolution 2304, S/RES/2304, 12 August 2016, para 10

¹⁸⁷ Security Council resolution 2046, S/RES/2046, 2 May 2012, 2

¹⁸⁸ Security Council resolution 2041, S/RES/2041, 9 October 2015, para 2

¹⁸⁹ Clayton Hazvinei Vhumbunu, *Conflict Resurgence and the Agreement on the Resolution of the Conflict in the Republic of South Sudan*, Conflict Trends 2016 Issue 3, (available at: <https://www.accord.org.za/conflict-trends/conflict-resurgence-agreement-resolution-conflict-republic-south-sudan/>)

¹⁹⁰ Security Council resolution 2041, S/RES/2041, 9 October 2015, 1

¹⁹¹ Security Council resolution 2290, S/RES/2290, 31 May 2016, 3

¹⁹² Security Council resolution 2290, S/RES/2290, 31 May 2016, 3

¹⁹³ Owiso Owiso, *The proposed hybrid court for South Sudan*, 19 December 2018, (available at: <https://www.accord.org.za/ajcr-issues/the-proposed-hybrid-court-for-south-sudan/>)

progress made in this regard.¹⁹⁴ In September 2019, Human Rights Watch met with representatives of the Government of the RSS, the AU, the UN, opposition leaders, diplomats, as well as regional and local activists in both Juba and Addis Ababa. Here it was revealed that there existed discrepancies in the understanding of the establishment of the Hybrid Court for South Sudan as well as unclarity in the partners' responsibilities in making the court function. The *purpose* of establishing such court has been to lay the foundation for durable peace in the RSS by providing a mechanism of accountability. In *context*, it has proven to be a long process since the court was first mentioned in the 2015 peace deal. For the RSS, it is an important tool to curtail the crimes that continues to fuel violence in the RSS.¹⁹⁵ In the most recent resolution from March 2020, the UNSC continues to reiterate the urgent need to end impunity in the RSS. The purpose of this is “to bring to justice to all those responsible for violations of international humanitarian law and violations and abuses of human rights (...).”¹⁹⁶ Therefore, the UN must continue to support the AU in its efforts in regards to the establishment of the court as it has yet to be materialised.¹⁹⁷

In MINUSMA, this operation, apart from the previous two, began as the AU-led operation AFISMA in cooperation with the ECOWAS. In *context*, the events leading up to the transition from AFISMA to MINUSMA included combined efforts of African countries in contributing resources and capacities to AFISMA. The Malian government reiterated that these efforts were not enough and that AFISMA should be turned into an UN PKO. The AU and the ECOWAS backed the decision with a list of preconditions. This list included that the operation had to be provided with a robust mandate under Chapter VII of the Charter and that the UN, the AU, and the ECOWAS would cooperate closely.¹⁹⁸ In the first resolution of MINUSMA, res. 2100 (2013), the UNSC commended the AU for its “intensive efforts to solve the crisis in Mali” and welcomed the establishment of a Joint Task Force for Mali in Addis Ababa by the AU, the ECOWAS, the EU, and the UN. This task force had the *purpose* of maintaining “coordination in support of the stabilization of the situation in Mali (...).”¹⁹⁹

¹⁹⁴ Security Council resolution 2327, S/RES/2327, 16 December 2016, para. 35

¹⁹⁵ Human Rights Watch, *South Sudan/AU: Set Meeting on War Crimes Court*, October 9 2019, (available at: <https://www.hrw.org/news/2019/10/09/south-sudan/au-set-meeting-war-crimes-court>)

¹⁹⁶ Security Council resolution 2514, S/RES/2514, 12 March 2020, 4

¹⁹⁷ Elise Keppler, *Renew Commission on Human Rights in South Sudan*, 5 March 2020, (available at: <https://www.hrw.org/news/2020/03/05/renew-commission-human-rights-south-sudan>)

¹⁹⁸ Walter Lotze, *United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)*, 2015, 7

¹⁹⁹ Security Council resolution 2100, S/RES/2100, 25 April 2013, 3

In MINUSMA, the AU has the *object* of supporting, together with the ECOWAS, the implementation of a transitional road map,²⁰⁰ as well as to assist the transitional authorities of Mali in implementing this transitional road map. The *purpose* was to reach “full restoration of constitutional order, democratic governance and national unity in Mali (...).”²⁰¹ In *context*, the situation in Mali continued to deteriorate and in July 2016, the AU PSC and the UN sent a team to assess the situation in Mali and the Sahel region. The *purpose* of this assessment was to see how the deployment of an African force, as part of the UN structure in northern Mali, could preserve the 2015 peace agreement. The High Representative of the AU for Mali and the Sahel (MISAHEL) have commented that an intervention brigade was one way of strengthening MINUSMA as classical peacekeeping mandates do not permit the engagement in offensive anti-terrorist operations.²⁰² The difficulty of such decision would be that MINUSMA is facing armed forces and not all groups in the region belong under the non-state actor category. Therefore, identifying who the actual non-state actors are, is challenging. The current AU counter-terrorist efforts face criticism for being slow in regard to their operational framework due to a lack of commitment from states in the region.²⁰³

Despite no MINUSMA intervention brigade there was the establishment of the *Force conjointe du G5 Sahel* (FC-G5S), which is a subregional organisation consisting of Mali, Burkina Faso, Niger, Mauritania, and Chad to reduce the threats and challenges from terrorism in the Sahel region. MINUSMA did not support this initiative with troops but with operational logistical support.²⁰⁴ With res. 2391 (2017), the FC-G5S was authorised by the AU PSC for an initial period of 12 months to contribute with 5,000 military, civilian, and police personnel “with a view to restoring peace and security in the Sahel region (...).”²⁰⁵ In the same resolution both the UN and the AU are committed to identifying the needs of the FC-G5S,²⁰⁶ as the efforts of the FC-G5S contributes to a more secure region and thereby facilitates the fulfilment of MINUSMA’s mandate with intention of stabilising Mali.²⁰⁷

²⁰⁰ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 16(b)

²⁰¹ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 16(b)(i)

²⁰² ReliefWeb, *A new African force for Mali?*, 5 September 2016, (available at: <https://reliefweb.int/report/mali/new-african-force-mali>)

²⁰³ ReliefWeb, *A new African force for Mali?*, 5 September 2016, (available at: <https://reliefweb.int/report/mali/new-african-force-mali>)

²⁰⁴ Security Council resolution, S/RES/2391, 8 December 2017, para. 12

²⁰⁵ Security Council resolution 2391, S/RES/2391, 8 December 2017, para 3

²⁰⁶ Security Council resolution, S/RES/2391, 8 December 2017, para 7

²⁰⁷ Security Council resolution, S/RES/2391, 8 December 2017, para 12

Considering the division of roles between the UN and the AU, there is an ongoing problem with a lack of clarity of roles between these two actors. Seen in the analysis above the inclusion of the AU in the UNSCs resolutions is present but of a rather limited character. Despite a general growth in the partnership on conflict prevention and crisis management, there is still room for improvement.²⁰⁸ The following discussion will dig into whether this cooperation can be improved, by increasing the role of the AU in peacekeeping in Africa.

Discussing the Room for Improvement

It is unthinkable that the UN would implement new RPKOs in Africa without consulting the AU and other relevant organisations in the region as these are an important source of political authority in Africa.²⁰⁹ According to Kyle Beardsley, mediation performed by regional organisations such as the AU creates better conditions for post-conflict peace duration, as peace mediation under the auspices of the UN tends to be more fragile.²¹⁰ This role of the AU is applauded in all three RPKOs as it is responsible for supporting stabilisation as well as implementing peace agreements and roadmaps in the RPKOs.

Africa is no longer just a recipient of such RPKOs as MONUSCO, UNMISS, and MINUSMA, but a major part in undertaking efforts to prevent atrocities from happening within Africa.²¹¹ Since the establishment of the AU in 2002, the purpose of this organisation has been to achieve greater unity and solidarity amongst its member states as well as to promote peace and security in Africa. These aims amongst others are written in the *Constitutive Act of the African Union* and the *Protocol Relating to the Establishment of the Peace and Security Council* (PSC Protocol).²¹² These legal documents encourages international cooperation and have specifically tasked the AU PSC to work closely with the UNSC.²¹³ Despite consultations among the AU and the UN, in regards to peacekeeping cooperation, these have not been translated into a common understanding of the

²⁰⁸ Daniel Forti and Priyal Singh, *Towards a More Effective UN-AU Partnership on Conflict Prevention and Crisis Management*, October 2019, 1

²⁰⁹ Moritz P. Moelle, *The Case Studies*, Cambridge University Press, 2017, 258

²¹⁰ Kyle Beardsley, *The UN at the peacemaking-peacebuilding nexus*, 2013, 373

²¹¹ Cedric de Coning, *Africa and UN Peace Operations: Implications for the Future Role of Regional Organisations*, 2019, 214

²¹² The African Union, *About the African Union*, May 2020, (available at: <https://au.int/en/overview>)

²¹³ Moritz P. Moelle, *The Case Studies*, Cambridge University Press, 2017, 255

foundation for cooperation.²¹⁴ Tensions have emerged primarily due to the AUs limited bureaucratic, logistical, and financial capabilities, paving the way for an unequal partnership between the AU and the UN.²¹⁵

Moritz P. Moelle argues that the UNSC and the AU PSC both share the idea of the importance of an enhanced cooperation by moving from context-specific to more predictable mechanisms. This initiative is problematic in regard to the operationalisation of international law as Chapter VIII of the Charter on regional arrangements, was formulated in a completely different era of security cooperation between global and regional organisations and before most of these were even established. Nowadays, the AUs position on cooperation is presented in a way that the organisation should as a minimum be duly considered by the UNSC when undertaking operations in Africa. The Charter explicitly states that regional arrangements, under Chapter VIII Art. 52(1), such as the AU should be tasked with the peaceful settlement of disputes within its own region.²¹⁶ In continuation hereof, the partnership of the AU and the UN culminated in the 2017 *Joint United Nations-African Union Framework for Enhanced Partnership in Peace and Security*. Here it was underscored that there was a need for both organisations to “fully leverage their complementarity and interdependence to address conflicts in a holistic manner.”²¹⁷

According to international law and Art. 53(1) of the Charter, regional organisations cannot undertake enforcement actions without authorisation from the UNSC.²¹⁸ In accordance with the the words of the Charter, the AU PSC Protocol Art. 17(1) recognises the primary responsibility of the UNSC in maintaining international peace and security.²¹⁹ However, Art. 16 of the AU Protocol provides the AU with the responsibility of promoting peace, security, and stability in Africa. Looking at Act Art. 4(h) of the AU Constitutive Act, it grants the AU permission to intervene in its member states’ internal affairs, pursuant to a decision by the AU Assembly, in countering grave circumstances via enforcement actions. AU member states then agree that in the case of internal disturbances within one of the states concerned, other member states can intervene with military

²¹⁴ Moritz P. Moelle, *The Case Studies*, Cambridge University Press, 2017, 256

²¹⁵ Moritz P. Moelle, *The Case Studies*, Cambridge University Press, 2017, 257

²¹⁶ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 18

²¹⁷ Daniel Forti and Priyal Singh, *Towards a More Effective UN-AU Partnership on Conflict Prevention and Crisis Management*, October 2019, October 2019, 2

²¹⁸ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 18

²¹⁹ The African Union, *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*, 9 July 2002, para. 17(1)

power without *de jure* or *de facto* government.²²⁰ This implies that the AU will not wait on an UNSC authorisation before countering threats which could, potentially, constitute the most serious international crimes under the 1998 *Rome Statute of the International Criminal Court* including war crimes, genocide and crimes against humanity in the African region.^{221 222} In the case of conflicting articles under international law the Charter shall prevail according to Art. 103 of the Charter.²²³ In regards to the RPKO in Mali the operation prior to MINUSMA was the AU and ECOWAS-led AFISMA. This was indeed a peace enforcement operation but was still authorised by the UNSC under a Chapter VII mandate.²²⁴ Thereby, the UNSC stated that the situation in Mali constituted a threat, but provided the AU and the ECOWAS with the responsibility of carrying out the operation.²²⁵

Gaps in Resources and Capabilities

Comparing the bureaucracies of the UN and the AU one will notice inequalities. The UN Department of PKOs is almost 30 years old, manages more than 100,000 personnel in the field, and manages a \$6.5 billion-budget per year.²²⁶ Whereas the AU is less than 20 years old, has an almost non-existing peacekeeping budget, and limited planning and logistic capacities.²²⁷ Katharina Coleman argues that developed states want regional actors, including African actors, to mobilise more of their own resources for peacekeeping. In 2015, the AU member states pledged to fund 25 percent of the costs of the UNSC-authorized operations by 2020, the remaining 75 percent would be covered by the UN through assessed contributions.²²⁸ Despite backing from both France and China on this initiative, the US remains doubtful about outsourcing authority to the AU. They worry that it will entail complicated efforts of overseeing potential International Human Rights Law (IHRL) abuses in areas of conflict.²²⁹ With the pledges made, the AU only managed to provide two out of

²²⁰ John-Mark Iyi, *Introduction*, Springer, 2016, 26

²²¹ The African Union, *The Constitutive Act of the African Union*, 7 November 2000, para. 4(h)

²²² Malcolm D. Evans, *Rome Statute of the International Criminal Court (1998)*, Oxford University Press, 2017, 468

²²³ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 26

²²⁴ Walter Lotze, *United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)*, 2015, 857

²²⁵ Dansk Udenrigspolitisk Institut (DUPI), *Politiske og moralske aspekter af humanitær intervention*, Gullanders Bogtrykkeri, 1999, 68

²²⁶ United Nations Peacekeeping, *How We Are Funded*, 2020, (available at: <https://peacekeeping.un.org/en/how-we-are-funded>)

²²⁷ Moritz P. Moelle, *The Case Studies*, Cambridge University Press, 2017, 277

²²⁸ International Crisis Group, *The Piece of Peace: Securing UN Financing for AU Peace Operations*, 31 January 2020, (available at: <https://www.crisisgroup.org/africa/286-price-peace-securing-un-financing-au-peace-operations>)

²²⁹ Salem Solomon, *African UN Security Council Members Push for AU-Led Peacekeepers*, 22 November 2018, (available at: <https://www.voanews.com/africa/african-un-security-council-members-push-au-led-peacekeepers>)

the 25 percent in 2016. Members of the AU remain ready to deploy troops, but lack the required financial resources. On the other side, there are several of the UN's member states who have the financial resources but are unwilling to deploy their troops to RPKOs in Africa. This makes the UN-AU relationship an interdependent one.²³⁰ Members of the AU and the UN must continue negotiations of the 25:75 agreement on burden-sharing and reach a compromise for the sake of regional stability. The main purpose of such agreement would be a more balanced division of the roles in RPKOs, as the AU potentially could be able to fund 25 percent of those operations that the UNSC authorises it to undertake, that is if all AU member states contributes to reach this percentage.²³¹

The burden-sharing amongst the UN and the AU speaks into the Chapter I Art. 1 of the Charter, which states that the purpose of the UN is to “take effective *collective* measures for the prevention and removal of threats to peace (...).”²³² This burden-sharing goes beyond the “paternalistic attitude” to regional organisations.²³³ In praxis this enhancing of cooperation between the AU and the UN should rely on sharing experiences, which can lead to shared values and mutual understanding. Shared efforts, the division of responsibilities, and a willingness to learn from each other would potentially strengthen coordination and thereby benefit peacekeeping in Africa. Joint meetings including military and political information-sharing are vital for strengthening the relationship as this would better align the work of both organisations in peacekeeping in Africa.²³⁴ This would benefit the AU with peer learning exercises and reviews to build its capacity to take on greater responsibilities.²³⁵ To strengthen the partnership both organisations must acknowledge their comparative advantages with the purpose of achieving common objectives. Much seems to rely on the ability of the AU to overcome its limited capacities. In regard to this the AU established the *Agenda 2063: The Africa We Want* in 2015. In this document, the AU acknowledged the need to re-prioritise the African agenda from one focusing on apartheid and political independence, to one

²³⁰ Katharina P. Coleman, *Extending UN Peacekeeping Financing Beyond UN Peacekeeping Operations? The Prospects and Challenges Reform*, 19 August 2017, 113

²³¹ Cedric de Coning, *Africa and UN Peace Operations: Implications for the Future Role of Regional Organisations*, 2019, 222

²³² Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 10

²³³ Thomas Kwasi Tiekou, *The African Union*, Palgrave Macmillan, 2013, 33

²³⁴ Daniel Forti and Priyal Singh, *Towards a More Effective UN-AU Partnership on Conflict Prevention and Crisis Management*, October 2019, 33

²³⁵ Nandi Makubalo, *Strengthening United Nations (UN) and African Union (AU) Coordination on Peace Missions*, No. 2 2019, (available at:

<http://cris.unu.edu/sites/cris.unu.edu/files/Policy%20Brief%2019.2%20%E2%80%93%20Nandi%20Makubalo.pdf>), 5

concentrating on social and economic development as well as democratic governance and peace and security. All with the intention of making the AU the dominant player in maintaining peace and security in Africa.²³⁶ Despite good intentions, the financial restraints of the AU will most likely continue to pose a problem in future peacekeeping.

In 2006, former the UNSG Kofi Annan pointed out that even if the roles within cooperation among the UN and regional organisations are to be clarified, it will not be effective if there continues to be a vast discrepancy in the capacities within peacekeeping.²³⁷ In discussing the financing of the AU, Kesa Pharatlhatlthe and Jan Vanheukelom finds that efforts on reducing dependency on foreign funding has largely failed. There remains a problem in regard to the AU being underfunded by its member states. Furthermore, there is a vast discrepancy between planned budgets and what is received by donors. Returning to the resolutions of MONUSCO, UNMISS, and MINUSMA, several of these excludes the mentioning of the AU which arguably portrays a lack of trust in the AU. Despite the UN mentioning the importance of the AU in some of its resolutions, there seems to be a questioning of how the AU can contribute to RPK with its limited resources and capabilities as well as how the AU will be able to meet its co-financing pledges. This must also be aligned with UN financial transparency and accountability standards.²³⁸ Finally, there are considerations on how the AU can ensure compliance with IHL. Despite the AU has proven efficient in publishing decisions and declarations, the organisation has failed to act against tyrannical administrations in African member states.²³⁹

Despite the limited financial capabilities of the AU, it is in the words of Thomas Kwasi Tiekü, amongst “the most ambitious and novel continent-wide security governance mechanisms to emerge (...).”²⁴⁰ The UNSC should grant greater responsibilities to the AU in determining which situations in Africa that constitutes a threat to international peace and security as a means for providing the African solutions to African problems. The AU must not only be consulted but engaged from the

²³⁶ African Union, *Agenda 2063: The Africa We Want*, September 2015, (available at: <https://au.int/en/agenda2063/overview>)

²³⁷ Alexandria Reid, *UN Peacekeeping Cooperation with Regional Organisations: Time for a Frank Debate*, 21 May 2018, (available at: <https://rusi.org/commentary/un-peacekeeping-cooperation-regional-organisations-time-frank-debate>)

²³⁸ International Crisis Group, *Eight Priorities for the African Union in 2020*, 7 February 2020, (available at: <https://www.crisisgroup.org/africa/african-union-regional-bodies/b151-eight-priorities-african-union-2020>)

²³⁹ Tafi Mhaka, *The African Union: An Exclusive Club for Brutish Despots*, 9 June 2018, (available at: <https://www.aljazeera.com/indepth/opinion/african-union-exclusive-club-brutish-despots-180607100707234.html>)

²⁴⁰ Thomas Kwasi Tiekü, *The African Union*, Palgrave Macmillan, 2013, 33

beginning when the UNSC decides to get involved in conflicts in Africa. The benefit of this would be to lift some of the burden off the shoulders of the UNSC. The AU creates better synergies and coherence amongst its member states and possesses better knowledge of history, culture, religion, and the general interaction amongst African states. Focus must be on the political procedures which paves the way for stability through political solutions. Military contingents are only meant to contain violence as these security dimensions are often incapable of ending hostilities due to a lack of resources and capabilities.²⁴¹

The North-South Division

As outlined above, in regard to capabilities there is a clear divide between the world's North and South. Since the increase in PKOs following the end of the Cold War there has been placed a greater financial strain on the UN.²⁴² Africa is among the top contributors in providing military and police personnel, but the continent only contributes with limited financial support. Within the UNSC there have been different perceptions of the role of the AU by both African and non-African members.²⁴³ According to former Kenyan foreign minister Moses Wetangula, the practice of the UNSC have shown an undesirable trend of disregarding recommendations by the AU. In opposition to this the former US Ambassador to the UN, Susan Rice argued that,

*(...) The Security Council is no subordinate to other bodies, or to the schedules or capacities of regional or subregional groups (...) cooperation cannot be on the basis that the regional organizations independently decide the policy and that the United Nations Member States simply bless it and pay for it (...).*²⁴⁴

Some of the main Troop and Police Contributing Countries (TPCCs) in relation to MONUSCO, UNMISS, and MINUSMA are member states of the AU including Rwanda, Ethiopia²⁴⁵, Chad,

²⁴¹ Cedric de Coning, *Africa and UN Peace Operations: Implications for the Future Role of Regional Organisations*, 2019, 215

²⁴² Gary Wilson, *The US plays a unique role in UN solvency*, 14 November 2019, (available at: <https://qz.com/1746703/without-us-funding-the-un-budget-crisis-will-hurt-africa-most/>)

²⁴³ Moritz P. Moelle, *The Case Studies*, Cambridge University Press, 2017, 260

²⁴⁴ Moritz P. Moelle, *The Case Studies*, Cambridge University Press, 2017, 260

²⁴⁵ United Nations Peacekeeping, *UNMISS Fact Sheet*, 16 April 2020, (available at: <https://peacekeeping.un.org/en/mission/unmiss>)

Burkina Faso, Egypt,²⁴⁶ and Morocco.²⁴⁷ That is, African states are among the main contributors to PKOs within Africa. This might be due to regional interest and potential financial benefits, despite risking the lives of their troops when deploying these to operations with PoC mandates. Countries with weak economies might respond to the request for deployment of troops due to an attractive compensation and improvement of their international image as well as attract additional foreign assistance.²⁴⁸ However, these African states have limited or no access to the planning of the mandates they are expected to carry out, which only widens the gap between North and South affecting the operation's legitimacy.²⁴⁹

African states are motivated by own experiences. The two greatest African contributors to UNMISS are Ethiopia and Rwanda. Following horrific events, these two states have been advocates for more robust responses as well as called for developing better capacities of the UN to respond to crisis-situations.²⁵⁰ This would include enhanced cooperation with regional and subregional organisations, with the purpose of being first responders to crises “with the necessary geographic proximity and political leverage to respond.”²⁵¹ The ASF was one such initiative to respond faster with more rapid deployment.²⁵² One problem posed by the North in regard to participating in peacekeeping is a tendency of wanting to move towards more robust measures, but at the same time only providing 7.4 percent of the overall troop contributions. On the other hand, the major TPCCs are the ones who must operate in a dangerous environment without the means to endure, due to a serious lack of training and equipment.²⁵³ The result is that those states who are willing to contribute to RPK are not capable, while those capable are not willing to contribute with essential training and equipment for operations to implement their rather broad mandates. The future of peacekeeping is uncertain as member states have announced financial cuts, which means a setback in activities.

²⁴⁶ United Nations Peacekeeping, *MINUSMA Facts Sheet*, 16 April 2020, (available at: <https://peacekeeping.un.org/en/mission/minusma>)

²⁴⁷ United Nations Peacekeeping, *MONUSCO Fact Sheet*, 16 April 2020, (available at: <https://peacekeeping.un.org/en/mission/monusco>)

²⁴⁸ Thomas Weiss & Giovanna Kuele, *The Global South and UN Peace Operations*, 3 February 2019, (available at: <https://www.e-ir.info/2019/02/03/the-global-south-and-un-peace-operations/>)

²⁴⁹ Seun Abiola, Cedric de Coning (et. al), *The large contributors and UN peacekeeping doctrine*, 2017, 153

²⁵⁰ Seun Abiola, Cedric de Coning (et. al), *The large contributors and UN peacekeeping doctrine*, 2017, 160

²⁵¹ Seun Abiola, Cedric de Coning (et. al), *The large contributors and UN peacekeeping doctrine*, 2017, 161

²⁵² Thomas Weiss & Giovanna Kuele, *The Global South and UN Peace Operations*, 3 February 2019, (available at: <https://www.e-ir.info/2019/02/03/the-global-south-and-un-peace-operations/>)

²⁵³ Alexandra Novosseloff, *UN Peacekeeping: Back to Basics it not Backwards*, 19 April 2018, (available at: <https://theglobalobservatory.org/2018/04/peacekeeping-basics-is-not-backwards/>)

African states are not the only ones with an interest in the African continent. Looking at the North and more specifically at the P5, this group of states have political, security, and economic interests. The desire to contain these conflicts stems from the fear of such internal conflicts spreading waves of migration to the West. The West wish to maintain trade relations and access to natural resources.²⁵⁴ It must be said, that when talking of peacekeeping, one must assume that the UN deploys such operations with only the best of intentions to contain conflicts. However, states such as those comprising the P5, apart from China, do not contribute with the much-needed training of soldiers and equipment. This creates a dilution of responsibility and ultimately hampers the accountability and legitimacy of the UN-system. In general, the P5 are overly ambitious when drafting mandates but in practice these operations lack overall political, financial, and military commitment making RPKOs such as MONUSCO, UNMISS, and MINUSMA impossible to fully implement.²⁵⁵ To add on, repeated allegations of inaction, partiality, and lastly sexual abuse, mentioned in the UNSCs resolutions 2480 (2019),²⁵⁶ 2502 (2019),²⁵⁷ and 2514 (2020),²⁵⁸ committed by the UNs troops only adds to the reduced confidence in the UNs ability to continue its leading role in conducting RPKOs.

Applying the Just War Theory

This section will focus on two of the six aspects presented in the introduction on the JWT, namely that *only legitimate public authorities can declare war* and *wars require the right intention*. Applying the JWT to RPK it is only public legitimate authorities who can initiate these operations. The requirement in practice is that such an authority must hold the legal right to deploy robust measures as the Charter prescribes.²⁵⁹ In deciding whether humanitarian interventions are initiated based on justifiable considerations, there are certain aspects to consider. If an intervention is distanced from partial interests of states the more likely the intervention is to approximate justice, as well as to be perceived more legitimate both by the parties to a conflict and by the international community in general.²⁶⁰ Arguably, this means that the AU is no such legitimate authority, as the

²⁵⁴ Simone Haysom & Jens Pedersen, *Robust Peacekeeping in Africa: the Challenge for Humanitarians*, October 2015, (available at: <https://odihpn.org/magazine/robust-peacekeeping-in-africa-the-challenge-for-humanitarians/>)

²⁵⁵ Alexandra Novosseloff, *UN Peacekeeping: Back to Basics it not Backwards*, 19 April 2018, (available at: <https://theglobalobservatory.org/2018/04/peacekeeping-basics-is-not-backwards/>)

²⁵⁶ MINUSMA

²⁵⁷ MONUSCO

²⁵⁸ UNMISS

²⁵⁹ United Nations, *Uphold International Law*, (available at: <https://www.un.org/en/sections/what-we-do/uphold-international-law/>)

²⁶⁰ C. A. J. Coady, *The Ethics of Armed Humanitarian Intervention*, July 2002, 26

primary purpose of this organisation is to maintain the interest of its African member states including the DRC, the RSS, and Mali. Despite, the UNSC being the public legitimate authority to deploy RPKOs, due to its international responsibilities under the Charter, this UN body is also considered a doubtful mechanism in justifying interventions due to the P5s veto power. These powers vested in the UNSC grants them the opportunity to block RPKOs that goes against their national interest. This was exemplified with the Russian and Chinese blocking of action in regard to the deteriorating situation in Syria following the Arab Spring in 2011, which claimed many civilian lives. In case of an inefficient UNSC, the UNGA can make resolutions including recommended actions, however without the possibility of including coercive measures including the use of force as this can only be authorised by the UNSC.²⁶¹ This split amongst the P5 members have several times undermined the credibility of the UNSC. The international community has been calling for the UNSC reform in order to enable the UN to be able to address unfolding humanitarian disasters before they end in mass atrocities.²⁶²

The fact that it is only a public legitimate authority who can initiate RPKOs, the AU arguable undermines international legal order through its Art. 4(h) of the AU Constitutive Act, which leaves a vacuum of both accountability and authority.²⁶³ However, the grim history of mass atrocities in Africa has led the AU to view peacekeeping as an opportunity to establish peace before keeping it. Despite the missing link between the Charter and Art. 4(h) of the Constitutive Act of the AU, the debate on the issue remains academic. It is interesting to consider the absence of a link between the documents of the UN and the AU when discussing the role of the AU in RPK as the relationship between these two organisations are considered vital in maintaining peace and security in the African region. When strengthening this relationship between the AU and the UN, one must consider that the Charter was articulated in a completely different security era, facing different types of threats than those of today. Therefore, the AU is a vital partner of the UN in maintaining peace and security in Africa.

²⁶¹ Andrew J. Carswell, *Unblocking the UN Security Council: The Uniting for Peace Resolution*, Oxford University Press, 2013, 454

²⁶² Andrew J. Carswell, *Unblocking the UN Security Council: The Uniting for Peace Resolution*, Oxford University Press, 2013, 455

²⁶³ Dan Kuwali, *The Responsibility to Protect: Implementation of Article 4(h) Intervention*, Martinus Nijhoff Publishers, 2011, 143

Moving on to the other aspect from the theory, the concept of *right intention* and its application to the three RPKOs, there seems to be varying intentions behind participation of states considering the North-South divide. Member states of the AU are highly interested in contributing to these operations as intra-state conflicts can, potentially, affect neighbouring states and the entire continent in the long run. Additionally, the AU argues that these operations are not only beneficial for peace and security in Africa but global security as a whole.²⁶⁴ Therefore, the AU sees itself as a credible actor in maintaining peace and security in Africa, which is within its sphere of interest. On the other hand, there are northern states who contribute financially to RPKOs but are not willing to engage their own soldiers or provide the much-needed training or equipment despite having the capacities to do so. This creates a credibility issue of these states, as they, according to the discussion above, are interested in increasing robust measures in peacekeeping, but do not want to risk the lives of their own soldiers. Therefore, it is rather questionable whether the intentions of the North are considered just, as their interest primarily is to contain conflicts to prevent a migration flow, potentially, affecting states outside Africa.

Summary

Both the UN and the AU are at the limits of their capacities of current tools for the promotion of peace and security in Africa, but by combining efforts they stand a chance against ongoing conflicts. The AU PSC and the UNSC is interdependent and despite the AU PSC wanting to take the lead in African conflicts they need international support, as neither the AU nor its member states are capable of either financing or administering RPKOs on their own.²⁶⁵ According to the JWT, it is only a legitimate public authority who can initiate a RPKO. Therefore, it remains the responsibility of the UNSC to authorise deployment of robust measures under RPKOs as the public legitimate authority.

When making decisions to deploy RPKOs, the UNSC should further enhance cooperation with the AU as this organisation have more in-depth knowledge of the status-quo within its African member states. The UNSC needs the support of regional organisations to ensure the legitimacy of operations. The alignment of interests between African TPCCs and the West has moved towards

²⁶⁴ International Crisis Group, *The Price of Peace: Securing UN Financing for AU Peace Operations*, 31 January 2020, 2

²⁶⁵ Erika de Wet, *Regional Organisation and Arrangements and their Relationship with United Nations: the Case of the African Union*, 2013, 8

more robust operations as those in the DRC, the RSS, and Mali.²⁶⁶ Some of the interests of the North and South show varying intentions for deploying RPKOs. The North wants more robust operations with the purpose of limiting the flow of migration out of Africa, whereas African TPCCs have a self-interest in establishing peace to prevent conflict from spreading throughout the continent.

Increasing Responsibilities of the Special Representative of the Secretary-General

The Problem with the Role of the SRSG

The SRSG works as field-based management of peacekeeping. On the strategic level, the purpose of the SRSG is to function as the overall authority of the activities on the ground in an operation.²⁶⁷ On the operational level, the SRSG has the responsibility for generating and maintaining operation synergy among political, governance, development, economic, and security dimensions of peacebuilding processes as to implement the mandate granted by the UNSC. The power of the SRSG is within his or her leading role in coordinating international efforts on the ground as well as to function as liaison between local and international actors. The importance lies in the SRSGs ability to align resources of agencies, donors, and contributing countries which will support peacebuilding efforts in an area of conflict such as in the DRC, the RSS, and Mali.²⁶⁸ Despite the SRSG being field-based, he or she is not directly involved in the tactical level which consists of regional offices, military-, police-, and civilian components. These components are tasked with the actual implementation of the mandates in conflict-affected areas,²⁶⁹ whereas the SRSG provides unity and political guidance to the heads of these components in their implementation of the mandate. This must be done in accordance with the UN Integrated Strategic Framework for an operation.²⁷⁰

Since the UNSG is unable to administer RPKOs through physical presence in all ongoing PKOs, some tasks must be delegated to the SRSGs. The SRSG in PKOs is the eyes and ears of the UNSG

²⁶⁶ Simone Haysom & Jens Pedersen, *Robust Peacekeeping in Africa: the Challenge for Humanitarians*, October 2015, (available at: <https://odihpn.org/magazine/robust-peacekeeping-in-africa-the-challenge-for-humanitarians/>)

²⁶⁷ United Nations Department of Peacekeeping Operation and Department of Field Support, *Authority, Command and Control in United Nations Peacekeeping Operations*, February 2008, para. 25

²⁶⁸ Cedric de Coning, *The Role of the SRSG in UN Integrated Missions: Process Facilitator and Multi-stakeholder Mediator*, 2010, 1

²⁶⁹ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 66

²⁷⁰ United Nations Department of Peacekeeping Operation and Department of Field Support, *Authority, Command and Control in United Nations Peacekeeping Operations*, February 2008, para. 26

and functions as factfinders and monitors the conflict-situations on the ground. The initial phase of robust operations such as MONUSCO, UNMISS, and MINUSMA relies on fact-finding where reporting is important for the UNSC to remain updated on matters throughout operations.²⁷¹ These robust multi-dimensional operations require planning and preparation before deployment, complex communication during the operations in the field, and ultimately constant backing throughout the entire operation.²⁷² The UN lack capabilities and resources and therefore falls behind in providing what is required to endure these complex situations. A lack of staff has negative consequences for the work of the SRSG as there is not enough information flowing through the operation, and it can be delayed in reaching the UNSG. Despite the need for close cooperation between the SRSG and the UNSG, these staff constraints seldom permit the vital close interaction as the UNSG have a total of 13 current PKOs. This means that interpretation the broad UNSC mandates are often placed in the hands of SRSGs as well as guiding the implementation of these. Therefore, these Head of Missions are already tasked with undertaking big decisions.²⁷³ They are, however, still strained by bureaucratic procedures as reporting must go through several institutions before reaching the UNSC, who can then adjust mandates to fit the situations on the ground. Regular reporting is recognised as extremely important throughout the UNSC resolutions, it is a task of the UNSG to keep the UNSC updated through reports and briefings until a mission is completed or closed.²⁷⁴

These staff constraints could potentially pave the way for a greater role and responsibility of the SRSG in reporting directly to the UNSC, as the SRSG is just an extension of the UNSG. SRSGs are required to have a minimum of 20 years of relevant professional experience,²⁷⁵ and the list of qualifications is exhaustive. The UNSG picks his SRSGs himself, which means that there could be a strong bond of trust between the UNSG and his SRSGs, and therefore should be legitimate for reporting to the UNSC.

²⁷¹ Donald J. Puchala, *The Secretary-General and his Special Representatives*, 1993, 90

²⁷² Donald J. Puchala, *The Secretary-General and his Special Representatives*, 1993, 93

²⁷³ Donald J. Puchala, *The Secretary-General and his Special Representatives*, 1993, 94

²⁷⁴ The United Nations Peacekeeping, *Forming a New Operation*, May 2020, (available at <https://peacekeeping.un.org/en/forming-new-operation>)

²⁷⁵ The United Nations Global Call, *Field Mission Leadership – Leadership Role and Requirements*, (available at: <https://www.un.org/globalcall/content/leadership-role>)

How Does It Show in the Resolutions?

The UNSC resolutions for the chosen operations all include the explicit mentioning of both the SRSG and the UNSG. In regards to MONUSCO, the UNSG through his SRSG has the *purpose* of coordinating activities of the UN system in the DRC through cooperation with MONUSCO and the United Nations Country Team (UNCT).²⁷⁶ The SRSG must act with the *object* of supporting national, provincial, and local elections via technical and logistical support as required by the Congolese authorities.²⁷⁷ The resolutions of MONUSCO calls upon the SRSG to support, coordinate, and asses implementation of the PSC Framework in the DRC as well as in the region.²⁷⁸ Through his or her good offices the SRSG is called upon to encourage and accelerate the DRC authorities' national ownership of the Security and Sector Reform (SSR).²⁷⁹ Furthermore, the *object* of the SRSG is to promote political dialogue among the Congolese stakeholders in furthering reconciliation and democratisation.²⁸⁰ The SRSG is to encourage establishment of effective national civilian structure with the intent of controlling key mining activities and manage the extraction and trade of natural resources.²⁸¹ Finally, the UNSG through his SRSG must through his reports review the situation on the ground,²⁸² as well as report on the progress made by the DRC in implementing its commitments under the PSC Framework,²⁸³ and the implementation of the MONUSCO mandate.²⁸⁴

In *context*, the responsibilities of the UNSG are more extensive than those of the SRSG in MONUSCO. The role of the UNSG in MONUSCO includes regular informing of the UNSC on status of the operation and to immediately report if the MONUSCO force or police fails to carry out the operations' PoC mandate.²⁸⁵ This is despite the fact that targeting of civilians in the first place is absolute prohibited under both CIL and IHL.²⁸⁶ Furthermore, the UNSG is tasked with working with international stakeholders such as the ICGLR, the SADC, and the AU in establishing high-

²⁷⁶ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 9

²⁷⁷ Security Council resolution 1991, S/RES/1991, 28 June 2011, para. 7

²⁷⁸ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 5

²⁷⁹ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 14(a)

²⁸⁰ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 14(b)

²⁸¹ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 14(c)

²⁸² Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 34(b)

²⁸³ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 34(b)(ii)

²⁸⁴ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 34(b)(iii)

²⁸⁵ Security Council resolution 2348, S/RES/2348, 31 March 2017, para. 33

²⁸⁶ Nicholas Tsagourias & Alasdair Morrison, *Fundamental Principles of International Humanitarian Law*, Cambridge University Press, 2018, 49

level dialogue to restore the situation in the DRC.²⁸⁷ Additionally, the UNSG should decide on the redeployment of forces in MONUSCO within the authorised ceiling of the operation to improve the implementation of the mandate.²⁸⁸ In the latest resolution, res. 2502 (2019), the UNSG is *object* of taking all possible steps to make the full use of existing authorities to maximise MONUSCOs operational capacity and ability to discharge its mandate. This must be done with a specific focus on priority areas.²⁸⁹

In regard to reporting, the UNSG must include an assessment of how MONUSCOs force can become more efficient and effective in the implementation of its mandate.²⁹⁰ In doing so, military components of PKOs must adhere to IHL. This prohibits means and methods that are either indiscriminate, causing superfluous injury or unnecessary suffering, or causing long-term damage to the environment.²⁹¹ In becoming more effective, troops must also consider Art. 52(2) of Additional Protocol I to the Geneva Conventions, which requires that attacks shall be limited to only military objectives.²⁹² Finally, the reports made by the UNSG are a part of assessing progress in regards to making an exit strategy for the RPKO.²⁹³ The UNSG is assigned to make recommendations on both the transition period and reconfiguration of the UN presence in the DRC,²⁹⁴ with the intend of streamlining the tasks of MONUSCO.²⁹⁵

Moving on to UNMISS, the UNSC welcomes the UNSG through his SRSG to coordinate all activities of the UN system in the RSS.²⁹⁶ The SRSG and UNMISS must cooperate with the government of the RSS, the UNCT, and bilateral/multilateral partners with the *object* of reporting to the UNSC on a plan for the operation to support specific peacebuilding tasks.²⁹⁷ The main *purpose* of the SRSG in the RSS is to support a coherent international approach for establishing a stable

²⁸⁷ Security Council resolution 2076, S/RES2076, 20 November 2012, 1

²⁸⁸ Security Council resolution 2076, S/RES/2076, 20 November 2012, para. 9

²⁸⁹ Security Council resolution 2502, S/RES2502, 19 December 2019, para. 43

²⁹⁰ Security Council resolution 2211, S/RES/2211 26 March 2015, para. 43(ii)

²⁹¹ Nicholas Tsagourias & Alasdair Morrison, *Fundamental Principles of International Humanitarian Law*, Cambridge University Press, 2018, 49

²⁹² International Committee of the Red Cross (ICRC), *Protocol I Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts – Wounded, sick and shipwrecked*, 7 December 1978, Art. 52

²⁹³ Security Council resolution 2277, S/RES/2277 30 March 2016, para. 26

²⁹⁴ Security Council resolution 2211, S/RES/2211, 26 March 2015, para. 42

²⁹⁵ Security Council resolution 2277, S/RES/2277, 30 March 2016, para. 49

²⁹⁶ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 2

²⁹⁷ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 18

peace.²⁹⁸ This is done by assisting the relevant actors and parties to the conflict in implementing the R-ARCSS,²⁹⁹ as well as to promote reconciliation and de-escalation of violence.³⁰⁰ The *purpose* of the SRSG is to be an arbitrator who advances dialogue and communication between parties to the conflict. This is with the *object* of ceasing hostilities and ultimately leading them to an inclusive peace process.³⁰¹ In contrast to the role of the SRSG, the UNSG and his tasks are once again more extensively elaborated throughout the resolutions. In UNMISS, the *object* of the UNSG is to make reports on the situation in the RSS, such as trimesterly reports,³⁰² monthly reports on the violation of the Status of Forces Agreement (SOFA),³⁰³ and reports following the extensions of UNMISS' mandate.³⁰⁴ All to update the UNSC on how UNMISS is working towards its fulfilment.³⁰⁵ Furthermore, the UNSG is has the *object* to develop a plan for how UNMISS can take appropriate action in responding to escalation of violence in and around Juba to better protect civilians and the infrastructure.³⁰⁶ An additional *object* of the UNSG is to decide on what necessary steps should be taken in regards to inter-operation cooperation. This is with the *purpose* of the possible transferring of troops from one PKO to another,³⁰⁷ as well as to consult TPCCs in regards to enhancing safety and security of UN personnel.³⁰⁸

Lastly, the mentioning of the SRSG in MINUSMA is just as in the previous resolutions very limited. The *purpose* of the SRSG in Mali is to coordinate the efforts of key actors such as the ECOWAS, the AU, the EU, and neighbouring countries to promote lasting peace and stability in Mali.³⁰⁹ Such parties must cooperate in good faith with the SRSG and MINUSMA in general,³¹⁰ with the *object* of the SRSG to “use his good offices to encourage and support the full implementation of the Agreement.”³¹¹ The SRSG in close consultation with the Force Commander of MINUSMA, should in supporting the implementation of the previously mentioned agreement

²⁹⁸ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 2

²⁹⁹ Security Council resolution 2241, S/RES/2241, 9 October 2015, para. 5

³⁰⁰ Security Council resolution 2252, S/RES/2252, 15 December 2015, para. 3

³⁰¹ Security Council resolution 2406, S/RES/2406, 15 March 2018, para. 13

³⁰² Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 15

³⁰³ Security Council resolution 2406, S/RES/2406, 15 March 2018, para. 32

³⁰⁴ Security Council resolution 2155, S/RES/2155, 27 May 2014, para. 22

³⁰⁵ Security Council resolution 2406, S/RES/2406, 15 March 2018, para. 33

³⁰⁶ Security Council resolution 2252, S/RES/2252, 15 December 2015, para. 6

³⁰⁷ Security Council resolution 1996, S/RES/1996, 8 July 2011, para 17

³⁰⁸ Security Council resolution 2327, S/RES/2327, 16 December 2016, para. 33

³⁰⁹ Security Council resolution 2164, S/RES/2164, 25 June 2015, para. 10

³¹⁰ Security Council resolution 2423, S/RES/2423, 28 June 2018, para. 9

³¹¹ Security Council resolution 2423, S/RES/2423, 28 June 2018, para. 12

consider the priority of the use of available resources and capacities of the operation.³¹² The UNSC in res. 2480 (2019) para. 21, states that these two actors “should be given the *sufficient* flexibility to deploy MINUSMA contingents between sectors to rapidly respond (...) to the dynamic security situation (...).”³¹³ They must ensure that “*sufficient* mission resources are allocated to the implementation of the second strategic priority³¹⁴ (...).”³¹⁵ The use of the word “sufficient” is vague and problematic as the SRSG does not have direct authority but only the ability of negotiating with relevant stakeholders such as member states of the UN, who control the resources and direct the policies of the UN.³¹⁶ The UNSC in res. 2164 (2014), commits the UNSG and not the SRSG to take the needed steps towards the operation reaching the full authorised capacity, despite the SRSG being on the ground.³¹⁷

Just like in MONUSCO and UNMISS, the mentioning of the UNSG and his roles in the resolutions are more extensively described than those of the SRSG in MINUSMA. Throughout the analysis not all tasks belonging to the UNSG have been mentioned, but some have been extracted to exemplify the broader scope of tasks of the UNSG than those of the SRSG. In MINUSMA the UNSG has the *object* of reporting on recommendations and options for the UN in Mali,³¹⁸ as well as report on the progress achieved.³¹⁹ The UNSG is responsible for facilitating the negotiation process between the transitional government and the parties that have cut off ties with non-state actors.³²⁰ Furthermore, the UNSG is tasked with developing a strategic framework for the operation in Mali, which should set the UNs “overall vision, joint priorities and internal division of labour to sustain peace in Mali (...).”³²¹ He is also *objected* with establishing an integrated performance policy framework to apply to MINUSMA.³²²

³¹² Security Council resolution 2423, S/RES/2423, 28 June 2018, para. 36

³¹³ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 21

³¹⁴ The second strategic priority is to facilitate implementation of the comprehensive politically-led Malian strategy to protect civilians.

³¹⁵ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 21

³¹⁶ Cedric de Coning, *The Role of the SRSG in UN Integrated Missions: Process Facilitator and Multi-stakeholder Mediator*, 2010, 3

³¹⁷ Security Council resolution 2164, S/RES/2164, 25 June 2014, para. 21

³¹⁸ Security Council resolution 2100, S/RES/2100, 25 April 2013, 4

³¹⁹ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 6

³²⁰ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 4

³²¹ Security Council resolution 2423, S/RES/2423, 28 June 2018, para. 29

³²² Security Council resolution 2423, S/RES/2423, 28 June 2018, para. 58

Comparing the three RPKOs, the final resolution of each of them have an individual section on reporting, which is directed towards the UNSG and should be done on a regular basis following the adoption of these three resolutions. In MONUSCOs res. 2502 (2019), the UNSG is requested to report every three months on the situation in the DRC. These should include updates on progress to strengthen state institutions, key governance, security reforms, and in general on the implementation of MONUSCOs mandate.³²³ In the case of UNMISS, the UNSG is requested to report an independent strategic review. In this he should assess the challenges the operation faces concerning peace and security. Moreover, he should provide the UNSC with detailed recommendations on how to better reconfigure the mandate based on consultations with transitional government bodies, humanitarian actors, as well as civil society organisations.³²⁴ In MINUSMA the UNSG is requested to report every three months after the adoption of res. 2480 (2019). Focus should be on progress on the implementation of the Agreement,³²⁵ as well as to address all relevant actors including the SRSG and the Force Commander. This is to provide the UNSC with information on ongoing security challenges in Mali.³²⁶ All this reporting to be done by the UNSG could instead be a responsibility of the SRSG due to the field-based aspect of the position, as will be discussed in the following section.

Discussing the Room for Improvement

Once the UNSC has deemed that a situation is threatening international peace and security, via the offices of the UNSG, the peace process is set in motion. Appointed by the UNSG, the SRSG can bring a continuity of efforts in attempting to end hostilities and resolve conflict. This means that the SRSG keeps the peace process in motion and manages efforts in the field in a cohesive way. This adds the impartial dimension to the process, as the SRSG is under no control of the disputing parties, but instead acts as an arbitrator.³²⁷ However, as highlighted in the comparative analysis there is a much stronger emphasis on the role of the UNSG than that of the SRSG. The division of roles, explicitly mentioned in the UNSC resolutions, are showing a strong tendency of placing much of the heavy burden, of keeping the UNSC updated on current RPKOs, on the shoulders of the UNSG instead of the SRSG. This is thought-provoking as the SRSG is not only present on the ground in RPKOs, but also acknowledged as the Head of Mission by the entire UN system.

³²³ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 51

³²⁴ Security Council resolution 2514, S/RES/2514, 12 March 2020, para. 39

³²⁵ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 64(i)

³²⁶ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 65(i)

³²⁷ Donald J. Puchala, *The Secretary-General and his Special Representatives*, 1993, 86

Shifting Responsibilities

Despite the SRSG functioning as an extension of the UNSG, there is a tendency throughout the resolutions that the UNSG is responsible for tasks which is within the domain of the SRSG. In MONUSCO the UNSG is requested by the UNSC to engage with the government of the DRC, with the purpose of identifying measurable benchmarks allowing the transfer of tasks from MONUSCO to the Congolese authorities.³²⁸ In UNMISS, the UNSG is requested to make a strategic review of UNMISS and assess the challenges the operation is facing.³²⁹ In Mali, the UNSG is requested to take appropriate measures both to review and enhance safety of MINUSMA personnel.³³⁰ This is in line with *the Convention on the Safety of UN and Associated Personnel* from 1994, which Mali acceded to in 2008.³³¹ These are arguable all tasks which would be better vested in an actor on the ground such as the SRSG. Cedric de Coning argues that the role of the SRSG is to lead the coordination of international efforts on the ground,³³² and to facilitate a process in which he or she can manage the different agents involved in the peace process.³³³ The SRSG is uniquely positioned because this position has system-wide responsibility in facilitating peace processes amongst interdependent agents. Other agents, including the DSRSG, represent specific dimensions, organisations, countries etc., which are only involved in parts of the process, whereas the SRSG is responsible for facilitating the overall peace process.³³⁴ The unique role of the SRSG grants him/her the ability of reminding agents of their role and responsibilities in establishing a peace process under international law. This is however, mentioned in both MONUSCO, UNMISS, and MINUSMA as the responsibility of the UNSG, which is controversial as the UNSG is not present on the ground and not a direct part of the continuous efforts of the SRSGs.

Despite the unique leading role of the SRSG, he/she is not responsible for providing the UNSC directly with important updates if needed. Instead the flow of information must go through the

³²⁸ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 49

³²⁹ Security Council resolution 2514, S/RES/2514, 12 March 2020, para. 39

³³⁰ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 48

³³¹ United Nations Treaty Collection, *Convention on the Safety of United Nations and Associated Personnel*, 9 December 1994

³³² Cedric de Coning, *The Role of the SRSG in UN Integrated Missions: Process Facilitator and Multi-stakeholder Mediator*, 2010, 1

³³³ Cedric de Coning, *The Role of the SRSG in UN Integrated Missions: Process Facilitator and Multi-stakeholder Mediator*, 2010, 3

³³⁴ Cedric de Coning, *The Role of the SRSG in UN Integrated Missions: Process Facilitator and Multi-stakeholder Mediator*, 2010, 288

bureaucratic process of the UN structure before it is possible to adjust mandates. As stated prior to the analysis of the UNSC resolutions, the problem of the current division of roles between the UNSG and the SRSG is that staff limitations affect peacekeeping negatively. Therefore, more responsibility, especially in regard to reporting on the status quo of operations, should be vested within the SRSGs, as these actors are highly qualified and trusted by the UNSG himself. The primary objective of moving most of the reporting responsibilities would be to lift some of the heavy burden from the shoulders of the UNSG. As was mentioned in the analysis concerning MONUSCO, the UNSG is responsible of providing the UNSC with a set of benchmarks with a view to transferring tasks from MONUSCO back to the Congolese authorities. These benchmarks will be a result of assessments made by the SRSG on the ground and must focus on the long-term perspective to be able to eliminate the threat to international peace and security, followed by a withdrawal of the robust operation.

Personal Latitude

The SRSGs in MONUSCO, UNMISS, and MINUSMA are constantly navigating through the difficult waters of RPK with a view to the broader picture of each operation. They must streamline activities, maintain strategic direction, and operational coherence across the different dimensions of a peace process.³³⁵ The current SRSG in MONUSCO is Leila Zerrougui from Algeria who took over the role in January 2018.³³⁶ From the deployment of MONUSCO in 2010, there has been a total of four SRSGs from Algeria, Niger,³³⁷ Germany,³³⁸ and the US.³³⁹ For UNMISS the current SRSG is David Shearer from New Zealand, who was appointed in December 2016.³⁴⁰ The role of SRSG in UNMISS has until now been held by three different people from New Zealand,

³³⁵ Cedric de Coning, *Mediation and Peacebuilding: SRSGs and DSRSGs in Integrated Missions*, 2010, 297

³³⁶ The United Nations Secretary-General, *Leila Zerrougui*, (available at: <https://www.un.org/sg/en/content/profiles/leila-zerrougui-0>)

³³⁷ The United Nations Organization Stabilization Mission in the DR Congo, *Portrait of Maman Sambo Sidikou*, 30 December 2017, (available at: <https://monusco.unmissions.org/en/portrait-maman-sambo-sidikou>)

³³⁸ The United Nations Organization Stabilization Mission in the DR Congo, *Martin Kobler's end-of-mission in DRC: MONUSCO Chief speaks of mixed results*, 23 September 2015, (available at: <https://monusco.unmissions.org/en/martin-kobler%E2%80%99s-end-mission-drc-monusco-chief-speaks-mixed-results>)

³³⁹ The United Nations, *Secretary-General Appoints Roger. A. Meece as his Special Representative for Democratic Republic of Congo*, 9 June 2010, (available at: <https://www.un.org/press/en/2010/sga1246.doc.htm>)

³⁴⁰ The United Nations Secretary-General, *David Shearer*, (available at: <https://www.un.org/sg/en/content/profiles/david-shearer>)

Denmark,³⁴¹ and Norway, respectively.³⁴² Finally, the current SRSG in MINUSMA is Annadif Khatir Mahamat Saleh from Chad who has held the position since January 2016.³⁴³ In MINUSMA there has also been a total of three SRSGs since the first deployment in 2013 from Chad, Tunisia,³⁴⁴ and the Netherlands.³⁴⁵ Overall there is no pattern in what nationality the SRSGs in MONUSCO, UNMISS, and MINUSMA have, although in both MONUSCO and MINUSMA the current and former SRSGs are from African states. The benefit of appointing SRSGs with African nationalities could be that these, potentially, have a greater knowledge of the situation on the ground as well as them having a better knowledge of history, culture and religion which additionally speaks into the previously mentioned maxim of the AU: ‘African solutions to African problems’.

On the other hand, African nationals acting as SRSGs could inject their own ideas in their facilitation of settling disputes and thereby break the basic principle of impartiality. Fortunately, this rarely occurs as SRSGs work in close and confidential cooperation with the UNSG,³⁴⁶ with several years of experience within the field of managing peacekeeping on the ground as representatives of the UN. This means that each SRSG is vested with moral authority and expected to embody the three basic principles of peacekeeping as well as to protect civilians in their work. These principles do not always create a coherent framework on how to act in conflict situations.³⁴⁷ Therefore, a necessary feature of the role as SRSG is to be able to step out of his or her comfort zone, actively interpreting the UNSC mandates, and thus sometimes take controversial action.³⁴⁸ This is equally important as there is no agreed doctrine of peacekeeping despite the existence of the Capstone Doctrine.³⁴⁹

³⁴¹ The United Nations, *Head of UN Peacekeeping Mission in South Sudan to Step Down in November*, 23 October 2016, (available at: <https://news.un.org/en/story/2016/10/543512-head-un-peacekeeping-mission-south-sudan-step-down-november>)

³⁴² ReliefWeb, *Hilde F. Johnson to Complete Her Term as SRSG in July*, 30 May 2014, (available at: <https://reliefweb.int/report/south-sudan/hilde-f-johnson-complete-her-term-srsg-july>)

³⁴³ The United Nations Secretary-General, *Annadif Khatir Mahamet Saleh*, (available at: <https://www.un.org/sg/en/content/profiles/annadif-mahamat-saleh>)

³⁴⁴ The United Nations, *Secretary-General Appoints Mongi Hamdi of Tunisia as Special Representative for Mali*, 12 December 2014, (available at: <https://www.un.org/press/en/2014/sga1532.doc.htm>)

³⁴⁵ The United Nations, *Secretary-General Appoints Albert Gerard (Bert) Koenders of the Netherland as Special Representative for Mali*, 17 May 2013, (available at: <https://www.un.org/press/en/2013/sga1404.doc.htm>)

³⁴⁶ Donald J. Puchala, *The Secretary-General and his Special Representatives*, 1993, 88

³⁴⁷ John Karlsrud, *Special Representative of the Secretary-General as Norm Arbitrators? Understanding Bottom-up Authority in UN Peacekeeping*, December 2013, 535

³⁴⁸ John Karlsrud, *Special Representative of the Secretary-General as Norm Arbitrators? Understanding Bottom-up Authority in UN Peacekeeping*, December 2013, 539

³⁴⁹ Alexandra Novosseloff, *UN Peacekeeping: Back to Basics it not Backwards*, 19 April 2018, (available at: <https://theglobalobservatory.org/2018/04/peacekeeping-basics-is-not-backwards/>)

The latitude for personal initiatives, critical thinking, and innovation of the SRSB is key as these can lead to faster responses to atrocities happening on the ground. This has also previously lured SRSBs to go beyond the UNSCs mandates, creating tension and raising questions of authority within robust operations.³⁵⁰ John Karlsrud argues, that existing literature has focused negatively on how the UN occasionally acts against its own rules and mandates. According to him the gap between tactics in theory, doctrine, and actual practice must be considered a positive thing as it can generate ambiguity in which senior field staff, including the SRSB, can operate. There must be room for considerable leeway for SRSBs to interpret mandates, as a too narrow framework on tasks limits the freedom of action. SRSBs must rely on their local knowledge and experience to interpret the ambiguity of mandates that do not explicitly spell out rules of behaviour.³⁵¹

Despite the important role, there remains a limit on the degree of control granted to SRSBs by the international community. They see the SRSB as the authority to convene and facilitate the coordination process, but can ultimately not control or direct the process itself.³⁵² As seen in MONUSCO, the current SRSB Leila Zerrougui has held meetings with DRC stakeholders to develop a transition strategy.³⁵³ This is coherent with the fact that SRSBs cannot become players within peace processes. Therefore, conflicting parties must ultimately arrive at an agreement with the SRSB only being an enabling force through means of arbitration.³⁵⁴ This will most likely remain the same in the future, as the UN member states and parties to a conflict will maintain the direct control of the peace process. Cedric de Coning argues that the role of the SRSB remains unchallenged despite the SRSB not having direct authority over human, technical, or financial resources, but constitutes a key player in moving dialogue between conflicting parties towards peace.³⁵⁵

³⁵⁰ John Karlsrud, *Special Representative of the Secretary-General as Norm Arbitrators? Understanding Bottom-up Authority in UN Peacekeeping*, December 2013, 534

³⁵¹ John Karlsrud, *Special Representative of the Secretary-General as Norm Arbitrators? Understanding Bottom-up Authority in UN Peacekeeping*, December 2013, 539

³⁵² Cedric de Coning, *Mediation and Peacebuilding: SRSBs and DSRSBs in Integrated Missions*, 2010, 296

³⁵³ Security Council Report, *June 2020 Monthly Forecast*, 29 May 2020, (available at: https://www.securitycouncilreport.org/monthly-forecast/2020-06/democratic-republic-of-the-congo-9.php?utm_medium=email&utm_campaign=29%20May%202020%20Campaign%201&utm_content=29%20May%202020%20Campaign%201%20CID_88ce1a7feb10e582723b7a85c1113730&utm_source=Email%20Newsletter&utm_term=DRC&fbclid=IwAR2zU9-PDRJyvUurqhMK8T0Y27TxHVvIRtzXZWtGCXnaCkB8w4XCQpYDI)

³⁵⁴ Cedric de Coning, *Mediation and Peacebuilding: SRSBs and DSRSBs in Integrated Missions*, 2010, 297

³⁵⁵ Cedric de Coning, *The Role of the SRSB in UN Integrated Missions: Process Facilitator and Multi-stakeholder Mediator*, 2010, 4

The role of the SRSB is at times undermined in conflict-affected areas as has previously been experienced in UNMISS. Despite a general acceptance of the role of the SRSB, some scholars such as Mahmood Mamdani, have questioned the role of the UN agency when SRSBs do not live up to their responsibilities as overall authority of combining efforts in peacekeeping. In Mamdani's words, the UN has learned little since the genocide in Rwanda and the massacre in Srebrenica. This has triggered discussions on accountability for committed violence in the RSS, and was only limited to the South Sudanese actors involved in the killing. The UN ignored that the UNMISS personnel were deployed with a PoC mandate, but failed to prevent parties to armed conflicts' unlawfully killing of civilians. Following the incident, the UNSG dismissed the head of forces, but not former SRSB Hilde F. Johnson.³⁵⁶ Despite the previous mentioned need of certain leeway for SRSBs in interpreting UNSC mandates, there must at the same time be an insurance by the UN that RPKOs with PoC mandates are not just by-standers when mass atrocities are taking place. After all, SRSBs play the overall coordinating role of PKO, which has been widely recognized and accepted with several good examples of conduct.³⁵⁷

Applying the Just War Theory

In applying the JWT to the role of the SRSB this section will focus on the fifth aspect stating that RPKOs *must have reasonable chance of success* to consider its justification. The introduction to the JWT presented that this aspect is within the jus ad bellum criteria. However, Todd A. Burkhardt argues that the jus ad bellum tenet of reasonable chance of success requires more than just determining whether robust operations are likely to succeed or not. Instead the UN must consider the jus post bellum responsibilities before deploying RPKOs.³⁵⁸ The aspect of jus post bellum has only gained increased attention in the 21st century. Burkhardt argues that prior to the tactical level of peacekeeping, it is important for states to consider post-war obligations even before fighting begins.³⁵⁹ This means that assessing whether a RPKO has reasonable chance of success must be considered alongside jus ad bellum. This section will extract ideas from Burkhardt, but instead of

³⁵⁶ Christopher Zambakari et al., *The Role of the UN Mission in South Sudan (UNMISS) in Protecting Civilians*, 2018, 115

³⁵⁷ Cedric de Coning, *Mediation and Peacebuilding: SRSBs and DSRSBs in Integrated Missions*, 2010, 296

³⁵⁸ Todd A. Burkhardt, *Reasonable Chance of Success – Analyzing the postwar requirements of jus ad bellum*, 2013, 122

³⁵⁹ Todd A. Burkhardt, *Reasonable Chance of Success – Analyzing the postwar requirements of jus ad bellum*, 2013, 120

applying it to a situation of war it will consider the involvement of the SRSG through regular reporting to the UNSC and thereby increase the reasonable chance of success for RPK.

As soon as the SRSG is selected, he or she gets in-depth knowledge on the situation on the ground through aid offices providing expertise. The benefit is that the career background of SRSGs allow them to facilitate diplomatic negotiations with the purpose of creating stability and peace in conflict-affected areas. Instead of fighting through robust means the SRSG is tasked with bringing parties around the same table in the hope of reaching mutual agreements instead of draining countries of both men, material and money in the long run.³⁶⁰ SRSGs must through their facilitation of a peace process incorporate post-war considerations into the calculation on reasonable chance of success in RPKOs. This grants the conflicting parties, in a peace dialogue, with a sense of direction in reaching the post-war phase by implementing a peace agreement. The SRSG, as head of the entire operation on the ground, is positioned to guide member states, humanitarian workers, the AU, governments, oppositions, civilians, civil society etc. in undertaking the demanding obligations in resolving conflicts by facilitating these forums of dialogue.³⁶¹

Just as a state cannot wait to defend itself against harmful attacks until a calculation on the reasonable chance of success of a counterattack has been made,³⁶² the SRSG should be able to assess whether information should travel directly to the table of the UNSC. This would be with the purpose of avoiding the staff restraints that are burdening the UNSG and ultimately delaying information sharing. Instead the SRSG, through own initiative and personal latitude, should enlighten UNSC on urgent matters making this UN body able to respond faster and act by adjusting mandates if there is a need for it. As the SRSG is on the ground in these RPKOs he or she can convey and facilitate post-war guidelines for unified action amongst all relevant parties. This is to achieve political aims on a long-term basis, with the purpose to avoid being reactive by using military force to achieve ends.³⁶³ In continuation of this, it has been argued that granting SRSGs with responsibilities of reporting would only increase the reasonable chance of success of RPKOs.

³⁶⁰ Todd A. Burkhardt, *Reasonable Chance of Success – Analyzing the postwar requirements of jus ad bellum*, 2013, 124

³⁶¹ Todd A. Burkhardt, *Reasonable Chance of Success – Analyzing the postwar requirements of jus ad bellum*, 2013, 121

³⁶² Todd A. Burkhardt, *Reasonable Chance of Success – Analyzing the postwar requirements of jus ad bellum*, 2013, 122

³⁶³ Todd A. Burkhardt, *Reasonable Chance of Success – Analyzing the postwar requirements of jus ad bellum*, 2013, 124

This is due to the capabilities of these individuals, with a strong diplomatic career, in determining what is needed on the ground in conflict-situations. These actors are the ones able to facilitate important negotiations with the overall purpose of reaching a peace agreement.

Summary

SRSGs in MONUSCO, UNMISS, and MINUSMA are constantly navigating through complex RPKOs to streamline activities, manage strategic direction, and maintain operational coherence across the different dimensions of a peace process.³⁶⁴ The SRSGs facilitate the tactical level of the UNSC mandates. Due to a complex structure of RPKOs with both civilians, police and military involved there is a continuous need for the SRSG to facilitate peace processes by encouraging dialogue. There is also a need for the SRSG to prioritise what needs to be done and thereby address issues sequentially.³⁶⁵

In future RPKOs there should be focus on moving some responsibilities of the UNSG to the SRSG, due to staff constraints within the office of the UNSG. Since SRSGs are field based, they should report directly to the UNSC without having to go through the long bureaucratic procedures of the UN system. This is because the SRSGs, due to their diplomatic career background, are enabled by the UN to make controversial decisions for the sake of the greater good in PKOs.³⁶⁶ SRSGs are legitimate candidates for reporting directly to the UNSC on urgent matters which requires immediate action. The role of the SRSGs as mediators of peace processes is widely recognised and accepted by the international community, only increasing the credibility of their position.

The Robustness Exercised

Former UNSG Dag Hammarskjöld argued for the prohibition on any initiative on the use of force as one of the defining characteristics of the UN. This has become one of the basic principles in peacekeeping, only allowing the use of force in self-defence or defence of an operations mandate.³⁶⁷ Much has changed since Hammarskjöld's heydays in the end 1950s. Today force can also be

³⁶⁴ Cedric de Coning, *Mediation and Peacebuilding: SRSGs and DSRSs in Integrated Missions*, 2010, 297

³⁶⁵ Alexandra Novosseloff, *UN Peacekeeping: Back to Basics it not Backwards*, 19 April 2018, (available at: <https://theglobalobservatory.org/2018/04/peacekeeping-basics-is-not-backwards/>)

³⁶⁶ John Karlsrud, *Special Representative of the Secretary-General as Norm Arbitrators? Understanding Bottom-up Authority in UN Peacekeeping*, December 2013, 536

³⁶⁷ Mats Berdal, *What Are the Limits to the Use of Force in UN Peacekeeping?*, 2019, 115

allowed if used at the tactical level and in consent of the host state.³⁶⁸ This robust mandate has in particular showed itself through its stabilising tasks which is what will be considered in the following section.

The robustness shows itself in an increased encouragement of being robust from draft to implementation. Beginning as a benefit at the political level, which creates constraints at the operational level, and liabilities at the tactical level.³⁶⁹ On the list of stabilising tasks the PoC appears. A task that has attracted attention concurrently with the changing nature of conflict, where the strategies used can be argued to conflict with both the basic principles and IHL.³⁷⁰ This has left RPKOs with challenges in fulfilling their mandates and meant that in most conflict-affected areas such as in the DRC, the RSS, and Mali. The stabilising tasks and the three basic principles are rarely coexisting in a harmonious way. The following section will, therefore, analyse the stabilising aspects, including the PoC, and their involvement of the use of force in the three operations. An analysis that will lead to a discussion of what these tasks means for the understanding of RPK, and what implications the execution of the use of force has for the justification of it in accordance to the JWT.

When Force is Used to Stabilise

The Problem with Stabilising Operations

For some robust operations stabilising is part of the agenda. That is the case for MONUSCO, UNMISS, and MINUSMA. MONUSCO and MINUSMA with concrete stabilisation mandates and UNMISS with stabilising tasks – all tasks that allow the use of force as a last resort. By allowing a type of mandate, where force is a solution that can be chosen, what does that say about the practice of robust peacekeeping? In 2015, the UNSG at the time, Ban Ki-moon stated in the HIPPO, that military means are not the solution to conflicts which are harming peace.³⁷¹ He also acknowledged that RPKOs to a larger degree is implemented in the middle of conflicts to hinder them from

³⁶⁸ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 19

³⁶⁹ Cedric de Coning, *Is stabilization the new normal? Implications of stabilization mandates for the use of force in UN peace operations*, 4 October 2016, (available at: <https://cedricdeconing.net/2016/10/04/is-stabilisation-the-new-normal-implications-of-stabilisation-mandates-for-the-use-of-force-in-un-peace-operations/>)

³⁷⁰ The United Nations Secretary-General, *Protection of civilians in armed conflict*, S/2019/373, 7 May 2019, para. 25

³⁷¹ The High-level Independent Panel on Peace Operations, *Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people*, 17 June 2015, para. 43

escalating.³⁷² Nowhere in the UNs guidelines or documents is a description of what an operation equipped with stabilisation tasks mean.³⁷³ Some argues this is caused by the disagreement of whether the “term” is of a new origin, or something that is not that spectacular and therefore not a change of process towards the creation of mandates.

To be a PKO with a robust mandate working in accordance with the authorisation of it, stabilising or not, it needs to act in accordance with the conditions put forward by the basic principles. Amongst them impartiality, which in accordance with the Capstone Doctrine, are not to be muddled with neutrality, as these two things refer to different phases of peacekeeping.³⁷⁴ Yet, two words that have created great confusion in its use in RPKOs. The use of force in RPK does amount rightfully to the tactical level: that be PoC and a proactive deterrence approach to spoilers. All with the authorisation of the UNSC.³⁷⁵ In spite of a description of what robustness in terms of use of force in RPKOs entail it still creates challenges. Both concerning the theoretical commitment to the UN principles, but also how it is exercised and how this complies with the principles of IHL. Issues of which will be analysed in accordance to the resolutions of MONUSCO, UNMISS, and MINUSMA in the following section.

How Does It Show in the Resolutions?

Both MONUSCO, UNMISS, and MINUSMA, have a wide variety of tasks: that being to observe and monitor ceasefires, monitor elections, protect humanitarian assistance, early warning mechanisms, protect safe areas, PoC, and state rebuilding etc.³⁷⁶ MONUSCO and MINUSMA are both operations that have been installed to create stabilisation, with both periods of progress and times of stalemate. The stabilisation part is also visible with the UNSC authorisation of the FIB in the DRC,³⁷⁷ the operational and logistical support to the FC-G5S,³⁷⁸ and the fight against

³⁷² The High-level Independent Panel on Peace Operations, *Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people*, 17 June 2015, para. 108

³⁷³ Cedric de Coning, *Is stabilization the new normal? Implications of stabilization mandates for the use of force in UN peace operations*, 4 October 2016, (available at: <https://cedricdeconing.net/2016/10/04/is-stabilisation-the-new-normal-implications-of-stabilisation-mandates-for-the-use-of-force-in-un-peace-operations/>)

³⁷⁴ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 33

³⁷⁵ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the ‘robust turn’ in UN peace operations*, 2017, 111

³⁷⁶ Nicholas Tsagourias, *Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension*, 25 January 2007, 480

³⁷⁷ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 12

³⁷⁸ Security Council resolution 2391, S/RES/2391, 8 December 2017, para. 12

respectively armed groups and non-state actors. The *object* of MONUSCO and MINUSMA is to stabilise, partly because they were deployed in the midst of conflict, which initiated a robust mandate that allowed them to use force.³⁷⁹ UNMISS is an operation deployed to support peace consolidation and state-building,³⁸⁰ PoC,³⁸¹ and to strengthen the security sector, also with a robust mandate.³⁸² UNMISS is not provided with a stabilising mandate, but is still allowed to use force in protecting civilians in the RSS as stated as the *object* of the operation in res. 1996 (2011).³⁸³

There are several factors in MONUSCO and MINUSMA indicating that their *purpose* is of a stabilising kind. In *context*, they are deployed in the middle of on-going conflicts: MINUSMA was established due to an occupation of North Mali by Islamist armed groups in 2012, caused by fights between government forces and Tuareg rebels.³⁸⁴ MONUSCO was established to protect civilians in the civil war between the governmental forces and several rebel groups.³⁸⁵ They are to contribute to restore state authority and maintain stability over state territories. In the first resolution of MINUSMA, res. 2100 (2013), the *object* of the operation is partly decided to be concerning the “stabilization of key population centres and support for the re-establishment of State authority throughout the country.”³⁸⁶ MONUSCO was also from the beginning in res. 1925 (2010), tasked with the *object* of helping the Government of the DRC to establish an effective state authority,³⁸⁷ “in order to consolidate and achieve further progress in the stabilisation of the country.”³⁸⁸ Both MONUSCO and MINUSMA cooperate with and fortify state security forces of the host-nations. MONUSCO forces cooperate with the FARDC in operations against armed groups, amongst other objects to neutralize the Democratic Forces for the Liberation of Rwanda (FDLR).³⁸⁹ MONUSCO is mandated to “maintain a proactive deployment and a mobile, flexible and robust posture.”³⁹⁰ The

³⁷⁹ Cedric de Coning, *Is stabilization the new normal? Implications of stabilization mandates for the use of force in UN peace operations*, 4 October 2016, (available at: <https://cedricdeconing.net/2016/10/04/is-stabilisation-the-new-normal-implications-of-stabilisation-mandates-for-the-use-of-force-in-un-peace-operations/>)

³⁸⁰ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 3(a)

³⁸¹ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 3(b)

³⁸² Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 3(c)

³⁸³ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 4

³⁸⁴ The United Nations, *Implementing peace deal only path for stabilization in Mali: UN peacekeeping chief*, 15 January 2020, (available at: <https://news.un.org/en/story/2020/01/1055362>)

³⁸⁵ Alan Doss, *United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO)*, 2015, 805

³⁸⁶ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 16(a)

³⁸⁷ Security Council resolution 1925, S/RES/1925, 28 May 2010, 1

³⁸⁸ Security Council resolution 1925, S/RES/1925, 28 May 2010, 2

³⁸⁹ Security Council resolution 2147, S/RES/2147, 28 March 2014, 2

³⁹⁰ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 29(i)(b)

MINUSMA forces are asked to enhance its operational coordination with the MDSF to ensure stabilization,³⁹¹ authorized with robust mandates and encouraged to be proactive.³⁹²

RPKOs are notorious for meddling with the basic principle of impartiality also in terms of the use of force, which is also present in the two stabilising operations. In the DRC, the FIB was established in res. 2098 (2013), a force established with the *object* of neutralising armed groups. It is deployed “on an exceptional basis and without creating a precedent or any prejudice to the agreed principles of peacekeeping.”³⁹³ The FIB is either working alone or in collaboration with the FARDC in pointing out and fighting armed groups. That being primarily the M23, but also the FDLR, the Allied Democratic Forces (ADF), the Alliance of Patriots for a Free and Sovereign Congo (APCLS), the LRA, the National Forces of Liberation (FNL), the Maï Maï groups, and other armed groups. The same paragraph also states that previous members of these groups are not “eligible for integration into the FARDC.”³⁹⁴ Less than a year after the FIB was established, the following res. 2136 (2014), mentions reports indicating that fractions of the FARDC were abusing IHRL and violating IHL. This gave indications of, that they were collaborating with the FDLR at a local level.³⁹⁵ An unfortunate companionship that went on and was articulated again a few months later in res. 2147 (2014). A neutralisation of this partnership, planned by the FARDC and MONUSCO, was welcomed.³⁹⁶ In *context*, the same resolution highlighted the gruesome mass rapes that soldiers from the FARDC were behind in Minova in November 2012.³⁹⁷

MONUSCO is not the only RPKO playing with the term of impartiality. In order to understand the peculiarities of MINUSMAs stand, one has to think of the *context* and look at the history of Mali. Things changed severely in Mali in March 2012, when a rebellion escalated and turned into a military coup, that over the course of one night overthrew the government, suspended the country’s constitution, and began an armed conflict in Northern Mali.³⁹⁸ The rebellion was mostly led by the rebel group Tuareg who was disappointed with the state of governance in North Mali and they merged into the MNLA. The MNLA managed to gain large territorial control over northern Mali in

³⁹¹ Security Council resolution 2164, S/RES/2164, 25 June 2014, para. 13(a)(vi)

³⁹² Security Council resolution 2295, S/RES/2295, 29 June 2016, para. 18

³⁹³ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 9

³⁹⁴ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 8

³⁹⁵ Security Council resolution 2136, S/RES/2136, 30 January 2014, 2

³⁹⁶ Security Council resolution 2147, S/RES/2147, 28 March 2014, 2

³⁹⁷ Security Council resolution 2147, S/RES/2147, 28 March 2014, 4

³⁹⁸ Walter Lotze, *United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)*, 2015, 4

April 2012. Taking over this territory, the MNLA called off the military offensive and declared the independence of this territory under the name of the Republic of Azawad. Parts of the North remains under the Tuareg's control, in spite of both MINUSMA and French troops from Operation Barkhane being present.³⁹⁹ The current Malian President Ibrahim Boubacar Keita collaborates with noticeable partners, that being the leader of Ansar Eddine, and a prominent figure of the Tuareg group, Iyad Ag Ghali as well as leaders of several armed groups. The collaboration was admitted by the President, in line with increased violence by jihadist groups in February 2020.⁴⁰⁰ Something that once again delayed the legislative elections in Mali on 19 April 2020, when jihadists removed representatives for the electoral commission by force and voters were threatened.⁴⁰¹

President Keita claims that “talking with jihadists and fighting terrorism is not contradictory,” but it still plants doubt of MINUSMA's capabilities of being impartial, since they are collaborating with a government, that collaborates with the ones MINUSMA are *objected* to neutralise. The quirkiness gets stronger by looking at the latest res. 2480 (2019), where there is no naming and shaming of armed groups that are condemned by the UNSC, compared to the previous res. 2423 (2018), that *strongly* condemned armed groups including Ansar Eddine.⁴⁰² An impartiality that is additionally challenged by the UNSC authorisation of French forces in Operation Barkhane in the first res. 2100 (2013), “to use all necessary means (...) to intervene in support of elements of MINUSMA.”⁴⁰³ An authorisation that still are evident in the latest res. 2480 (2019).⁴⁰⁴ Impartiality is challenged because Operation Barkhane is an operation called upon to actively fight non-state actors identified by the UN, under a UN mandate.⁴⁰⁵

The robustness in stabilising operations can be hard on the process leading up to the aftermath and in the post-conflict phase. That is why solutions for withdrawal that does not only consist of military means are highly valued and also something requested and sought in the three operations.

³⁹⁹ France 24, *Mali's president admits to holding talks with senior jihadist leaders*, 10 February 2020, (available at: <https://www.france24.com/en/20200210-exclusive-mali-s-president-acknowledges-dialogue-with-jihadist-leaders>)

⁴⁰⁰ France 24, *Mali's president admits to holding talks with senior jihadist leaders*, 10 February 2020, (available at: <https://www.france24.com/en/20200210-exclusive-mali-s-president-acknowledges-dialogue-with-jihadist-leaders>)

⁴⁰¹ France24 News Wires, *Mali election runoff tarnished by intimidation and allegations of vote rigging*, 20 April 2020, (available at: <https://www.france24.com/en/20200420-mali-election-runoff-tarnished-by-intimidation-and-allegations-of-vote-rigging>)

⁴⁰² Security Council resolution 2423, S/RES/2423, 28 June 2018, 2

⁴⁰³ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 18

⁴⁰⁴ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 42

⁴⁰⁵ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the 'robust turn' in UN peace operations*, 2017, 113

Take res. 1925 (2010) for MONUSCO, where the UNSC promotes non-military means as part of the solution in achieving the overall *purpose*.⁴⁰⁶ All means prior to the use of force needs to be exhausted according to Art. 41 of the Charter. This is the only indicator, that the use of force is used as last resort, and that Art. 42 can be invoked and arms raised. All in accordance with the *practice* of the Charter. Art. 41 is still dependent on actions invoked by the UNSC but it is of the non-lethal kind, such as economic sanctions or arms embargos.⁴⁰⁷ Means that have somewhat been exercised in the case of the DRC, the RSS, and Mali. In the DRC, the UNSC has since res. 1896 (2009), invoked an arms embargo,⁴⁰⁸ one that MONUSCO is *objected* to monitor in res. 1925 (2010).⁴⁰⁹ An arms embargo that is still being monitored by MONUSCO now,⁴¹⁰ confer para. 1 of res. 2293 (2016).⁴¹¹ The UNSC continuously threatens with targeted sanctions against armed groups, if they do not put down their arms – also stated in the latest res. 2502 (2019).⁴¹² The sanctions regime will expire 1 July 2020, and according to the UNSCs monthly forecast for June it will be renewed.⁴¹³

In the RSS, an arms embargo was imposed in 2018 by res. 2428 (2018), saying that “Member States shall immediately take the necessary measures to prevent the direct or indirect supply, sale, or transfer to the territory of South Sudan.”⁴¹⁴ UNMISS is *objected* to assist this task in res. 2459 (2019). This includes giving information to the Panel of Experts on the matter.⁴¹⁵ In Mali on the other hand, a concrete arms embargo has not been imposed, but instead res. 2017 (2011) concerning threats caused in Libya affecting the region where it, “calls upon States in the region to consider appropriate measures to prevent the proliferation of all arms and related materiel of all types (...).”⁴¹⁶ No concrete embargo has been authorised for the MINUSMA troops to monitor,⁴¹⁷ in spite of MINUSMA being tasked with the *object* of assisting the Malian government in addressing this

⁴⁰⁶ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 5

⁴⁰⁷ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 16

⁴⁰⁸ Security Council resolution 1896, S/RES/1896, 7 December 2009, para. 1

⁴⁰⁹ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 12(t)

⁴¹⁰ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 38

⁴¹¹ Security Council resolution 2293, S/RES/2293, 23 June 2016, para. 1

⁴¹² Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 13

⁴¹³ Security Council Report, June 2020 Monthly Forecast: Democratic Republic of the Congo, 29 May, (available at: https://www.securitycouncilreport.org/monthly-forecast/2020-06/democratic-republic-of-the-congo-9.php?utm_medium=email&utm_campaign=29%20May%202020%20Campaign%201&utm_content=29%20May%202020%20Campaign%201%20CID_88ce1a7feb10e582723b7a85c1113730&utm_source=Email%20Newsletter&utm_term=DRC&fbclid=IwAR2zU9-PDRJyvUurqhMK8T0Y27TtxHVvIRtzXZWtGCXnaCk8w4XCQpYDI)

⁴¹⁴ Security Council resolution 2428, S/RES/2428, 13 July 2018, para. 4

⁴¹⁵ Security Council resolution 2459, S/RES/2459, 15 March 2019, para. 22

⁴¹⁶ Security Council resolution 2017, S/RES/2017, 31 October 2011, para. 3

⁴¹⁷ Security Council resolution 2017, S/RES/2017, 31 October 2011, para. 3

problem from 2013⁴¹⁸ to 2017.⁴¹⁹ Already from the first res. 2100 (2013),⁴²⁰ the UNSC displayed its readiness to sanction armed groups further, than already provided for in res. 1989 (2011).⁴²¹

When analysing the use of force in relation to these RPKOs, it is also useful to look at the *wording* of the resolutions. The *context* of when force is used, is controlled by IHL and the principles of military necessity and proportionality. Despite RPKOs' plan to be a deterring mean, it has shown itself to be more "proactive," bordering to the aggressive, both in theory in the resolutions but also in praxis on the battlefield. In para. 11 in res. 1925 (2010), through its *wording*, MONUSCO is authorized to use all means necessary within the limits of its capacity to carry out its protection mandate.⁴²² Again in para. 4 of res. 2147 (2014), the UNSC "authorizes MONUSCO, in pursuit of the objectives described in para. 3 above, to take all *necessary* measures to perform the following tasks."⁴²³ As well as the authorisation to "carry out targeted *offensive* operations through the Force Intervention Brigade."⁴²⁴ Not to forget that this kind of operation is allowed "in a *robust, highly mobile and versatile* manner,"⁴²⁵ so that it can "prevent the expansion of all armed groups, *neutralize* these groups, and disarm them."⁴²⁶ It goes by many names, signalling an intention of being more proactive but not an intention of creating a habit for it, and therefore the various definitions of what the use of force entails in a robust mandate. It is somewhat formulated in preventive terms, so it does not at first glimpse seem offensive – take for example the neutralising of armed groups done in order to "prevent" the spreading of them.

The general understanding is that IHL, in this case the principle of military necessity, is more or less easily applicable at the tactical level for the deployed forces.⁴²⁷ It is important that military necessity is seen as a limiting principle and not an excuse to exaggerate.⁴²⁸ But seeing wording like this in resolutions could cause worries, when thinking about that a Blue Helmet, or all soldiers for that matter, need to weigh the other principles. MONUSCO and MINUSMA could signal

⁴¹⁸ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 28

⁴¹⁹ Security Council resolution 2364, S/RES/2364, 29 June 2017, para. 46

⁴²⁰ Security Council resolution 1989, S/RES/1989, 17 June 2011, para. 1(a)

⁴²¹ Security Council resolution 2100, S/RES/2100, 25 April 2013, 2

⁴²² Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 11

⁴²³ Security Council resolution 2147, S/RES/2147, 28 March 2014, para. 4

⁴²⁴ Security Council resolution 2147, S/RES/2147, 28 March 2014, para. 4(b)

⁴²⁵ Security Council resolution 1991, S/RES/1991, 28 June 2011, para. 9(e)

⁴²⁶ Security Council resolution 1991, S/RES/1991, 28 June 2011, para. 9(e)

⁴²⁷ Røde Kors, *Menneskerettighedernes betydning under væbnet konflikt*, Jurist- og Økonomforbundets Forlag, 2015, 85

⁴²⁸ Nicholas Tsagourias & Alasdair Morrison, *Fundamental Principles of International Humanitarian Law*, Cambridge University Press, 2018, 54

something different and that precedent is in fact under way. It is only in the latest resolution for MONUSCO in 2019, that the UNSC explicitly write “proactive.”⁴²⁹ Whereas for MINUSMA it is in 2016, that it is stated the first time.⁴³⁰ MONUSCO taking over for MONUC in 2010 and MINUSMA deployed in 2013, might not signal a direct precedent for a proactive use of force. More that experiences have been made since and that an approach of better sooner than later, has been adopted at the desks of the UNSC. This minimises the likelihood for sui generis, and the case-by-case basis the UNSC so strongly advocates for. As seen in the variety of words describing the use of force, it can cause a worry that the understanding of the military necessity principle is being exploited. Thankfully, there is a mechanism made to halt this: *The Status of Force Agreements* (SOFA). These are special agreements between the UN and the TPCCs regulating the legal conditions in regard to the home state authority. If there are any breaches, the deployed troops can be prosecuted – though exclusively under a national court.⁴³¹ Such agreement has been made for all three operations, e.g. visible for UNMISS in res. 2109 (2013).⁴³²

When military means has been deemed required, the use of this is required to be proportionate in accordance with the IHL principle of proportionality when considering collateral damage done in the three RPKOs. A principle where it is also important to regard the *context* of which the use of military means is being used, which is also why there is no formula directing what the proportionate level is.⁴³³ In the resolutions the admonishing of IHL obligations is given to the host states in which the UN finds itself intervening. An example is the DRC, where attacks committed by members of the FARDC are emphasized to respect IHL in its response “in accordance to proportionality and the use of force.”⁴³⁴ A reminder that is being given again in the following resolutions, e.g. res. 2293 (2016),⁴³⁵ and res. 2348 (2017).⁴³⁶ The blurriness surrounding the use of force in peacekeeping, that has become evident from this analysis, will be further discussed in the following section.

⁴²⁹ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 29(i)(b)

⁴³⁰ Security Council resolution 2295, S/RES/2295, 29 June 2016, para. 18

⁴³¹ Røde Kors, *Menneskerettighedernes betydning under væbnet konflikt*, Jurist- og Økonomforbundets Forlag, 2015, 291

⁴³² Security Council resolution 2109, S/RES/2109, 11 July 2013, para. 35

⁴³³ David Turns, *The Law of Armed Conflict (International Humanitarian Law)*, 2018, 858

⁴³⁴ Security Council resolution 2211, S/RES/2211, 26 March 2015, 3

⁴³⁵ Security Council resolution 2293, S/RES/2293, 23 June 2016, 4

⁴³⁶ Security Council resolution 2348, S/RES/2348, 31 March 2017, 2

Discussing the Room for Improvement

In many ways, what is happening in developing countries, as the three cases, is caused by the end of a colonial era after the Cold War, where a third party was always present in these states, setting the agenda, leading the regime and not leaving much up to the individual governments.⁴³⁷ It has left these countries' authorities broken down and vulnerable to stronger forces wishing to take advantage of the situation. These states have for decades been used to the method of force as the tool to achieve their preferred outcomes, considered the right instrument in attempting to control the chaos. For western states, it is reasonable to intervene in a conflict, when universal human rights are violated to a degree that often amount to being one of international crimes. If not based on the argument that it is a severe situation, which constitutes a profound threat to international peace, then because of the following international burdens it will create, e.g. in the shape of migration flow.⁴³⁸

The use of force in RPKOs is without a doubt a controversial topic. The use of force in self-defence confer the basic peacekeeping principles, is no longer the maximum, and in defence of the mandate it has been opened to a broader interpretation than ever before. Theory and practice of the use of force can never come about without a gap – it is two different arenas. But the responsibility of minimising this gap, is in the hands of the people providing the regulations of peacekeeping. It can be deduced from the analysis, that this has proven itself quite difficult. How is it possible to adhere to the basic principles of peacekeeping by using as little force as possible, and at the same time defeat an opponent that harm civilians?

Stabilising mandates can arguably be seen as a political strategy setting the goal for the operation and being concerned with laying the tactics for it. This superficial explanation needs more clarification. In the HIPPO, the UNSG said that “those principles [basic principles of peacekeeping] must be interpreted progressively and with flexibility in the face of new challenges, (...) to defend the mission proactively.”⁴³⁹ Seeing this, it is not strange that troops and civilians believes the more progressive path being the one sought, when the people creating the mandate also doubts the more

⁴³⁷ Dansk Udenrigspolitisk Institut (DUPI), *Politiske og moralske aspekter af humanitær intervention*, Gullanders Bogtrykkeri, 1999, 37

⁴³⁸ Dansk Udenrigspolitisk Institut (DUPI), *Politiske og moralske aspekter af humanitær intervention*, Gullanders Bogtrykkeri, 1999, 40

⁴³⁹ The High-level Independent Panel on Peace Operations, *Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people*, 17 June 2015, 12

diplomatic paths to be sufficient. As mentioned, these changes highly affect the interpretation of the basic principles.

Blurred Boundaries

The Capstone Doctrine writes itself that the boundaries in peacekeeping work have become more rigorous and difficult to draw up, and operations are no longer attached to one activity solely.⁴⁴⁰

Several scholars argue that a doctrinal shift has occurred a long time ago, and it needs to be acknowledged in order to ensure the correct understanding between the UNSC and the ones exercising their mandate.⁴⁴¹ Charles T. Hunt argues that “if instances of an enforced peace prove to be successful then it will be difficult to resist the UNSC members’ efforts to incorporate similar mission concepts into responses to similar crises in future.”⁴⁴² There is a development pointing in the direction of this statement. But settling with a “justification” of this kind, will not only blur the lines between peacekeeping and peace enforcement. It will diminish the line and be the end of the basic principles. There still needs to be a thorough reasoning for falling to arms, because if not, an escalation will emerge.

Cedric de Coning argues against a concept of stabilisation, in which no specific process of development is taking place. He finds that the mandates for these operations are “unique and they should not be lumped together in a new stabilisation category,” because they are in fact not so different from other types of PKOs in the everyday practice of it.⁴⁴³ This signals room for misunderstandings and room for disagreement on how the mandate should be applied. It can quickly be perceived as an excuse for mandating in a manner that creates an easier path to the use of force. This falls directly into the discussion of precedents and the wish for the UNSC not to do so, yet stabilisation has been used in four operations since 2004.⁴⁴⁴ In providing a description, maybe even guidelines or a conceptualisation, of what it will entail to create a stabilising mandate, would in many ways improve the way it is used in robust operations. It would ease the understanding of

⁴⁴⁰ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 18

⁴⁴¹ Mateja Peter, *Between Doctrine and Practice: The UN Peacekeeping Dilemma*, 2015, 352

⁴⁴² Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the ‘robust turn’ in UN peace operations*, 2017, 125

⁴⁴³ Cedric de Coning, *Is stabilization the new normal? Implications of stabilization mandates for the use of force in UN peace operations*, 4 October 2016, (available at: <https://cedricdeconing.net/2016/10/04/is-stabilisation-the-new-normal-implications-of-stabilisation-mandates-for-the-use-of-force-in-un-peace-operations/>)

⁴⁴⁴ Alexander Gilder, *‘Stabilization’ and UN Peace Operations*, 28 October 2019, (available at: <https://www.oxfordresearchgroup.org.uk/blog/stabilization-and-un-peace-operation>)

this type of mandate, in that it will be transparent what the prospects are for the outcome of these types of operations, not to mention clarity for the people on the ground enforcing the mandate. A request already made in 2015 by the UNSG Ban Ki-moon.⁴⁴⁵

Coning argues further, that when the UN does not wish to conceptualise stabilisation, then “it allows them to start using a new concept, and perhaps to introduce a new approach towards UN peace operations, without having to say so explicitly.”⁴⁴⁶ His point is well underpinned in these resolutions, e.g. with the FIB in the DRC.⁴⁴⁷ This is a pattern for a UNSC, who does not wish to set precedents nor develop a practice for this kind of action in interventions.⁴⁴⁸ It reveals this in the repeating phrase in the resolutions for the FIB, where the UNSC keeps saying they want a case-by-case basis, but still enforce the same means year by year. These double standards might disappear if the UNSC would accept the doctrinal shift once and for all.

Blurred or not, James Sloan and Lisa Hultman disagree on whether the authorisation for the use of force strengthens the possibilities of achieving the object. Sloan argues that a militarised kind of peacekeeping will have difficulties because of non-sufficient personnel, equipment and leadership to carry out a proactive operation. Whereas Hultman claims that it is not possible to look at individual cases in order to determine success or not, and that one should also think about what the outcome would be, if the UN had not intervened. According to Hultman the more peacekeepers provided, the fewer civilian lives are lost, and by that disagreeing with Sloan, implying that every operation is not doomed to failure.⁴⁴⁹ A discussion that has only become apparent because of the escalation in military attributes in the first place. Departing from Sloan’s point of view, the outlook for stabilising operations and their underlying tasks of protecting civilians, and create conditions that can generate a future secure environment. This seems awfully downcast with a UN budget for peacekeeping being challenged and cut every year. For 2018/2019 the UNGA approved resources

⁴⁴⁵ The High-level Independent Panel on Peace Operations, *Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people*, 17 June 2015, para. 114

⁴⁴⁶ Cedric de Coning, *Is stabilization the new normal? Implications of stabilization mandates for the use of force in UN peace operations*, 4 October 2016, (available at: <https://cedricdeconing.net/2016/10/04/is-stabilisation-the-new-normal-implications-of-stabilisation-mandates-for-the-use-of-force-in-un-peace-operations/>)

⁴⁴⁷ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 9

⁴⁴⁸ Dansk Udenrigspolitisk Institut (DUPI), *Politiske og moralske aspekter af humanitær intervention*, Gullanders Bogtrykkeri, 1999, 75

⁴⁴⁹ Lisa Hultman, *Robust Peacekeeping: A Desirable Development?*, 2 September 2014, (available at: <https://www.e-ir.info/2014/09/02/robust-peacekeeping-a-desirable-development/>)

for peacekeeping operations amounting to approx. \$6.7 billion,⁴⁵⁰ for 2019/2020 this budget was dropped with approx. \$172 million to approx. \$6.5 billion.⁴⁵¹ RPKOs' success is being watched and judged by all parties in the international community, and this is of course also necessary in ensuring the trust which member states have placed upon the UN. This creates even bigger moral concerns, when member states question the UNs choices regarding the carrying out of a given mandate and finds the UNs' actions insufficient.

The Use of Force Colliding with Impartiality

RPK challenges the limitation of the use of force, in accordance with the basic principles, since a broad interpretation of this has occurred. This can be extracted from the analysis and the preceding discussion. This broad interpretation of the use of force has also created challenges when the rules of IHL apply to peacekeepers. Since the UN is not a party to the Geneva Conventions, it is however, bound by these due to their CIL status, as decided in the ICJ AO on *Reparation for Injuries Suffered in the Service of the United Nations* (1949):

*Whereas a State possesses the totality of international rights and duties recognized by international law, the rights and duties of an entity such as the Organization must depend upon its purposes and functions as specified or implied in its constituent documents and developed in practice.*⁴⁵²

Peacekeeping has developed through practice to carry out the overall purpose of maintaining world peace and security. This includes peacekeepers partaking in hostilities, which this robust interpretation of the use of force generates questions of whether they are. A doubt that continues to exist even though the UNSG have repeatedly made it clear, including in the *Secretary-General's Bulletin - Observance by United Nations forces of international humanitarian law* (1999), that the "fundamental principles and rules of international humanitarian law set out in the present bulletin

⁴⁵⁰ The United Nations General Assembly, *Approved resources for peacekeeping operations for the period from 1 July 2018 to 30 June 2019*, 5 July 2018, 4

⁴⁵¹ The United Nations General Assembly, *Approved resources for peacekeeping operations for the period from 1 July 2018 to 30 June 2019*, 5 July 2018, 4

⁴⁵² The International Court of Justice, *Reparation for Injuries Suffered in the Service of the United Nations*, 11 April 1949, 180

are applicable to United Nations forces when in situations of armed conflict, they are actively engaged therein as combatants.”⁴⁵³

The UNSC strongly condemns all violations of IHRL and IHL committed by perpetrators, that is the case for both the DRC,⁴⁵⁴ the RSS,⁴⁵⁵ and Mali.⁴⁵⁶ Violations that forces the UN troops to participate in hostilities to minimise these threats by the use of force. This commits UN peacekeepers, as well as their partners and opponents to the rules and principles of IHL.⁴⁵⁷ This should, therefore, be considered in the discussion of the robustness of the resolutions. Under IHL, the principle of military necessity and with it the principle of proportionality, are two highly important terms determining the extent to which use of force is allowed in a RPKO.⁴⁵⁸ The military necessity of a RPKO in for instance the DRC becomes clear due to the UNSC registering that there is an issue of calibre. An issue which the government cannot solve on its own and the use of force is thus necessary to overcome this situation. This does not only create an unstable situation politically, but it also creates a situation where lives are being lost, the rights of the populations are being violated, and security is being disintegrated. Moreover, it also constitutes a threat to international peace with long-term consequences, something spelled out in every single resolution of these operations, because otherwise it would not be possible to rule out a Chapter VII mandate, also clarified in the previous analysis.

The need for the adherence to proportionality is interpreted to be commonplace for the UN troops, when considering they have been authorised to use force and from that it is expected of them not to exploit this prerogative and to adhere to IHL. There is therefore no mentioning of the UN troops adhering to proportionality in the resolutions, but there is a reference to the general anticipation that all use of force is done in accordance with IHL. Katarina Grenfell in connection to this also argues, that the problem of breaches on IHL in majority cannot be directly blamed on peacekeeping troops, but more on the state in which they intervene. She suggests that the UN should do more to make the

⁴⁵³ United Nations Secretary-General, *Secretary-General's Bulletin Observance by United Nations forces of international humanitarian law*, 6 August 1999, section 1, 1.1

⁴⁵⁴ Security Council resolution 1991, S/RES/1991, 28 June 2011, 1

⁴⁵⁵ Security Council resolution 2132, S/RES/2132, 24 December 2013, 1

⁴⁵⁶ Security Council resolution 2164, S/RES/2164, 25 June 2014, 3

⁴⁵⁷ Katarina Grenfell, *International Humanitarian Law and UN Peacekeeping Operations*, 21 January 2016, (available at: <https://www.alnap.org/help-library/international-humanitarian-law-and-un-peacekeeping-operations>)

⁴⁵⁸ Nicholas Tsagourias & Alasdair Morrison, *Fundamental Principles of International Humanitarian Law*, Cambridge University Press, 2018, 39

host state aware, that it is fully committed to IHL as well as to make armed groups and non-state actors do the same.⁴⁵⁹ It is visible from the resolutions, that this is being done in practice, e.g. in the DRC, where MONUSCO in cooperation with international partners are tasked with providing training in IHL and IHRL.⁴⁶⁰

The principle of impartiality can also be argued to affect this interpretation of the limitation of force. This will be discussed in the following. According to Nicholas Tsagourias neutrality and impartiality refers to two different phases of the operation: neutrality being the character of it, and impartiality being the conduct of it.⁴⁶¹ He argues, that RPKOs have lost their neutrality, and that “the UN has lost its innocence,” having a political agenda, which it makes sure is “remedied by its impartiality.”⁴⁶² As an example, the situation in Mali might be consisting of two parallel forces: MINUSMA and the French Barkhane. The Malian population and the number of armed groups are most likely not aware of this division. This leaves the UN with a risk of being responsible for the actions of the French forces.⁴⁶³ The character of the operation might be justified as neutral, being that it is tasked with fighting groups, that creates insecurity and violates the rights of the civilian population. But the conduct of it quickly becomes partial when portrayed as a fixed opponent, fought in cooperation with other western troops.

One can wonder why there is not put more emphasis on the risk the UN puts its troops in, when authorising this larger amount of force during engagements with fixed opponents. In Mali the MDSF makes themselves the opponent, and in the RSS the governmental forces SPLA, SPLA-IO and several armed groups attack both civilians,⁴⁶⁴ as well as the UN personnel.⁴⁶⁵ Civilians being a non-legal target in accordance to the IHL principle of distinction.⁴⁶⁶ The UN personnel on the other hand is another matter. First, there are several prescriptions for protection of peacekeepers in

⁴⁵⁹ Katarina Grenfell, *International Humanitarian Law and UN Peacekeeping Operations*, 21 January 2016, (available at: <https://www.alnap.org/help-library/international-humanitarian-law-and-un-peacekeeping-operations>)

⁴⁶⁰ Security Council resolution 2348, S/RES/2348, 31 March 2017, 4

⁴⁶¹ Nicholas Tsagourias, *Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension*, 25 January 2007, 478

⁴⁶² Nicholas Tsagourias, *Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension*, 25 January 2007, 482

⁴⁶³ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the ‘robust turn’ in UN peace operations*, 2017, 114

⁴⁶⁴ Security Council Resolution 2327, S/RES/2327, 16 December 2016, 2

⁴⁶⁵ Security Council Resolution 2514, S/RES/2514, 12 March 2020, 3

⁴⁶⁶ Nicholas Tsagourias & Alasdair Morrison, *Fundamental Principles of International Humanitarian Law*, Cambridge University Press, 2018, 39

international law, being: in accordance with *the Convention on the Safety of United Nations and Associated Personnel* (1994) particular explained in Art. 7(1).⁴⁶⁷ Second, *the Status of Forces Agreements* (SOFAs) between the host state and the UN that has been settled since 2003.⁴⁶⁸ Lastly, *the Rome Statute of the International Criminal Court* (1998) Art. 8(b)(iii) that prescribes when attacks against UN personnel amounts to war crimes.⁴⁶⁹ But when the UN becomes a party to a conflict as they are considered to be in a NIAC, they lose some of this protection and become legitimate military targets. Peacekeepers are always protected by the *Convention on the Safety of United Nations and Associated Personnel*. Whereas the Rome Statute do not differentiate between an *International Armed Conflict* (IAC) and a NIAC, and peacekeepers protection is lost the minute they become a part to the conflict.⁴⁷⁰ Katarina Grenfell argues a possible solution to this matter, and that it could be useful for PKOs only to be guided by the Rome Statutes directions, since this was adopted after the UN Safety Convention, and being ratified by 123 states one could conclude this being very representative for the positioning of these states.

It can be difficult to comprehend how MONUSCOs and MINUSMAs collaboration with partners that both attacks them but also so obviously commit abuses against IHRL, can be justified under the term of impartiality. In MONUSCO the partnership with the FARDC creates doubts whether the RPKO can be categorized as impartial, considering that it took sides through simply collaborating with one armed group instead of another and marking all others as enemies. The robust turn which stabilising operations has taken, has indeed demanded even more transparency from the UNs side, and it should also demand something from its partners. Something more than condemning their actions in a resolution once a year. Impartiality is challenged by the ever-changing conflict environment, that affects the balance of it.⁴⁷¹ One way could, in accordance to Marco Longobardo, be to change the way of understanding impartiality. Instead of using it as a requirement for the overall operation, it should rather be a requirement that it is perceived impartial by the involved stakeholders.⁴⁷² Another way of assessing this balance, could be to look at when the use of force has

⁴⁶⁷ United Nations Treaty Collection, *Convention on the Safety of United Nations and Associated Personnel*, 9 December 1994

⁴⁶⁸ Katarina Grenfell, *International Humanitarian Law and UN Peacekeeping Operations*, 21 January 2016, (available at: <https://www.alnap.org/help-library/international-humanitarian-law-and-un-peacekeeping-operations>)

⁴⁶⁹ Malcolm D. Evans, *Rome Statute of the International Criminal Court (1998)*, Oxford University Press, 2017, 470

⁴⁷⁰ Katarina Grenfell, *International Humanitarian Law and UN Peacekeeping Operations*, 21 January 2016, (available at: <https://www.alnap.org/help-library/international-humanitarian-law-and-un-peacekeeping-operations>)

⁴⁷¹ Nicholas Tsagourias, *Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension*, 25 January 2007, 480

⁴⁷² Marco Longobardo, *Robust Peacekeeping Mandates: An Assessment in Light of Jus Post Bellum*, 2019, 8

tipped the scale and it is no longer justifiable.⁴⁷³ A resourceful battalion can be using a greater amount of force owing to the larger amount of capabilities, whereas a smaller battalion may derogate from the use of force, because there is a lack of capabilities. This will be discussed in the following section, where the JWT is used to assess the justification of the use of force in RPK.

Applying the Just War Theory

RPK greatly challenge the application of the JWT to the use of force in stabilising operations. Applying the JWT to this element of RPK is not solely a matter of using it, in determining that it is just or unjust, and tick of the criteria listed in the theory section. As A. Walter Dorn argues, the JWT needs to be taken beyond this and instead “recognise that the criteria are almost always satisfied to some degree.”⁴⁷⁴ Of the six aspects presented in the section on theory, two of them will be discussed in this section. The two aspects being: *proportionate cause* and *the use of force as last resort*.

Tony Pfaff reckons that when speaking of military force in connection to the JWT, the object must always be to use the least force *necessary* – a word, as seen in the analysis, heavily used in the UNSC resolutions on RPKOs. According to him though, the necessary amount of force used in peacekeeping is different than the amount necessary for a traditional military operation. To prove his point, he uses a comparison between domestic police forces and UN Blue Helmets.⁴⁷⁵ He argues that soldiers, when using force to achieve an end, needs to consider both what amounts are practical, but also what is morally and legally right in protecting civilians. He also says that soldiers and their commanders have the “logic of warfare” and have an interest in using as much force as possible, and therefore, asks the question of how *much* force is allowable instead of how *little* is possible. Soldiers can be obligated to think in terms of the least force possible being sufficient to reach the end-goal. This results in him discussing whether the JWT can be applied to peacekeeping.⁴⁷⁶ The JWT is representing the struggle soldiers have choosing between winning or

⁴⁷³ Nicholas Tsagourias, *Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension*, 25 January 2007, 480

⁴⁷⁴ A. Walter Dorn, *Warfighting, Counterinsurgency and Peacekeeping in Afghanistan: Three Strategies Examined in the Light of Just War Theory*, 2011, 17

⁴⁷⁵ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, iii

⁴⁷⁶ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 2

fighting well.⁴⁷⁷ It is thought of as the theory justifying the use of force in creating peace and not to maintain it which is opposite for RPKOs, causing a need for a modification of the JWT.⁴⁷⁸

He makes the comparison of domestic police forces and the UN peacekeepers with the argument that they, as the police, has the task of maintaining peace – that is if one considers traditional peacekeeping. As the police, the UN troops has a credibility label they need to consider and they must balance between not using force too strongly, but on the other hand, not being reluctant towards it.⁴⁷⁹ He, however, also points out that “soldiers have a prima facie obligation to accomplish properly assigned missions, and thus can only be obligated to consider the maximum permissible force, not the minimum possible force.”⁴⁸⁰ First step to consider, is whether or not the peace exist when the RPKO is deployed. Traditionally maintaining peace would have been sufficient, but RPKOs are more about establishing peace, which is also the case for MONUSCO, UNMISS, and MINUSMA. In these cases, authorities have lost their grip and the societies are in a state of instability and turmoil. Pfaff states that when no peace exists, “it only makes sense to think of applying as much force as is permissible.”⁴⁸¹ But excessive force and peacekeeping has somewhat always been an odd pair. Whether an operation is peace maintaining or peace establishing, it does not have a whole lot to say about the moral considerations in using force not to forget the international codifications regulating this matter.

No matter the objective, the least violent means of getting there is the answer. For the matters of the three RPKOs, the JWT is a matter of using force in creating a “better state of peace.”⁴⁸² Stabilising or not, PoC mandate or not – the Blue Helmets have been deployed to create safer conditions for the people living in the state. Both short-term in fighting belligerents when necessary, but also long-term in assisting in the creation of conditions for peace settlements. The boundaries for force should be implicitly understood from the word “peacekeeping.” When the end-goal is peace it makes the most sense that the means for getting to this point, involves the least amount of force. Despite this, fighting continues. In the DRC, the FIB has not been withdrawn yet and armed groups continue to

⁴⁷⁷ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 4

⁴⁷⁸ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 9

⁴⁷⁹ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 7

⁴⁸⁰ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 8

⁴⁸¹ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 13

⁴⁸² Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 10

create disturbances in particular in the regions of Ituri, Kasai, and Kivu.⁴⁸³ In the RSS, attacks and violations keeps taking place, in spite of national authorities defining the civil war as ceasing.⁴⁸⁴ In Mali, the situation is spiralling even more downwards, armed groups still occupy North Mali and non-state actors are increasing their strength, causing terror all over the Malian territory.⁴⁸⁵

Breaching peace is not a useful tool to preserve it, and the firing of arms never creates the calmest conditions.⁴⁸⁶ Almost all resolutions for the operations allow the use of all “necessary means”, which indeed counter argues Pfaff’s analogy of peacekeepers being similar to police in their understanding of a more modest use of force. Authorising what is “necessary” can just as well be the upper limit of force as the lower limit, giving no clarification for when the cause is proportionately just. Even though a peacekeeper knows that force is the last way out, he or she should also feel morally obligated to protect the people that no one else protects. In the JWT and the justification of participation in battle, peacekeeper or not, it is always to be decided which actors are legitimate targets under IHL. For the DRC, the RSS, and Mali it is armed groups and non-state actors that for most parts have been announced the opponents. It challenges the parameter of impartiality. If things were to be properly followed, the RPKOs would assist a peace process, non-aggressively and only be acting in self-defence with no particular opponent. But here they are clearly announced, which can be extracted from the mere wording of the resolutions, where *condemning* is frequently used in speaking of both non-state actors⁴⁸⁷ and armed groups and their actions.⁴⁸⁸

A proportionate cause in terms of IHL provides the legal answer to how much force can be justified – the end justifies the means. But one could argue, that in reality it is a moral consideration that lies behind the legalistic decision of which means of force are used to achieve a certain goal. When the force commander determines a building to be a military target, he/she must also be evaluating how much collateral damage is tolerable, and it can therefore not be avoided, that he/she has some moral

⁴⁸³ The Council on Foreign Relations, *Violence in the Democratic Republic of Congo*, 29 May 2020, (available at: <https://www.cfr.org/interactive/global-conflict-tracker/conflict/violence-democratic-republic-congo>)

⁴⁸⁴ The Council on Foreign Relations, *Civil War in South Sudan*, 29 May 2020, (available at: <https://www.cfr.org/interactive/global-conflict-tracker/conflict/civil-war-south-sudan>)

⁴⁸⁵ The Council on Foreign Relations, *Destabilization of Mali*, 29 May 2020, (available at: <https://www.cfr.org/interactive/global-conflict-tracker/conflict/destabilization-mali>)

⁴⁸⁶ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 14

⁴⁸⁷ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 35

⁴⁸⁸ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 12

qualms. That is also why a proportionate cause is so important in RPK to judge how just it is for the troops to use the force that have been put at their disposal. Pfaff argues that if some property is destructed in order to kill an opponent, and by that peace is being maintained, it is hard to counter-argue it.⁴⁸⁹ As argued, he also considers the potential moral implications of a peacekeeper finding out, that not only did it defeat a threatening opponent and some material goods – it also stole the lives of innocent people.⁴⁹⁰ In essence the use of force used in a proportionate just manner, will always ask the question of the logics behind breaching peace to maintain it.

Summary

In 1976, Johan Galtung asked the question: what is the structure of peace? He refers to the world structure as a body and claims that the body can take a lot of germs – but the world at this point – do not have a healthy body. The world fights to get healthy again, weapons are produced for this fight and they are being used for good reasons, he argues. He, therefore, ends up asking: what is a healthy world body?⁴⁹¹ When robust operations are deployed in the middle of crossfire, making it difficult to imagine that world health can be regained without enabling some means of coercion. The question then is how “forceful” do one need to be in restoring world health? Here the IHL principles give some guidance, but there is a pitfall when not all parties to the conflict adheres to it, which is the case in both the DRC, the RSS, and Mali.

A possible yardstick for the use of force, when stabilising, could be that force should at maximum be used to create an open room for addressing all the underlying complications of the conflict, and reach a political solution once and for all. Pros and cons can be waged in terms of how just RPKOs’ use of force is, in accordance to the JWT. With a Blue Helmet or not it will remain a moral difficult assessment whether what is done with the force allowed is just enough, and if it is ever possible to justify civilian lives being lost – in spite of it being for a proportionate cause. The question is more whether the international community can settle with a conclusion, that actions with the use of force will never be entirely justified, and that an effort to justify it should be stopped.

⁴⁸⁹ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 6

⁴⁹⁰ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 7

⁴⁹¹ Johan Vincent Galtung, *Three Approaches to Peace: Peacekeeping, Peacemaking, and Peacebuilding*, 1 February 1976, 297

Decreasing the Robustness of Mandates Through Civilians

The Problem of Excluding Civilians in Robust Peacekeeping

The 2015 report by the *High-level Panel on Peace Operations* (HIPPO) presented the former UNSG Ban Ki-moon with recommendations on how to make PKOs more fit for facing a changed threat environment. The report presented a lack of cooperation among the UNSC, the Secretariat and the TPCCs. In these kinds of operations there is a need for effective dialogue through triangular consultations for mandates, including PoC, to be clearly formulated and understood.⁴⁹²

Furthermore, and of interest to this thesis, is the report's take on the use of force in PKOs. The UN is often called upon to undertake the role of conflict management in areas threatened by violent conflicts and where peace processes have broken down. However, peacekeeping in general struggle with lack of capabilities, which are required for the operation to function. These limitations are worrisome when operations are tasked with protecting civilians at risk or preventing a "deterioration of security conditions while attempts are made to the peace process."⁴⁹³ The Panel of the HIPPO report noted that the UN will continue to face a conflict management role and that PKOs will be deployed to deter escalation of conflicts, contain the conflicts, protect civilians and try to revive peace processes.⁴⁹⁴

Since the international failure to protect civilians in the 1990s a new norm has advanced, namely that of PoC.⁴⁹⁵ This form of protection is part of IHL, written in the Fourth Geneva Convention and Additional Protocol I and II and has undergone dramatic changes following the publication of the Brahimi report. This report highlighted the importance of including civilians as an effective mean in reaching peaceful settlements.⁴⁹⁶ PoC has therefore become a key imperative as most current operations are deployed to conflict-affected areas with robust mandates. This grants peacekeepers the permission to use force to protect civilians under imminent threat of physical violence.⁴⁹⁷

⁴⁹² The High-level Independent Panel on Peace Operations, *Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people*, 17 June 2015, 49

⁴⁹³ The High-level Independent Panel on Peace Operations, *Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people*, 17 June 2015, 29

⁴⁹⁴ The High-level Independent Panel on Peace Operations, *Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people*, 17 June 2015, 30

⁴⁹⁵ John Karlsrud, *Special Representative of the Secretary-General as Norm Arbitrators? Understanding Bottom-up Authority in UN Peacekeeping*, December 2013, December 2013, 527

⁴⁹⁶ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 133

⁴⁹⁷ Hanne Fjelde, Lisa Hultman & Desirée Nilsson, *Protection Through Presence: UN Peacekeeping and the Costs of Targeting Civilians*, 2019, 103

The changing nature of today's conflicts poses a major challenge to the commitment of protecting civilians, and targeted engagement has become a necessity rather than an option in preventing the escalation of conflicts.⁴⁹⁸ It is the primary responsibility of the respective host state and its governmental authority to protect its population from suffering and serious harm, by bringing perpetrators of violations to justice. If states fail to protect its population, despite its obligation under both IHL and CIL, it becomes the residual responsibility of the international community to halt such atrocities and protect civilians from suffering.⁴⁹⁹ In the World Summit of 2005, the UN reaffirmed the authority of the UNSC in mandating operations with coercive action to maintain and restore peace and security.⁵⁰⁰ Despite the powers vested in the UNSC, gruesome violations continue to be committed without perpetrators being held accountable for their violations. This has a negative impact not only on the accountability of the government of the host state, but it also impacts the accountability of the UN operations in conflict-affected areas such as in the DRC, the RSS, and Mali.

In general, the problem is that the UN remains rather state-centric entailing that there is a tendency of the UN applying military solutions to ensure international peace and security rather than relying on political means. RPKOs are more sensitive to the host states and the consent of these, as well as to states of the international system rather than the people, which most current RPKOs are deployed to protect.⁵⁰¹ This criticism of the UN has in the words of Natasja Rupesinghe created an impetus for increasing and strengthening engagement with communities in conflict-affected states such as the DRC, the RSS, and Mali.⁵⁰²

How Does It Show in the Resolutions?

MONUSCO, UNMISS, and MINUSMA are all deployed with a PoC mandate to be implemented and have been so since the beginning of each operation. In all three cases, it is the primary

⁴⁹⁸ The United Nations & The World Bank, *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict*, 2018, (available at: <https://openknowledge.worldbank.org/handle/10986/28337>), xvii

⁴⁹⁹ Erika de Wet, *Regional Organisation and Arrangements and their Relationship with United Nations: the Case of the African Union*, 2013, 6

⁵⁰⁰ The United Nations, *World Summit Outcome*, 24 October 2005, para. 79

⁵⁰¹ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 309

⁵⁰² Natasja Rupesinghe, *Strengthening Community Engagement in United Nations Peace Operations*, 2016, (available at: <https://www.accord.org.za/conflict-trends/strengthening-community-engagement-united-nations-peace-operations/>)

responsibility of the host government to commit itself to protect civilians. However, when governments are unable or unwilling, as in the three RPKOs, it becomes a responsibility of the international community to protect these civilians. MONUSCO,⁵⁰³ UNMISS,⁵⁰⁴ and MINUSMA⁵⁰⁵ were from the very beginning authorised with the ability to use robust measures including lethal force in defending their mandates.

MONUSCO's res. 1925 (2010), states that the operation's *practice* is in accordance with Chapter VII of the Charter. The *object* of this RPKO is amongst others to ensure the protection of civilians "under imminent threat."⁵⁰⁶ Translated, "imminent" means something that is "coming or likely to happen very soon."⁵⁰⁷ These *words* are often found in UNSC resolutions raising questions of how field personnel can assess whether the threshold for what constitutes an "imminent" threat is fulfilled. If so, this permits the use of force in defence of the mandate if all other peaceful measures in accordance with Art. 41 of the Charter are exhausted. The operation is additionally authorised to "use all necessary means" in carrying out its PoC mandate.⁵⁰⁸ This formulation epitomises the robust turn in peacekeeping with an increased permissibility to use force in protecting civilians.⁵⁰⁹ In *practice* this has facilitated a proactive and even aggressive interpretation of mandates on the ground by enabling force against perceived perpetrators of violations against civilians.⁵¹⁰ Throughout the resolutions of MONUSCO, the UNSC continues to reaffirm the commitment to protect civilians and that it must be given priority when deciding on the use of available capacities and resources within the operation.⁵¹¹ The resolution states that one of its *objects* includes that "successful protection of civilians is critical to the fulfilment of MONUSCO's mandate (...)." ⁵¹² In this context the use of the *word* "successful" is once again a vague formulation as there are subjective perceptions of what "successful" entails in such large operations.

⁵⁰³ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 11

⁵⁰⁴ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 4

⁵⁰⁵ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 17

⁵⁰⁶ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 12

⁵⁰⁷ Cambridge Dictionary, *Imminent*, 2020, (available at: <https://dictionary.cambridge.org/dictionary/english/imminent>)

⁵⁰⁸ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 11

⁵⁰⁹ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the 'robust turn' in UN peace operations*, 2017, 108

⁵¹⁰ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the 'robust turn' in UN peace operations*, 2017, 111

⁵¹¹ Security Council resolution 1991, S/RES/1991, 28 June 2011, para 1

⁵¹² Security Council resolution 2348, S/RES/2348, 31 March 2017, 4

In the most recent res. 2502 (2019) of MONUSCO one of the priority tasks, and an *object*, is to defend the PoC mandate, which is explicitly mentioned in para. 29(i)(a) stating that MONUSCO must,

*Take all **necessary measures** to ensure effective, timely, dynamic and integrated protection of civilians under threat of physical violence within its provinces of current deployment, (...) through a **comprehensive approach and in consultation with local communities**, including by preventing, deterring, and stopping all armed groups and local militias from inflicting violence on the populations.*⁵¹³

Once again, the *wording* is important to delve into, as “necessary measures” and protection of civilians “under threat of physical violence.” These formulations leave the UN personnel on the ground with vaguely formulated PoC mandates and without clear demarcated lines for what constitutes a legitimate protection situation. In the words of Benjamin de Carvalho and Jon Harald Sande Lie, the PoC norm is purposely vague with the intent of making it applicable on a case-by-case basis.⁵¹⁴ This means that there is a certain leverage when interpreting mandates.

In protecting civilians, para. 29(i)(d) of res. 2502 (2019), states that MONUSCO shall enhance engagement with local communities and civilians to “raise awareness and understanding about its mandate and activities.”⁵¹⁵ The *object* of this is to strengthen early warning mechanisms and help in monitor violations of IHRL and IHL. This people-centred approach was mentioned in previous res. 2211 (2015) and 2277 (2016). These were *objected* to enhance interaction with civilians through a comprehensive public outreach programme. The *purpose* of this was to assess potential threats towards civilians and furthermore, gather information on violations of IHL and IHRL.⁵¹⁶ In res. 2277 (2016), the program more explicitly included the need for early warning mechanisms with the intent of increasing efforts to monitor the above-mentioned violations, but also in the context of elections.⁵¹⁷ Operations such as MONUSCO lacks proper funding for its civilian components which only enlarges the problem. Adaption has been made by the UN to reinforce conflict resolutions

⁵¹³ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 29(i)(a)

⁵¹⁴ John Karlsrud, *Special Representative of the Secretary-General as Norm Arbitrators? Understanding Bottom-up Authority in UN Peacekeeping*, December 2013, 533

⁵¹⁵ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 29(i)(d)

⁵¹⁶ Security Council resolution 2211, S/RES/2211, 26 March 2015, para. 12

⁵¹⁷ Security Council resolution 2277, S/RES/2277, 30 March 2016, para. 35(c)

through local communities and re-deploying civilian components to those areas mostly affected by armed conflicts.⁵¹⁸

MONUSCO is authorised through its civilian component to contribute and support national mechanisms in the implementation of the PSC Framework.⁵¹⁹ This civilian component is requested to engage in a coherent division of roles with the military component, with the *object* of the two components to act in accordance with their respective advantages and capacities.⁵²⁰ On top of that, MONUSCO must according to its res. 2277 (2016), include civilians in the work against armed groups in the DRC, as a contributing factor to area-based stabilising efforts.⁵²¹ Besides that the operation must engage civil society in the implementation of the *Comprehensive and Inclusive Political Agreement* (the 31 December 2016 Agreement) and support the electoral process.⁵²²

In UNMISS res. 1996 (2011), included PoC in its mandate, but the operation prioritised state-building and provided little guidance on PoC. In this resolution, the operation was *objected* to support the government of the RSS in exercising its responsibilities of protecting civilians.⁵²³ In res. 2057 (2012), the UNSC notes the priority of the PoC mentioned in res. 1996 (2011), and further welcomed a strategy of protecting civilians through early warning and early response mechanisms.⁵²⁴ Following the outbreak of civil war in December 2013, the UNSC mandate was restructured to primarily prioritize PoC.⁵²⁵ Just like in MONUSCO, UNMISS troops are permitted to “use all necessary means,”⁵²⁶ granting them leverage in interpreting the PoC mandate through more robust measures entailing the use of force if in compliance with IHL, IHRL, and refugee law.⁵²⁷ Following this, res. 2109 (2013), concretised the *wording* of the PoC mandate to include a passage saying that the operation could take “necessary actions to protect civilians under *imminent threat* of physical violence (...).”⁵²⁸ The words “imminent threat” were also highlighted in the

⁵¹⁸Sebastian von Einsiedel, *Non-Military Protection of Civilian in UN Peace Operations Experiences and Lessons*, May 2015, 4

⁵¹⁹ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 15

⁵²⁰ Security Council resolution 2147, S/RES/2147, 28 March 2014, para. 6

⁵²¹ Security Council resolution 2277, S/RES/2277, 30 March 2016, para. 35(i)(e)

⁵²² Security Council resolution 2409, S/RES/2409, 27 March 2018, para. 36(ii)(a)

⁵²³ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 3(b)

⁵²⁴ Security Council resolution 2057, S/RES/2057, 5 July 2012, para. 3

⁵²⁵ Mark Malan & Charles T. Hunt, *Between a rock and a hard place – The UN and the protection of civilians in South Sudan*, November 2014, 1

⁵²⁶ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 4

⁵²⁷ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 3(b)(iv)

⁵²⁸ Security Council resolution 2109, S/RES/2109, 11 July 2013, para. 4

analysis of MONUSCO, and once again the use of these exact words grant troops room for manoeuvring and interpreting PoC mandates in a more offensive manner to stabilise the situation in the RSS.

In the operation of UNMISS the UNSC is once again aware of the importance of engagement with civilians and civil society to establish self-sustaining peace that will last after UN troops withdraw. In res. 2057 (2012), the UNSC welcomes UNMISS's initiative with the *purpose* of launching,

*(...) an outreach campaign throughout the country, and encourages the Mission within existing resources to further develop its communication with local communities to improve understanding of the Mission's mandate (...)*⁵²⁹

The *object* of such an outreach campaign is to enhance cooperation between UNMISS and actors at the local level. These are working at the forefront of local violence prevention and are often on top of the status quo in terms of threats against civilians. Therefore, the UNSC encourages UNMISS to streamline its activities across its military-, police-, and civilian components to better achieve progress in implementing its PoC mandate.⁵³⁰

The following res. 2109 (2013), expressed appreciation of the UNMISS initiative to conduct the outreach campaign and further stipulated that the operation had to, within its capabilities, develop a strategy for “effective” public communication. The *purpose* of this was to enhance and develop communication with local communities amongst others through community liaison assistants and translators.⁵³¹ The use of the *word* “effective” is rather vague as effectiveness is measured subjectively by individual stakeholders. The UNSC keeps stressing the importance of engagement with communities as well as humanitarian actors.⁵³² This is to be done through regular consultations on the mandate including matters of security threats,⁵³³ planned action, and capacities of the operation.⁵³⁴ This should function as a mean to implement the PoC mandate.⁵³⁵ In the most recent

⁵²⁹ Security Council resolution 2057, S/RES/2057, 5 July 2012, para. 11

⁵³⁰ Security Council resolution 2155, S/RES/2155, 27 May 2014, para. 9

⁵³¹ Security Council resolution 2109, S/RES/2109, 11 July 2013, para 11

⁵³² Security Council resolution 2252, S/RES/2252, 15 December 2015, 4

⁵³³ Security Council resolution 2327, S/RES/2327, 16 December 2016, 2

⁵³⁴ Security Council resolution 2406, S/RES/2406, 15 March 2018, 2

⁵³⁵ Security Council resolution 2187, S/RES/2187, 25 November 2014, 3

res. 2514 (2020), UNMISS is called upon to continue improving community engagement with the *purpose* of implementing its PoC mandate.⁵³⁶

Res. 2514 (2020), the UNSC, just like in the case of MONUSCO, underlines the importance of prioritising PoC when deciding the use of available capacities and resources.⁵³⁷ It highlights that UNMISS can use techniques of confidence-building, facilitation, mediation, and community engagement to both enhance and support protection and information gathering in the implementation of its PoC mandate.⁵³⁸ On the contrary, if the operation fails to respond to attacks on civilians it might entail severe consequences for mandate implementation.⁵³⁹ Concluding, res. 2514 (2020) requests the UNSG to provide the UNSC with a report on future planning for PoC sites. The UNSG should be informed by local communities and civil society organisations on what to include in such reports.⁵⁴⁰

The most recent resolution of MINUSMA, res. 2480 (2019), outlines that the primary strategic *object* of the operation remains to support the implementation of the Agreement, followed by the second priority of facilitating the implementation of a politically-led Malian strategy of PoC.⁵⁴¹ In regards to PoC, res. 2100 (2012) is deployed under Chapter VII with the *purpose*,

*(...) To protect, without prejudice to the responsibility of the transitional authorities of Mali, civilians under imminent threat of physical violence, within its capacities and areas of deployment (...).*⁵⁴²

Apart from the two previously mentioned RPKOs, the *wording* of this resolution explicitly mentions that PoC must be done without stripping the Malian government of its responsibilities of protecting its civilians. The vague formulation of “imminent threat” is a matter of field staff assessing situations on the ground and then decide what to do. Res. 2100 (2012), authorises MINUSMA to “use all necessary means, within the limits of its capacities and areas of deployment

⁵³⁶ Security Council resolution 2514, S/RES/2514, 12 March 2020, 2

⁵³⁷ Security Council resolution 2514, S/RES/2514, 12 March 2020, para. 14

⁵³⁸ Security Council resolution 2514, S/RES/2514, 12 March 2020, para. 15

⁵³⁹ Security Council resolution 2514, S/RES/2514, 12 March 2020, 5

⁵⁴⁰ Security Council resolution 2514, S/RES/2514, 12 March 2020, para. 39

⁵⁴¹ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 20

⁵⁴² Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 16(c)(i)

(...).”⁵⁴³ This gives it the *object* of protecting civilians and stabilising key population centres where civilians are at risk. This RPKO focuses on enhancing early warning mechanisms, to anticipate, deter, and counter threats with the possibility of taking robust and active steps in protecting civilians.⁵⁴⁴

Just like highlighted in the analysis of both MONUSCO and UNMISS, the UNSC is once again aware of the importance of engaging with civilians in RPKOs. Mainly at the operational level MINUSMA tries to engage with civilians with the *purpose* of creating stability. The operation is mandated to support the Malian Government and is deployed upon its request. However, only about half of the Malian population are generally satisfied with the performance of MINUSMA.⁵⁴⁵ Therefore, the UNSC continuously encourages MINUSMA to enhance its interaction with the civilian population by focusing on raising the awareness and understanding of the mandate and the activities of the deployed components.⁵⁴⁶ The UNSC requests that both the military and civilian components coordinate their activities with the *object* to support the implementation of the mandate, including PoC.⁵⁴⁷

From the very beginning MINUSMA has been *objected* with cooperating with appropriate national and local partners. Additionally, in res. 2423 (2018), MINUSMA must through its *practice* strengthen communication towards local populations with the *object* of enhancing awareness and understanding of its mandate.⁵⁴⁸ MINUSMA must support dialogue amongst all stakeholders to act in a cohesive way,⁵⁴⁹ with the *purpose* of preventing, mitigating, and resolving conflicts in Mali.⁵⁵⁰ MINUSMA is still tasked with a PoC mandate in which it is important to continue to strengthen community engagement and protection mechanisms. These include interaction with civilians, community outreach, reconciliation, mediation, support of resolving local and intercommunal conflicts, and public information.⁵⁵¹

⁵⁴³ Security Council resolution 2100, S/RES/2100, 25 April 2012, para. 17

⁵⁴⁴ Security Council resolution 2364, S/RES/2364, 29 June 2017, para. 20(c)(ii)

⁵⁴⁵ Jaïr van der Lijn, *Assessing the Effectiveness of the United Nations Mission in Mali*, 2019, (available at: <https://nupi.brange.unit.no/nupi-xmlui/bitstream/handle/11250/2599513/EPON-MINUSMA-Report-Exec-Summary.pdf?sequence=2&isAllowed=y>), 3

⁵⁴⁶ Security Council resolution 2164, S/RES/2164, 25 June 2014, para. 20

⁵⁴⁷ Security Council resolution 2100, S/RES/2100, 25 April 2012, para. 17

⁵⁴⁸ Security Council resolution 2423, S/RES/2423, 28 June 2018, para 21

⁵⁴⁹ Security Council resolution 2364, S/RES/2364, 29 June 2017, para. 20(b)

⁵⁵⁰ Security Council resolution 2100, S/RES/2100, 25 April 2012, para. 16(b)(ii)

⁵⁵¹ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 28(c)(ii)

All three RPKOs include the mentioning of the important role of civilians in solving these complex armed conflicts. Despite this acknowledgement by the UNSC there remains room for improvement within its practice on the ground in operations, as these remain too state centric. Therefore, the authors argue that engagement with civilian components in RPKOs is vital as civilians are those primarily affected by these conflicts. They can help decrease the use of force and increase the potential for political solutions to conflicts.

Discussing the Room for Improvement

2019 marked the 70th anniversary of the four Geneva Conventions. With their adaption following the end of the Second World War the international community acknowledged the principle of humanity including the principle of distinction. These states that those who are not or no longer partaking in hostilities must be protected.⁵⁵² 2019 also marked the 20th anniversary of the UNSC's adaption of res. 1265 (1999), which included PoC as part of its agenda. The UNSC was deeply concerned with the “erosion of respect for international humanitarian law during armed conflict” and that civilians were the vast majority of casualties in conflicts.⁵⁵³ The UNSC have until now considered 14 reports made by the UNSG with recommendations for improving PoC. All underlining that PoC is not solely a humanitarian task as it cannot substitute political processes aiming at ending conflicts and establish sustainable peace.⁵⁵⁴

In the words of the UNSG António Guterres, the past 20 years of the UNSC actions have strengthened the PoC framework and thereby saved civilians in armed conflicts. Much remains to be done as a review of the state of PoC from 1 January to 31 December 2018 demonstrate that civilians continue to account for the majority of casualties.⁵⁵⁵ A study on the military effect of peacekeeping on violence against civilians has shown that the UN intervention do prolong peace following civil conflict.⁵⁵⁶ Additionally, in armed clashes the numbers of civilian casualties whether killed by armed forces or government forces decrease when the number of peacekeeping units increase. However, the study also found that peacekeepers' response to killings committed by rebel

⁵⁵² The United Nations Secretary-General, *Protection of civilians in armed conflict*, 7 May 2019, para. 2

⁵⁵³ The United Nations Secretary-General, *Protection of civilians in armed conflict*, 7 May 2019, para. 3

⁵⁵⁴ The United Nations Secretary-General, *Protection of civilians in armed conflict*, 7 May 2019, para. 8

⁵⁵⁵ The United Nations Secretary-General, *Protection of civilians in armed conflict*, 7 May 2019, para. 24

⁵⁵⁶ Anup Phayal & Brandon C. Prins, *Deploying to Protect: The Effect of Military Peacekeeping Deployments on Violence Against Civilians*, 2020, 313

groups is more effective than the response towards government forces, portraying a weakness on the current use of force in RPKOs.⁵⁵⁷ On 7 May 2019, Mr. Guterres' published a report on PoC in armed conflicts including recommendations for future practice of PoC. However, none of these recommendations included a detailed mentioning of the importance of interaction with civilians in conflict-affected areas. It is only briefly included in the concluding remarks of the report which states that the UN member states, the UN organs, and civil societies must continue a sustained dialogue with the purpose of identifying concrete steps to better protect civilians.⁵⁵⁸

The Use of Force in Current Robust Peacekeeping Operations

The new era of peacekeeping that began in the late 1990s, was a result of the development of a changed pattern of conflicts, with an increasing number of internally armed conflicts.⁵⁵⁹ According to the UNSC, this required more muscular features in the shape of using force.⁵⁶⁰ Mats Berdal argues that this robust trend culminated in 2013 in MONUSCO with the deployment of the FIB, which granted peacekeeping-troops permission “to carry out targeted offensive operations (...) in a robust (...) manner.”⁵⁶¹ A similar offensive approach has been seen in Mali, with the UNSC authorising French troops in Operation Barkhane to use all necessary means to intervene within their limits. However, this form of intervention was mandated outside the UNs command structures but still mandated with increasingly more robust means than previously seen.⁵⁶² Berdal argues that an uneven record of PoC in these operations and the absence of political progress, only raise questions of the role of force and its limitation in peacekeeping.⁵⁶³

Some of the weaknesses of RPKOs are the continuous need for better systematic intelligence collection, assessment of situations, and analysis of the UNs capacities in conflicts. The lack of such means undermines the attempt by these operations to “grapple with underlying political

⁵⁵⁷ Anup Phayal & Brandon C. Prins, *Deploying to Protect: The Effect of Military Peacekeeping Deployments on Violence Against Civilians*, 2020, 333

⁵⁵⁸ The United Nations Secretary-General, *Protection of civilians in armed conflict*, 7 May 2019, para. 68

⁵⁵⁹ Niels Blokker & Nico Schrijver, *The Security Council and the Use of Force: Theory and Reality – A Need for Change?*, Martinus Nijhoff Publishers, 2005, 92

⁵⁶⁰ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 118

⁵⁶¹ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 118

⁵⁶² Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 38

⁵⁶³ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 118

economies of conflict and the way in which these often drive violence.”⁵⁶⁴ Despite acknowledging these weaknesses, it has proven to be difficult to turn the tides, as was also argued in the section on the divisions of roles, as there is a lack in providing resources and capacities to these operations. In regards to PoC these above-mentioned weaknesses in the UN-system have meant that the UNSC has authorised broad PoC mandates without coherence between the intention behind robust operations and the resources available to achieve the objectives of the mandates.⁵⁶⁵ Challenging to this situation is that TPCCs interpret the UNSCs mandates differently including on how and when to use force. These TPCCs are not always willing to deploy to areas with high risk of conflict or to directly confront armed actors on the ground.⁵⁶⁶ The UNSC lacks a coherent vision for implementing PoC mandates, which hampers the ability to formulate specific mandates with clear operational guidance for troops on the ground.

An additional weakness, according to Berdal, is that limitations to the use of force are still more connected to internal conflicts than those of intra-state character. This is because RPKOs are deployed in line with the three basic principles of peacekeeping, meaning that these operations are deployed with the consent of the host state and therefore within the jurisdiction of a sovereign state. The UN forces, in supporting host governments, can have an impact on the political balance within states, and therefore risks violating the basic principles of peacekeeping. This can potentially undermine the UNs role as interlocutor in establishing political solutions.⁵⁶⁷ In 2015, the HIPPO noted that the basic principles should never be allowed as an excuse for failing to protect civilians.⁵⁶⁸ The HIPPO did also note that there are physical limits to PoC as there in 2015 were only 106,000 peacekeepers responsible of protecting civilians across an area of 11 million km².⁵⁶⁹ In the DRC and the RSS, the UNSC has mandated peacekeepers to protect civilians with the consent of both host governments, however, in both cases, incidents of government military forces

⁵⁶⁴ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 122

⁵⁶⁵ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 122

⁵⁶⁶ Lauren Spink, *Moving Toward Mobility: Providing Protection to Civilians Through Static Presence and Mobile Peacekeeping in South Sudan*, March 2019, 2

⁵⁶⁷ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 123

⁵⁶⁸ Invid Bode & John Karlsrud, *Implementation in practice: The use of force to protect civilians in United Nations peacekeeping*, 2018, 459

⁵⁶⁹ Sebastian con Einsiedel & Rahul Chandran, *The High-Level Panel and the Prospects for Reform of UN Peace Operation*, 14 July 2015, (available at: <https://cpr.unu.edu/the-high-level-panel-and-the-prospects-for-reform-of-un-peace-operations.html>)

causing violence against civilians have been documented. In the DRC, local communities even perceive the national army as a dangerous armed group.⁵⁷⁰ The problem in situations, such as these, is that violent intra-state settings are lacking the needed political process for solving conflicts, which only increases the use of violent means.

A People-Centred Approach

Alexandra Novosseloff argues that the UN is moving away from multi-dimensional operations as these have struggled with its military, police, and civilian components in changing direction and adapt to the situation on the ground when needed. Such operations have proven too visible and even disruptive of local economies as well as societies. Operations are deployed with the best of intentions, but expectations of operations are often sky-high. This has proven to be near impossible to meet, as operations are not tailored to the specific conflict-situation, but instead follows a predefined peacebuilding template.⁵⁷¹

There is a need for the UN to alter a people-centred approach to peacekeeping. This strategy is already, but only briefly touched upon in both MONUSCO, UNMISS, and MINUSMA with these operations' resolutions expressing the need to enhance cooperation with civilians. Turning to the HIPPO, this Panel has devoted considerable time to the purpose of making a shared and practical understanding of what a people-centred approach to peace operations entail.⁵⁷² The Panel members have expressed awareness of the need for engaging with local communities in states such as the DRC, the RSS, and Mali. The Panel also noted that in operations facing hostile environments most of the military assets are used for countering asymmetric threats, which ultimately means that meaningful outreach to civilians is kept at a minimum.⁵⁷³ On the opposite, the Panel has also argued that such people-centred approaches entail dilemmas in hostile environments. One of these dilemmas being that to what extent the UN should have its own mechanism for engaging with civilians in conflict-affected states. This must be done without the government feeling that their "unique prerogative, as elected representatives to engage with their own people, has been usurped

⁵⁷⁰ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 124

⁵⁷¹ Alexandra Novosseloff, *UN Peacekeeping: Back to Basics it not Backwards*, 19 April 2018, (available at: <https://theglobalobservatory.org/2018/04/peacekeeping-basics-is-not-backwards/>)

⁵⁷² Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 94

⁵⁷³ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 95

(...).”⁵⁷⁴ There is a problem of identifying civil society representatives who are genuinely speaking on behalf of the local people of conflict-affected areas.⁵⁷⁵

An additional challenge is that operations lack extensive analysis of local realities on the ground. To counter this challenge, operations need to shift from a rather narrow focus on those driving the conflicts to instead identifying capacities of civilian communities, which can contribute to establishing peace and resilience. Such capacities can include local norms, physical structures, institutions of traditional governance, and networks of information. Supporting these capacities could help RPKOs in laying the foundation for self-sustaining peace in areas affected by conflict. Without in-depth knowledge from local communities, RPKOs have a tendency of intervening without enough consideration and sometimes even doing more harm than good. The UN has shown a pattern of valuing thematic expertise in the shape of Demobilisation, Disarmament and Reintegration (DDR), SSR, and electoral process over knowledge provided by local communities. The UN then deploy personnel to robust operations without them having rudimentary knowledge of the language spoken, customs, norms, and behaviour of the specific state. Instead focus is on specific problems which has been decided to require the UNs expertise rather than local expertise on the matters of concern.⁵⁷⁶ To counter these dilemmas the HIPPO argued that civilians affected by conflicts, as those in the DRC, the RSS, and Mali, possess much-needed knowledge, expertise, and monitoring mechanisms. Therefore, the UN should not only consult but actively engage with civilians in adapting operations to the needs of those most affected by conflicts.⁵⁷⁷ In the case of UNMISS, former SRSR Hilde Frafjord Johnson, states that the best results were not accomplished in the formal institutions of Juba, but at local levels. In her own words,

*(...) It was most rewarding to work with leaders at state and county level, community leaders and also with religious leaders where conflicts were brewing, emerging, and in some cases escalating.*⁵⁷⁸

⁵⁷⁴ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 95

⁵⁷⁵ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 96

⁵⁷⁶ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 96

⁵⁷⁷ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 97

⁵⁷⁸ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 137

Despite the acknowledgement of the importance of engaging local communities within the peace process, problems remain. To give examples in regards to UNMISS, community liaison assistants, who serve as link between the operation and local communities, are few in numbers and have difficulties when creating community alert systems or decentralised early warning mechanisms.⁵⁷⁹ This is just another reason for more reliance on community members to bring their attributes to the table in establishing self-sustaining peace. Lauren Spink argues that consultation between military and civilian leadership is vital to assess the use of resources in PoC sites. It can be a help to reach out to other local communities within the RSS, to facilitate protection against spoilers. Local communities must help in reviewing RPKOs' footprints when analysing current and future threats to civilians both on short-, medium-, and long-term as a means of adjusting mandates in time.⁵⁸⁰

Applying the Just War Theory

In applying the JWT to the decrease of robustness in future RPKOs for the sake of civilians, this section will focus on the sixth aspect of the theory, which states that peacekeeping must only *use force as a last resort*. In this specific section, the argument is that morality must work as a guide for peacekeepers on the ground in determining whether to apply force or not. Peacekeepers are, contrary to conventional troops, required to consider the least amount of force necessary to achieve their ends and not how much force they are permitted to apply.⁵⁸¹ In the words of Tony Pfaff, it is appropriate to apply the JWT to these considerations as it is based on the presumption that force is applied in the absence of peace. The UN has increasingly applied the use of force not to establish peace but to maintain it.⁵⁸² In peacekeeping the UN assists warring parties to comply with agreed settlements through individuals and groups' reliance on nonviolent means to resolve conflicts. These individuals might not always agree on the use of nonviolent means and instead resort to force to reach ends.⁵⁸³ The authors argue in line with Pfaff that peacekeepers are limited to consider the least amount of force. The UNSC and the staff on the ground in conflicts such as in the DRC, the

⁵⁷⁹ Lauren Spink, *Moving Toward Mobility: Providing Protection to Civilians Through Static Presence and Mobile Peacekeeping in South Sudan*, March 2019, 2

⁵⁸⁰ Lauren Spink, *Moving Toward Mobility: Providing Protection to Civilians Through Static Presence and Mobile Peacekeeping in South Sudan*, March 2019, 5

⁵⁸¹ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 9

⁵⁸² Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 9

⁵⁸³ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 10

RSS, and Mali should focus on an enhanced engagement with civilians with the potential to decrease the use of force in future RPKOs.

When peacekeeping troops are to determine if the use of force should be applied to certain situations, they must consider what is practical in achieving the object of the operation. If force is to be applied, these UN troops must adhere to considering the least amount of necessary force. They must also concern themselves with the moral and legal implications this force can have on civilians and civilian objects in adhering to the principle of distinction under CIL. Commanders on the ground might be able to accurately assess whether the use of force will hit targeted spoilers only, but it is not always certain if civilians will be negatively affected by such use of force. In relations to the principle of proportionality under IHL, the bad effect of using force must always be unintended for it to be morally justified by the JWT. There is a double effect which holds that bad effects resulting from the use of force must not be the direct means to the good effect.⁵⁸⁴ Operations might be deployed with a just cause by the UNSC but if the means are unproportioned and unnecessary it will affect the legitimacy of the operation. Mandates must simply be proportionate to the objectives it wants to achieve for it to be justified. In future RPKOs this should entail early engagement with civil society on what is needed to protect civilians. It must already be a part of the planning and preparation of the UNSCs mandates, to ensure the operations and their means can be justified in achieving the objectives of mandates.

The robust turn in PKOs has had implications on the basic principles of peacekeeping as well as on the broader UN peacebuilding attempts. RPKOs have arguably abandoned their conflict resolution and instead drawn attention to the management and containment of these conflicts with authorised robust measures.⁵⁸⁵ In the logic of warfare, it is in the interest of the force commanders to place as much force both morally and legally possible to achieve its objectives with the purpose of preserving the lives of their soldiers. Therefore, determining what is necessary in warfare means how much force is allowable. This form of logic is problematic to extend to RPKOs. In RPKOs with PoC mandates soldiers are obliged to consider the least amount of force in achieving the goals,

⁵⁸⁴ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 2

⁵⁸⁵ Mateja Peter, *Peacekeeping: Resilience of an Idea*, Palgrave Macmillan, 2019, 39

as this will prove sufficient to accomplish the mandated tasks.⁵⁸⁶ This is also in line with the fact that bad effects cannot outshine the good effect.⁵⁸⁷

The lines between traditional peacekeeping and peace enforcement have been blurred which only raises questions of which is more just to achieve sustainable peace. This has only raised questions of how RPK fit into this distinction. RPK is more blurred as a concept compared to traditional peacekeeping and peace enforcement, but adheres to the same principles as traditional peacekeeping. In determining what cause is more just, the authors argue that both traditional peacekeeping and RPKOs, in adhering to the three basic principles, are mandated with a more legitimate just cause. This is due to these operations upholding state sovereignty and not conflicting with Art. 2(1) of the Charter, stating that all members enjoy sovereign equality.⁵⁸⁸ On the contrary, as has been the case in both the DRC, the RSS, and Mali, authorities continue to violate these principles with attacks on civilians and hindering humanitarian help. It questions the credibility of operations deployed under Chapter VII mandates which can apply force in protecting civilians. However, troops have at times proven either unwilling or unable, because of lacking resources and capacities, to fulfil this protection role.

Summary

The reality of peacekeeping is that resources and capabilities often do not match what these operations are tasked with achieving. Therefore, there is a need to reconfigure both what to include in the mandates and how to achieve them. Enhancing engagement with civilians is one way of decreasing the current robust aspect of peacekeeping which is in line with the principle of humanity under CIL. There is a need for peace to be self-sustainable and therefore operations must develop both tools and capacities for engaging with societies and the individuals therein, instead of relying on PoC through robust measures. In relation to operations such as those in the DRC, the RSS, and Mali, these must not only rely on consultations but on more in-depth engagement with local communities and the credible voices herein. This is to be done when undertaking assessment, analysis, planning, and evaluation of current efforts to better adjust operations to the needs on the

⁵⁸⁶ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 2

⁵⁸⁷ Tony Pfaff, *Peacekeeping and the Just War Tradition*, September 2000, 7

⁵⁸⁸ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 10

ground.⁵⁸⁹ This is an important aspect in decreasing the robustness as civilians rely on themselves for protection. The communities in conflict-affected areas are often the best situated to assess the threats they are facing and what steps are needed in providing for their own protection.

Fostering a Good Post-Conflict Environment

In 2010, the UNGA President, Ali Treki, said that the UN needed to bridge peacekeeping and peacebuilding in a holistic manner, because that would build peace in fragile situations.⁵⁹⁰ When a RPKO is implemented, it must at some point leave again. Leave behind the results of the operation and leave behind a state that needs to brace itself to continue what has been built up. But in order not to leave a state authority helpless, confused, and discouraged, a strategy for the farewell needs to be developed. A strategy that do not only consider the short-term solutions but also consider the more long-term answers.

The path to a political settlement has become even more unsteady caused by the development in conflicts. Conflicts that to a larger degree have become intractable, making them less prone to a settlement and RPKOs more prone to a longer deployment. Sebastian von Einsiedel divides these developments into three: organized crime, the internationalization of civil wars and a growing presence of non-state actors.⁵⁹¹ The internationalization of civil wars is suitable as a description for all three cases, considering it being PKOs of the robust kind. However organized crime and the increased presence of non-state actors have added fuel to the fire, and various armed groups have undermined state authority. All something that complicates the work of peacekeepers and strains the processes of settling conflict into peace.⁵⁹²

The requirements for a successful post-conflict environment has become many, and the list of tasks for peacekeepers has equally increased.⁵⁹³ Halt the violence from an increasing number of actors, keep the peace, confront issues of violations against IHRL and IHL, build up a broken state, support an authority to get back on the right tracks, and protect yourself and everyone around you all at the same time. The process is long, and parts of it can have a great impact on the aftermath. This

⁵⁸⁹ Cedric de Coning & Mateja Peter, *United Nations Peace Operations in a Changing Global Order*, Palgrave Macmillan, 2019, 310

⁵⁹⁰ The African Centre for Constructive Resolution of Disputes, *Peacekeeping and Peacebuilding Nexus*, 2011, 4

⁵⁹¹ Sebastian von Einsiedel, *Civil War Trends and the Changing Nature of Armed Conflict*, March 2017, 4

⁵⁹² Sebastian von Einsiedel, *Civil War Trends and the Changing Nature of Armed Conflict*, March 2017, 4

⁵⁹³ The African Centre for Constructive Resolution of Disputes, *Peacekeeping and Peacebuilding Nexus*, 2011, 4

section will analyse the importance of peacebuilding and peace agreements by looking at the respective resolutions of MONUSCO, UNMISS, and MINUSMA. The analysis will be followed by a discussion of what efforts can be made, or made differently. The purpose of this is to create the best likelihood for minimising the conflict situation, to settle an agreement that can provide an increase in the duration of peace for the future. Lastly, the JWT will shed light on this assessment, to see how these outcomes both can be qualified as signs of success and not at the expense of justice.

Strengthening United Nations' Departure Through Peacebuilding

Problem with Peacebuilding and Exit Strategies

According to the *No exit without strategy* there are three straightforward circumstances under which a RPKO can be put in a position to exit or be minimised: either the mandate can be completed, it can fail, or it can be a partial success.⁵⁹⁴ As most other peace-related actions, the withdrawal of RPKOs is also something the UNSC sees done on a case-by-case basis. This also goes for these three operations e.g. res. 2098 (2013) for MONUSCO, stating that each PKO is specific to the situation in which it is deployed.⁵⁹⁵ Something agreed upon by the UNSG, who also see an advantage in looking broadly at lessons learned to make a guideline that can help the UNSC decide upon when to close or downsize the operation.⁵⁹⁶ An initiative the UNSG also undertook during these operations, as in res. 2480 (2019), where Mr. Guterres is applauded for his initiative on making a standardisation of peacekeeping culture.⁵⁹⁷

The definitions of peacebuilding are many. In the Capstone Doctrine, it is at the bottom of the hierarchy of peace work: first the conflict prevention phase, second is the conflict phase entailing peacemaking and peace-enforcement, third is the cease-fire phase where peacekeeping is combined with peacebuilding, which also continues afterwards.⁵⁹⁸ A division that, in time, has become even more blurred and intertwined as the scope of conflicts has changed and increased. This somewhat abstract definition has been conceptualized and redefined several times since, majorly by the UNSG

⁵⁹⁴ The United Nations Secretary-General, *No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations*, 2001, para. 7

⁵⁹⁵ Security Council resolution 2098, S/RES/2098, 28 March 2013, 1

⁵⁹⁶ The United Nations Secretary-General, *No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations*, 2001, para. 3

⁵⁹⁷ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 51

⁵⁹⁸ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, figure 1, 19

in amongst others: *An Agenda for Peace* (1992),⁵⁹⁹ the Brahimi report (2000),⁶⁰⁰ *No exit without strategy* (2001),⁶⁰¹ *Peacebuilding and sustaining peace* (2018),⁶⁰² and the latest *2020 Report of the Secretary-General on Peacebuilding and Sustaining Peace*.⁶⁰³ In the *2030 Agenda for Sustainable Development*,⁶⁰⁴ Mr. Guterres stated that peaceful structures are the “best defence against the risks of violent conflict” and with this promised “to leave no one behind in the quest to build such societies.”⁶⁰⁵

Peacebuilding tasks entail the restoring of state authority, strengthening the rule of law, and the rise of political institutions, as well as promoting the development of economic recovery.⁶⁰⁶ The expectations of these multiple efforts are what creates the problem of what to initiate and when to initiate these efforts. This blurriness also affects the development of an exit-strategy. Both aspects will be analysed in accordance to the three RPKOs and their peacebuilding duties. This vital task of the UN and how it can be executed, will be discussed to justify these deeds in accordance with the JWT.

How Does It Show in the Resolutions?

The effect of IHL can be multiple and positive, if respected. That was said by the President of the International Committee of the Red Cross (ICRC), Peter Maurer at a High-Level Meeting of the UNGA on Peacebuilding and Sustaining Peace in April 2018. The statement was given in the context of how the respect of the basic principles of IHL can be a vital aspect in building peace.⁶⁰⁷ Part of the construction team for building this peace is amongst other RPKOs, being giving the fundamental purpose of setting the foundation for a sustainable long-lasting peace. A purpose that is

⁵⁹⁹ The United Nations Secretary-General, *An Agenda for Peace Preventive diplomacy, peacemaking and peacekeeping*, 17 June 1992, para. 21

⁶⁰⁰ The United Nations Security Council, the United Nations General Assembly, *Report of the Panel on United Nations Peace Operations*, 21 August 2000, para. 13

⁶⁰¹ The United Nations Secretary-General, *No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations*, 2001, para. 13

⁶⁰² The United Nations Secretary-General, *Peacebuilding and sustaining peace*, 18 January 2018, para. 2

⁶⁰³ The United Nations Peacebuilding, *2020 Review*, (available at: <https://www.un.org/peacebuilding/content/2020-review>)

⁶⁰⁴ General Assembly resolution 70/1, A/RES/70/1, 21 October 2015, 1

⁶⁰⁵ The United Nations Secretary-General, *Peacebuilding and sustaining peace*, 18 January 2018, para. 5

⁶⁰⁶ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 25, figure 1

⁶⁰⁷ President of the International Committee of the Red Cross, Peter Maurer, *ICRC president's address: Peace-building and conflict prevention*, 25 April 2018, (available at: <https://www.icrc.org/en/document/icrc-presidents-address-peacebuilding-and-conflict-prevention>)

to be fulfilled in a conflict-torn environment. This is also the *purpose* of the operations of MONUSCO, UNMISS, and MINUSMA. An example is within the DRC, where MONUSCO is tasked with contributing to a comprehensive strategy to build peace and security, as written in res. 2211 (2015).⁶⁰⁸

Each of the three individual states, has been given the *object* to protect its population against breaches of IHRL.⁶⁰⁹ The right to be sovereign is only legitimate if human rights are respected.⁶¹⁰ In MINUSMA's latest resolution (res. 2480), the UNSC does not only determine the importance of intervening, but they also highlight the necessity of the state to understand and act on what they are witnessing, or what they themselves are doing to their own population.⁶¹¹ It is evident and stated in every single resolution for the three RPKOs, that these are committed to the sovereignty of its host state beforehand.⁶¹² Take the first resolution of MINUSMA (res. 2100):

*Emphasizing that **the transitional authorities of Mali have primary responsibility for resolving the interlinked challenges facing their country and protecting all their citizens and that any sustainable solution to the crisis in Mali should be Malian-owned (...)**.*⁶¹³

A responsibility the international community keeps an eye on, and the exact reason why a RPKO is being implemented: someone is not keeping their promise or cannot hinder other actors in violating IHRL. It needs to be remedied before a state can be trusted with that responsibility again.⁶¹⁴ Made clear in international legal *practice* where both Art. 1(3)⁶¹⁵ and Art. 55(c)⁶¹⁶ of the Charter emphasises the universal obligation to respect IHRL, and that these will also be promoted by the UN. An understanding that has existed so long, that it has become CIL, determined by the ICJ in 1970 in the case *Concerning the Barcelona Traction, Light and Power Company*, stating that “the

⁶⁰⁸ Security Council resolution 2211, S/RES/2211, 26 March 2015, 4

⁶⁰⁹ Dansk Udenrigspolitisk Institut (DUPI), *Politiske og moralske aspekter af humanitær intervention*, Gullanders Bogtrykkeri, 1999, 47

⁶¹⁰ Dansk Udenrigspolitisk Institut (DUPI), *Politiske og moralske aspekter af humanitær intervention*, Gullanders Bogtrykkeri, 1999, 17

⁶¹¹ Security Council resolution 2480, S/RES/2480, 28 June 2019, 3

⁶¹² Security Council Resolution 2100, S/RES/2100, 25 April 2013, 1

⁶¹³ Security Council Resolution 2100, S/RES/2100, 25 April 2013, 4

⁶¹⁴ Dansk Udenrigspolitisk Institut (DUPI), *Politiske og moralske aspekter af humanitær intervention*, Gullanders Bogtrykkeri, 1999, 47

⁶¹⁵ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 10

⁶¹⁶ Malcolm D. Evans, *Charter of the United Nations (1945)*, Oxford University Press, 2017, 18

principles and rules concerning the basic rights of the human person,⁶¹⁷ is an obligation of states towards the international community.⁶¹⁸

Also, definitively universal agreed upon in *the Vienna Declaration and Programme of Action* from 1993, where all the UNs Member States made it clear that “the promotion and protection of all human rights is a legitimate concern of the international community.”⁶¹⁹ All this only emphasises the need for state responsibility of protecting IHRL to create conditions for peace. Institutions must, therefore, be strengthened in decreasing the likelihood of violations to the rights of humans. This can be done in collaboration with RPKOs and in the shape of peacebuilding. Exactly this is also becoming one of the *objects* of MINUSMA in Mali, and an object that is explicitly demonstrated in the *Pact for Peace* signed by the Malian Government and the UN on 15 October 2018.⁶²⁰ A mediated agreement that has the *purpose* of implementing the peace settlement, *the Agreement on Peace and Reconciliation in Mali*, as assisting in governance and the rule of law.⁶²¹

The UN itself states that the transition to an exit of a RPKO “should be factored into the planning process from the outset.”⁶²² In spite of this, MONUSCO was created by res. 1925 (2010), with a robust mandate,⁶²³ but it is not until 2015 in res. 2211, that an independent section on an exit strategy is explicitly mentioned as the *object*, one that,

*(...) stresses that MONUSCO’s exit should be gradual and progressive, tied to specific targets to be jointly developed by the Government of the DRC and MONUSCO, in consultation with UNCT and other stakeholders.*⁶²⁴

MONUSCO is the only of the three having a strategy planned for leaving again, and “notes the need for a clear exit strategy” especially for the FIB.⁶²⁵ In relation hereof, the SRSG in MONUSCO has states that signs of stability are present in the DRC and that the conditions “could be present for the

⁶¹⁷ International Court of Justice, *Case Concerning the Barcelona Traction, Light and Power Company*, 5 February 1970, para. 34

⁶¹⁸ International Court of Justice, *Case Concerning the Barcelona Traction, Light and Power Company*, 5 February 1970, para. 33

⁶¹⁹ The World Conference on Human Rights, *the Vienna Declaration and Programme of Action*, 25 June 1993, para. 4

⁶²⁰ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 11

⁶²¹ Security Council resolution 2423, S/RES/2423, 28 June 2018, para. 5

⁶²² The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 88

⁶²³ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 11

⁶²⁴ Security Council resolution 2211, S/RES/2211, 26 March 2015, para. 39

⁶²⁵ Security Council resolution 2211, S/RES/2211, 26 March 2015, para. 41

phased withdrawal of MONUSCO.”⁶²⁶ MINUSMA and UNMISS do not provide any such efforts in their mandates to plan one of these, but UNMISS provides an alternative. In the first resolution of UNMISS res. 1996 (2011), it is said that to prevent the return of violence it is “to develop an early strategy in support of national peacebuilding priorities, including establishment of core government functions.”⁶²⁷

The peacebuilding tasks in which RPKOs are involved, as previously mentioned, includes the building of institutions, good governance, and the rule of law.⁶²⁸ In the first resolution of MONUSCO, res. 1925 (2010), it is emphasized that the DRC has the primary responsibility for peacebuilding.⁶²⁹ An *object* that does not seem to be sufficiently progressing two years later, where the good developments are acknowledged, but challenges still remain, in particular in the lack of security and rule of law institutions.⁶³⁰ In res. 2098 (2013) MONUSCO's contribution to these efforts is acknowledged, as well as reminded of the inclusion of the facilitation of “post-conflict peacebuilding, prevention of relapse of armed conflict and progress towards sustainable peace and development.”⁶³¹ In the RSS the strategy for peacebuilding is thought of at an early stage, where it is the *purpose* of the UN to support national authorities, President Salva Kiir and his party the SPLM, in this process.⁶³² This is in accordance with the UNSG who requested efforts in making the transition period easier,⁶³³ also with an explicit mentioning of institution-building.⁶³⁴ On the contrary, the resolutions of MINUSMA does not mention the *word* “peacebuilding.” In spite of having announced the integration of peacebuilding efforts from the beginning, both in the case of MONUSCO and UNMISS there is a lack of documentation on progress on this area. For some years, there is no mentioning of peacebuilding in the resolutions for MONUSCO, and in the latest res. 2502 (2019), there is a “call on the Government of the DRC to take further action.”⁶³⁵ A similar pattern is showing itself in UNMISS, except a request for the establishment of a hybrid court for the

⁶²⁶ Security Council Report, *June 2020 Monthly Forecast: Democratic Republic of the Congo*, 29 May 2020, (<https://www.securitycouncilreport.org/monthly-forecast/2020-06/democratic-republic-of-the-congo-9.php>)

⁶²⁷ Security Council resolution 1996, S/RES/1996, 8 July 2011, 2

⁶²⁸ The United Nations Secretary-General, *No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations*, 2001, para. 10

⁶²⁹ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 5

⁶³⁰ Security Council resolution 2053, S/RES/2053, 27 June 2012, 1

⁶³¹ Security Council resolution 2098, S/RES/2098, 28 March 2013, 4

⁶³² Security Council resolution 1996, S/RES/1996, 8 July 2011, 2

⁶³³ The United Nations Secretary-General, *No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations*, 2001, para. 22

⁶³⁴ Security Council resolution 1996, S/RES/1996, 8 July 2011, 1

⁶³⁵ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 17

RSS and a Commission for Truth, Healing, and Reconciliation in res. 2241 (2015).⁶³⁶ A request that has not yet been fulfilled.

The arguments for incorporating early peacebuilding into peacekeeping have been many, but when peacekeeping becomes robust, it meddles with the logic of peacebuilding to some degree. RPKs can be *purposed* to stabilize, as seen in the DRC, the RSS, and Mali. Here the operations have mandates that require the UNs cooperation with the state authority, which can rapidly backfire.⁶³⁷ Looking at UNMISS that flipped from having the major *object* of supporting state-building in the RSS by the operations establishing res. 1996 (2011),⁶³⁸ to change its *object* to PoC in res. 2155 (2014).⁶³⁹ The operation that had stated its support to the government had to, three years later in res. 2187 (2014), state its “grave concerns” for the same government and the opposition forces, responsible for committing war crimes and crimes against humanity against its own population.⁶⁴⁰

From analysing the resolutions, it has become clear that it is necessary to have an idea of when and how to leave again. For the simple reason, that it is difficult to convince a state authority to take over responsibility, if they know there is no expiration date on the UN intervention. Operations, like MONUSCO, UNMISS, and MINUSMA should concentrate on multiple aspects, such as the peacebuilding features provided during a RPKO, to contribute to a long-term peace. This will be discussed in the next part, as well as it will be assessed how these actions can be justified in accordance to the JWT.

Discussing the Room for Improvement

In 2001, UNSG Kofi Annan identified “broad parameters that fit most conflicts” to make a strategy for peacebuilding. A strategy combining local capacities with international support.⁶⁴¹ A point of view that Charles T. Hunt shares. He argues that the pitfalls by making a too state-centred peacebuilding strategy, which does not involve ownership by the local communities, jeopardizes the

⁶³⁶ Security Council resolution 2241, S/RES/2241, 9 October 2015, para. 29

⁶³⁷ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the ‘robust turn’ in UN peace operations*, 2017, 122

⁶³⁸ Security Council resolution 1996, S/RES/1996, 8 July 2011, paras. 3(a)-3(c)

⁶³⁹ Security Council resolution 2155, S/RES/2155, 27 May 2014, para. 4(a)

⁶⁴⁰ Security Council resolution 2187, S/RES/2187, 25 November 2014, 2

⁶⁴¹ The United Nations Secretary-General, *No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations*, 2001, para. 13

desire for the local level to take ownership of the process.⁶⁴² On the other hand, consent from the host state, also signals commitment and a wish from governments to change the status quo.⁶⁴³

The several instances of re-conceptualization bear witness to the difficulties with figuring out how peacebuilding can be exercised best. Improvements of the concept are still sought, most recently in the *2020 Report of the Secretary-General on Peacebuilding and Sustaining Peace*, tasked with assessing the status quo and looks to provide suggestions for improvement to the UN, in particular on the ground.⁶⁴⁴ There is a dire need to find solutions to provide more clear mandates. This could entail including local demands, the negotiating parties' anticipations and at the same time protect them all against their opponents in order to reach this end goal.⁶⁴⁵

Thinking Long-term Strategy from the Beginning

Alexandra Novosseloff points to a possible solution to the re-conceptualization problem: Go back to basics. Move away from robust and back to traditional peacekeeping. Go back to a clear strategy for the aim of the operation to set the right benchmarks for achieving this. Limit the mandates and make them focused on how the UN can work with the state governments in achieving a process towards peace.⁶⁴⁶ More focus on peacebuilding and less focus on robustness. Creating the RPKO is not the sole answer in spite being the straightforward option in responding to situations creating insecurity and harm. As Novosseloff advocates, a political incitement without a strategy “is and will always be a dead end – a mission without a clear strategy or exit.”⁶⁴⁷

There is an African continental incentive for working for the long-term in making solutions for their fellow citizens in great need. The African Centre for the Constructive Resolution of Disputes (ACCORD) has requested an increased focus on the process following the conflict, because they

⁶⁴² Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the 'robust turn' in UN peace operations*, 2017, 123

⁶⁴³ Nicholas Tsagourias, *Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension*, 25 January 2007, 481

⁶⁴⁴ The United Nations Peacebuilding, *2020 Review*, (available at: <https://www.un.org/peacebuilding/content/2020-review/>)

⁶⁴⁵ Nicholas Tsagourias, *Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension*, 25 January 2007, 481

⁶⁴⁶ Alexandra Novosseloff, *UN Peacekeeping: Back to Basics it not Backwards*, 19 April 2018, (available at: <https://theglobalobservatory.org/2018/04/peacekeeping-basics-is-not-backwards/>)

⁶⁴⁷ Alexandra Novosseloff, *UN Peacekeeping: Back to Basics it not Backwards*, 19 April 2018, (available at: <https://theglobalobservatory.org/2018/04/peacekeeping-basics-is-not-backwards/>)

argue that this will help the UN fully achieve its goal of providing an aftermath in peace.⁶⁴⁸ As Marco Longobardo argues, RPKOs can surely have a good effect on the short-term by creating some instant stability by their mere presence. But in the long-term they might fail to address the actual “roots of the conflict.”⁶⁴⁹ There is no doubt that the UN have short-term success when they interfere, and no doubt that peacekeeping can provide a foundation for a long-term success. But this will demand that no half-hearted solutions are made. It will require a follow-through all the way to the end and after. Kyle Beardsly analyses the UNSCs resolutions statistically and textually to provide answers to his hypothesis’ concerning what is being done during the conflict and what impact it has post-conflict.⁶⁵⁰ He concludes that the UNSCs actions are not able to secure a peace in the long-term, unless the actions made during the conflict are followed by peacekeeping in post-conflict environments.⁶⁵¹

John Gledhill speaks of three kinds of *legacies/post exit strategies* for PKOs: direct, indirect, and interrupted legacy.⁶⁵² *Direct strategy*, being the structures that are established during a PKO, which persists after the operation is ended. Structures that after some time becomes a part of or consolidated by other political processes either domestically and/or internationally.⁶⁵³ *Indirect strategy*, being a strategy already taking place during the intervention, where international actors and local partners are important players in making daily political decisions. Decisions that shape the conditions under which peacekeepers work while deployed, but decisions that can also be adapted in the political regime following the withdrawal of peacekeepers. Lastly he speaks of an *interrupted strategy* where the outcome of the operation has nothing to do with what the PKO has been deployed to help with, but instead the state goes back to the same conditions prior to the intervention.⁶⁵⁴ Gledhill’s *indirect strategy* advocates for an early beginning of developing a strategy for withdrawal, since this will help ensuring that the tactical element of the RPKO is thought of from the start. In that way it will be incorporated in every component of the operation. Done this way and by adding “sub-goals” in the shape of benchmarks it would be possible to make

⁶⁴⁸ The African Centre for Constructive Resolution of Disputes, *Peacekeeping and Peacebuilding Nexus*, 2011, 4

⁶⁴⁹ Marco Longobardo, *Robust Peacekeeping Mandates: An Assessment in Light of Jus Post Bellum*, 2019, 21

⁶⁵⁰ Kyle Beardsley, *The UN at the peacemaking-peacebuilding nexus*, 2013, 369

⁶⁵¹ Kyle Beardsley, *The UN at the peacemaking-peacebuilding nexus*, 2013, 381

⁶⁵² John Gledhill, *The Pieces Kept after Peace is Kept: Assessing the (Post-Exit) Legacies of Peace Operations*, 2020, 3

⁶⁵³ John Gledhill, *The Pieces Kept after Peace is Kept: Assessing the (Post-Exit) Legacies of Peace Operations*, 2020, 4

⁶⁵⁴ John Gledhill, *The Pieces Kept after Peace is Kept: Assessing the (Post-Exit) Legacies of Peace Operations*, 2020, 5

a case-by-case strategy for each operation, because if the outcome is thought of from the beginning, then it is easier to model the strategy along the way to reach this.

The aftermath of RPKOs is not only dependent on peacekeepers. It is dependent on collaboration from all the UNs entities involved in peacekeeping as well as surrounding partners. In twin resolutions from 2016, the UNGA (A/RES/70/262) and the UNSC (S/RES/2282) both point out,

(...) that the scale and nature of the challenge of sustaining peace can be met through close strategic and operational partnerships between national governments, the UN, and other key stakeholders.^{655 656}

That is being pointed out because a number of independent studies have come to the attention of the UN, stating that incoherent and sometimes contradictory peacebuilding efforts can lead to failing.⁶⁵⁷ When talking about the aftermath of peacekeeping it is difficult to avoid speaking of the long-term of it. Long-term institution-building will most likely go beyond the timeframe of a RPKO. History have revealed that states with the fastest institutional reform only show measurable improvement after 10-17 years.⁶⁵⁸ For this reason, the dependency on other partners increases, because the UNs troops are deployed to create the conditions from which the rebuilding of a sustainable society can aspire. One must not forget the temporariness of a RPKO, also pointed out by Mr. Guterres in a speech to a UNSC debate on improving collective action in PKOs in 2018. Here he stated the purpose of these operations, which is to “create the space for a nationally-owned political solution.”⁶⁵⁹ This allows the UNSC to demand more from the host states in which they are deployed to help in securing a process of building peace. Emphasizing the responsibility, which the government has, is not enough, considering that the UN is still present after respectively ten, nine and seven years. The DRC, the RSS, and Mali have all given their consent for the UN to intervene. Mali even requested the UN to interfere because their own regional AU peace operation AFISMA

⁶⁵⁵ Security Council resolution 2282, S/RES/2282, 27 April 2016, para. 18

⁶⁵⁶ General Assembly resolution 70/262, A/RES/70/262, 27 April 2016, 3

⁶⁵⁷ The United Nations Secretary-General, *Peacebuilding and sustaining peace*, 18 January 2018, para. 8

⁶⁵⁸ Sebastian von Einsiedel, *Civil War Trends and the Changing Nature of Armed Conflict*, March 2017, 4

⁶⁵⁹ The United Nations Secretary-General, *Remarks to Security Council High-Level Debate on Collective Action to Improve UN Peacekeeping Operations*, 28 March 2018, (available at: <https://www.un.org/sg/en/content/sg/speeches/2018-03-28/collective-action-improve-un-peacekeeping-operations-remarks>)

was not found sufficient in its efforts. Great things have indeed been achieved, which also will become visible in the section on *Agreement Consolidating the Aftermath*, but can more be done?

Drawing on the Past

The issue with the peacebuilding process, is the lack of knowledge on this phase. Not only the UNs personnel like the UNCT but also scholars and academics can assist in this gap by documenting the conditions after a RPKO has left.⁶⁶⁰ This should be done to improve the response mechanisms, which international institutions have to threats to peace and security. Just as well as the patterns of threat is developing, patterns of responding to them should develop concurrently. It is common for scholars to focus on the short-term of RPKOs, possibly because the collective attention to the matter disappears when UN troops withdraw.⁶⁶¹ That is exactly why focus need to change to also consider the longer prospects in seeking a lasting peace.⁶⁶² If the process of assessing the work of peacekeeping is changed, it will affect both internally in the UN, but also give an external opportunity to monitor the work of the UN, in order to keep “checks and balances” of the authorised intervention in another country. Currently the documentation of PKOs is primarily made by the UNSG, who makes status reports on how the PKOs are coming forward. That is while they are ongoing and when they are phasing out.⁶⁶³ In MONUSCO, it is for instance the UNSG who makes recommendations on the transition and reconfiguration of the UNs presence in the DRC.⁶⁶⁴ The DPKO also has a responsibility for conducting After Action Reviews (AARs) and/or End of Assignment Reports (EoARs). These are made to “capture any remaining lessons learned at the end of the mission” – as written in the very end of the Capstone Doctrine. A process that is hoped to be beneficial for future RPKOs.⁶⁶⁵

An option to draw on useful experiences of RPK in connection to a “withdrawal-strategy”, could be to do it on a case-by-case basis. Not only short-term to observe the withdrawal of troops, like some scholars suggest, where there is observation after mission closure.⁶⁶⁶ But also, to make it long-term to register possible patterns that fragile states could fall into, when their helping hand removes its

⁶⁶⁰ John Gledhill, *The Pieces Kept after Peace is Kept: Assessing the (Post-Exit) Legacies of Peace Operations*, 2020, 1

⁶⁶¹ John Gledhill, *The Pieces Kept after Peace is Kept: Assessing the (Post-Exit) Legacies of Peace Operations*, 2020, 3

⁶⁶² John Gledhill, *The Pieces Kept after Peace is Kept: Assessing the (Post-Exit) Legacies of Peace Operations*, 2020, 1

⁶⁶³ John Gledhill, *The Pieces Kept after Peace is Kept: Assessing the (Post-Exit) Legacies of Peace Operations*, 2020, 2

⁶⁶⁴ Security Council resolution 2211, S/RES/2211, 26 March 2015, para. 42

⁶⁶⁵ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 90

⁶⁶⁶ John Gledhill, *The Pieces Kept after Peace is Kept: Assessing the (Post-Exit) Legacies of Peace Operations*, 2020, 2

presence from the territory. It could be a unique institutional framework that involves the head of state and his employees to gain back monopoly over state authority in that particular state involved.⁶⁶⁷ A process that could be the end-result settled already in the beginning, when strategy and tactics are to be created for an operation. This natural process is going from the PKO it was deployed to be prior to the exit strategy to be seen through with peacebuilding efforts post the exit strategy. Johan Galtung, on the other hand, do not want peacekeeping built into peacebuilding, saying this would be a sign of capitulation.⁶⁶⁸ The use of force in RPKO could be an example of this, both in the DRC and in Mali, where UN troops are working to build up the state and at the same time create legitimacy for an authority. Along with the governmental armies, UN troops are working to extend this authority and strengthen it, by deterring all who undermine it. As well as this is a positive outcome of it, the negative side of it can be that other political parties or factions stand less of a chance in rising in influence at the same time.⁶⁶⁹ Long-term peace is dependent on how the post-conflict environment is handled, and how things play out when the RPKO is deemed done and ready to go back to the bases outside the borders of the DRC, the RSS, and Mali.⁶⁷⁰ That is why, as Kyle Beardsley states, “we still need greater insight into whether the UN, when it intervenes in both interstate and intrastate conflicts, can foster an environment conducive to durable peace.”⁶⁷¹

For a multi-dimensional RPKO to exit, like MONUSCO, UNMISS, and MINUSMA, it needs to be able to see progress in the concerned states’ SSR. This is the tangible benchmark signalling that national security institutions and its actors can function without help from the outside.⁶⁷² The way of departure is crucial in the work of a RPKO, because this is the finalising part of all the work done. Looking at how this process should not be seen as a hard-core exit, but as a slow withdrawal and how this can affect the life after a RPKO. As became evident from the section on *When Force is Used to Stabilise*, the use of force is often argued to be messing with the principle of impartiality, and this could also be the case for peacebuilding work. The use of force will automatically affect the process of withdrawal. It will affect the political independence and territorial integrity of the

⁶⁶⁷ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 88

⁶⁶⁸ Johan Vincent Galtung, *Three Approaches to Peace: Peacekeeping, Peacemaking, and Peacebuilding*, 1 February 1976, 297

⁶⁶⁹ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the ‘robust turn’ in UN peace operations*, 2017, 124

⁶⁷⁰ Kyle Beardsley, *The UN at the peacemaking-peacebuilding nexus*, 2013, 372

⁶⁷¹ Kyle Beardsley, *The UN at the peacemaking-peacebuilding nexus*, 2013, 370

⁶⁷² The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 27

country, putting the state authority in a light of being insufficient and weak towards its own population, as well as to external threats. In RPK the use of force quickly becomes a very central element in the process, an element that can complicate if not diminish that somewhat political “mission” the UN is there to help achieve.⁶⁷³ When the UN involves itself in the peacebuilding process, and what that entails for SSR, the building of rule of law institutions etc., they become tangled in the decision-making of whom are legitimate political actors and who are to be excluded from this political process.⁶⁷⁴ Something that becomes evident from the agreements, that will be discussed in the section on *Agreements Consolidating the Aftermath*.

Applying the Just War Theory

A social transformation, which is what a peacebuilding effort demands in the aftermath of violence, is never going to be an easy or fully just process or outcome.⁶⁷⁵ In assessing this in accordance with the JWT, one of the six aspects will be discussed here. The aspect being *a reasonable chance of success*. This discussion will see how the JWT can be used to assess *jus ad bellum* when considering modifications of conduct and its impact on peacebuilding and the post-conflict environment.

“A morally and legally perfect peace is rarely attainable,” says James Murphy.⁶⁷⁶ The JWT tradition argues that a war is morally justified in the search for peace. *Jus ad bellum* signals, that a formal peace might exist, even in times of conflict, but that it is morally reduced, making it relevant when talking about peacebuilding, exit-strategies, and the attainability of peace.⁶⁷⁷ The JWT prescribes that certain moral standards can be demanded from a peace: it must be a peace with justice.⁶⁷⁸ Arguably that is the whole point of peacebuilding efforts. But are there limits to how much building of peace can create lasting changes? James G. Murphy argues, that in spite of injustice taking place in a state, the population might even be better off without a battle aimed at creating the justice as the current state of peace can be sufficient,⁶⁷⁹ lowering the bar of what a reasonable success of

⁶⁷³ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the ‘robust turn’ in UN peace operations*, 2017, 124

⁶⁷⁴ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the ‘robust turn’ in UN peace operations*, 2017, 124

⁶⁷⁵ Lisa Sowle Cahill, *Just War, Pacifism, Just Peace, and Peacebuilding*, 2019, 185

⁶⁷⁶ James G. Murphy, *Just War Thought and the Notion of Peace*, Palgrave Macmillan, 24 October 2017, 113

⁶⁷⁷ James G. Murphy, *Just War Thought and the Notion of Peace*, Palgrave Macmillan, 24 October 2017, 108

⁶⁷⁸ James G. Murphy, *Just War Thought and the Notion of Peace*, Palgrave Macmillan, 24 October 2017, 109

⁶⁷⁹ James G. Murphy, *Just War Thought and the Notion of Peace*, Palgrave Macmillan, 24 October 2017, 112

peace entails. All three RPKOs have been going on for several years, demanding casualties among civilians, peacekeepers, and that of the “enemy side” alike. An imperfect peace might therefore be more realistic, and more compatible with peacebuilding activities. It is evident from the operations that the reforming of a society, which peacebuilding demands, requires a lot. Even an imperfect peace is depended on the stakeholders’ willingness to create a stable relationship after a cessation, to avoid the violence that ruins the spare conditions for an imperfect peace.⁶⁸⁰

An imperfect or fragile peace, as the one in the DRC, the RSS, and Mali, can on the other hand also create the perfect conditions for peacebuilding tasks. The smallest sign of a peace can be a motivation for the state to stay out of the violence lurking just beyond peace. Peaceful conditions equal a better thriving economy, a secure living environment, and a legal system that works – things all depended on a society with a degree of stableness.⁶⁸¹ Looking at the situations within the three states, one can doubt this optimistic statement as it demands a great deal from all parties. Experiences have shown so far, that when it comes to e.g. the armed groups and non-state actors tearing these countries apart, there is a long way for the fighting partners to find a middle ground all by themselves. It might be utopian to count on peace as everlasting and make armed conflict a redundancy.

Murphy argues, that a just peace is better off understood as a relation and not as a state of affairs. A relation that connects the parties having something at stake. Adding that these relations vary from case to case, they can evolve and change with time. Grasping peace as a relation makes sense when assessing it in the light of intercommunal ethnic, religious, or racial tensions, and that compromise is necessary in these relations.⁶⁸² Everything points to that it could be relevant to advocate for peacebuilding work in raising the likelihood for success. Peacebuilding is an evolutionary phase, and a process that is changing along with the peacekeeping work being done. For peacebuilding efforts to be a success it demands cooperation from all sides, because building a society is not just a task for the authorities. It is also depended on the population accepting the new structures they are going to live under and their wish to create mutual dependency. But seeing peacebuilding work as a relation also implies why it can be time-consuming. This again proves the challenge for peacekeeping work to be able to make that long-term changes, that most of these states are

⁶⁸⁰ James G. Murphy, *Just War Thought and the Notion of Peace*, Palgrave Macmillan, 24 October 2017, 113

⁶⁸¹ James G. Murphy, *Just War Thought and the Notion of Peace*, Palgrave Macmillan, 24 October 2017, 116

⁶⁸² James G. Murphy, *Just War Thought and the Notion of Peace*, Palgrave Macmillan, 24 October 2017, 116

depending on to minimise the risk of yet another conflict. Maryann Cusimano Love argues, some JWT-traditions are too focused on a “top-down” or “state-centric” approach to the theory, and that it should be more aimed at creating social cohesion. According to her, the JWT is about mutual “constitutive and interactive commitment,”⁶⁸³ as it would be ideal to consider this in the assessment on the reasonable chance of successful of peacebuilding work. Peacebuilding scholars, living in countries in the Global South experiencing situations first-hand which demands external intervention, advocates strongly for peacebuilding in the light of the JWT. To them, peacebuilding is “both practical and morally mandatory”, due to the peoples’ desperation for better conditions and because this work creates hope for better times ahead.⁶⁸⁴

Summary

Peacebuilding efforts are never going to be easy to exercise. They are always going to be handling the balance of what is do-able in working for justice, and at the same time not take over the process. For peacebuilding to be able to create the success that makes it just, it is dependent on mutual understanding, compromise, and a desire to improve current conditions. It could be useful to rethink the word “exit strategy” and maybe consider “withdrawal-strategy” in terms of including concrete benchmarks. This also entails a different approach to the planning of this strategy, a planning that should be incorporated to improve RPK. It is, for good reasons, hard to predict if the three states will end up falling into their old patterns once again. A hopeful forecast could be that the DRC, the RSS, and Mali ends up taking Gledhill’s indirect strategy, since this is where they are heading and maintain what these RPKOs leave behind. In heightening the achievement of such strategy, tasks need to be handed over to relevant partners with the purpose of carrying out the work of the UN after it has left.

Focus can speedily be on the negotiations of a peace agreement and not so much on the surroundings of it. This again increases the likelihood for a state-centred approach in terms of peacebuilding, where the civilian dimensions of it is once again forgotten by the UN. All energy is put on finalizing an agreement, because that would also be in the best interest of the population in creating a more secure future.⁶⁸⁵ That is why a peace-settlement combined with early and

⁶⁸³ Lisa Sowle Cahill, *Just War, Pacifism, Just Peace, and Peacebuilding*, 2019, 182

⁶⁸⁴ Lisa Sowle Cahill, *Just War, Pacifism, Just Peace, and Peacebuilding*, 2019, 184

⁶⁸⁵ Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the ‘robust turn’ in UN peace operations*, 2017, 123

comprehensive peacebuilding is important mechanisms when put in collaboration and insignificant when kept apart.

Agreements Consolidating the Aftermath

The Problem with Peace Settlements

In *No exit without strategy* (2001), the problem of relapse after RPKO-withdrawal is articulated. It is exemplified that when the UNSC decides to withdraw or alter the mandate, the state falls back into violent circumstances.⁶⁸⁶ According to the UN the ultimate indicator that a RPKO has been accomplished with success, is if it is followed by “a comprehensive peace settlement.”⁶⁸⁷ Peace settlements are the one thing that can ensure a good environment for a sustainable solution. One thing is the removal of what constitutes the threat, a removal is only temporary, a different thing is to negotiate differences into solutions in an agreement.

Today, five times as many conflicts end in peace settlements than in military victories. In the 1980s the numbers were different, and conflicts ended seven times more in victories than in settlements.⁶⁸⁸ Peace settlements are the most used outcome for PKOs, creating the foundation from which it is possible for the UN to give back the responsibility it has assisted in holding. These efforts, referred to as peacebuilding, are not a direct part of RPKOs. They are parallel processes during the operation and a process continuing after the building of capacities for fostering a conflict resolution that can be resulting in a peace settlement.⁶⁸⁹ ⁶⁹⁰ Lessons learned are exactly something that should be taken into consideration when improving the strategies for post-conflict environment.⁶⁹¹ That being the problem with gathering all interests in these agreements, as well as to get them implemented. This will be assessed in the following, first by an analysis of how peace agreements are part of the peacebuilding work in respectively the DRC, the RSS, and Mali, followed by a discussion on how to tackle these problematics. Conclusively peace settlements will be discussed in accordance to the JWT in assessing the likelihood of a successful and just outcome of such an agreement.

⁶⁸⁶ The United Nations Secretary-General, *No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations*, 2001, para. 4

⁶⁸⁷ The United Nations Secretary-General, *No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations*, 2001, para. 16

⁶⁸⁸ Sebastian von Einsiedel, *Civil War Trends and the Changing Nature of Armed Conflict*, March 2017, 3

⁶⁸⁹ The United Nations Secretary-General, *No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations*, 2001, para. 11

⁶⁹⁰ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 20

⁶⁹¹ John Gledhill, *The Pieces Kept after Peace is Kept: Assessing the (Post-Exit) Legacies of Peace Operations*, 2020, 2

How Does It Show in the Resolutions?

”MONUSCO’s activities should be conducted in such a manner as to build and sustain peace and facilitate progress towards sustainable peace and development.”⁶⁹² This *wording* is a consistent explanation of what both MONUSCO, UNMISS, and MINUSMA are deployed to do. Emphasis put on the “mission’s efforts to support the peaceful settlement of conflicts as part of its mandate,” as written in UNMISS.⁶⁹³ A task that is both being undertaken in the shape of peacebuilding efforts, as described in the previous section on *Strengthening the United Nations’ Departure Through Peacebuilding*, but it is also done by supporting and facilitating process of peace settlements which this analysis will revolve around.

The *purpose* of MONUSCO is to support the Government of the DRC in efforts which build peace to be able to create a process of stabilising the country.⁶⁹⁴ That being by minimising the threat posed by armed groups,⁶⁹⁵ establishing a governmental security force that in the long run can take over the role of MONUSCO,⁶⁹⁶ and consolidating state authority.⁶⁹⁷ The current peace agreement for the DRC came about in 2013 under the title of the PSC Framework. It was made with a regional approach and therefore signed by a number of African states,⁶⁹⁸ as well as regional/international partners being the UN, the AU, the SADC, and the ICGLR.⁶⁹⁹ The signatories used the agreement to highlight their concerns for security both in the state of the DRC but also in the region, caused by the ongoing violence in the DRC.⁷⁰⁰ The *purpose* of the PSC Framework was to bolster state authority, reform state institutions with decentralisation, and foster an economic development.⁷⁰¹

The PSC Framework prescribes commitments for both the government of the DRC, the region, and the international community. That includes MONUSCO and how its *object* is to “strengthen support

⁶⁹² Security Council resolution 2348, S/RES/2348, 31 March 2017, 5

⁶⁹³ Security Council resolution 2109, S/RES/2109, 11 July 2013, para. 6

⁶⁹⁴ Security Council resolution 1925, S/RES/1925, 28 May 2010, 2

⁶⁹⁵ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 6(i)

⁶⁹⁶ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 6(ii)

⁶⁹⁷ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 6(iii)

⁶⁹⁸ The African Great Lakes Process, *Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the region*, 24 February 2013

⁶⁹⁹ Tony Karbo and Kudrat Virk, *The Palgrave Handbook of Peacebuilding in Africa*, Palgrave Macmillan, 2018, 287

⁷⁰⁰ The African Great Lakes Process, *Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the region*, 24 February 2013, para. 2

⁷⁰¹ Tony Karbo and Kudrat Virk, *The Palgrave Handbook of Peacebuilding in Africa*, Palgrave Macmillan, 2018, 287

to the Government to enable it to address security challenges and extend State authority.”⁷⁰² MONUSCOs civilian component is also authorised to contribute with the implementation of the PSC Framework.⁷⁰³ In res. 2136 (2014), it is stated how full commitment was not to be found. The following resolutions, therefore, emphasise the responsibility of all parties in implementing what has been agreed upon in the PSC Framework.⁷⁰⁴ Especially, the responsibility of the DRC Government to implement the PSC Framework fully, is underlined.⁷⁰⁵ This includes MONUSCOs support of the DRC Government in addressing security issues and strengthening the authorities.⁷⁰⁶ The total implementation of the PSC Framework is not yet complete and challenges remain – as stated in the latest resolution. MONUSCO still has the *object* of cooperating with the DRC on security matters and extending the state authorities.⁷⁰⁷

In the race to reach the *purpose* to stabilise the country, agreements have been a part of the *context* leading to this point. It was the *Global and Inclusive Agreement of December 2002* that ended the Second Congo war which began in August 1998, in which the DRC was one of the parties.⁷⁰⁸ Unfortunately, this proved itself insufficient considering the deployment of MONUC in 1999, with the *purpose* of stabilising a state that was everything but stable and secure. It has been argued that the reasoning for why this agreement did not last was because there were more interests from the parties which were not included and gave reasons for violating it.⁷⁰⁹ Attempts were made again with the signing of the *Kampala Dialogue* in 2013 signed by the M23, the DRC Government, the SADC, and the ICGLR.⁷¹⁰ The purpose was to make a ceasefire and to set forth measures aimed at achieving long term stability and reconciliation.⁷¹¹ A political agreement, the *31 December 2016 Agreement* between the Alliance of the Presidential Majority (the ruling party coalition), and the opposition formed prior to presidential elections in 2017, is also part of the *context* for the DRC.⁷¹²

⁷⁰² The African Great Lakes Process, *Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the region*, 24 February 2013, para. 5

⁷⁰³ Security Council resolution 2098, S/RES/2098, 28 March 2013, para. 15

⁷⁰⁴ Security Council resolution 2136, S/RES/2136, 30 January 2014, 2

⁷⁰⁵ Security Council resolution 2277, S/RES/2277, 30 March 2016, para. 2

⁷⁰⁶ Security Council resolution 2147, S/RES/2147, 28 March 2014, 5

⁷⁰⁷ Security Council resolution 2502, S/RES/2502, 19 December 2019, para. 14

⁷⁰⁸ John Ahere, *The peace process in the DRC*, 6 December 2012, (available at: <https://www.accord.org.za/publication/peace-process-drc/>)

⁷⁰⁹ John Ahere, *The peace process in the DRC*, 6 December 2012, (available at: <https://www.accord.org.za/publication/peace-process-drc/>)

⁷¹⁰ Security Council resolution 2147, S/RES/2147, 28 March 2014, 2

⁷¹¹ International Conference on the Great Lakes Region, *Outcome Documents from the Conclusion of the Kampala Dialogue between the Government of the Democratic Republic of the Congo and the M23*, 12 December 2013, para. 4

⁷¹² International Crisis Group, *Time for Concerted Action in DR Congo*, 4 December 2017, 1

An agreement MONUSCO was *objected* to provide both technical and political support to “in coordination with regional and international partners.”⁷¹³

In the RSS, the *purpose* of UNMISS is to consolidate peace and security in order to strengthen the government.⁷¹⁴ Something the RSS has sought in more than one peace agreement. First the ARCSS from 2015,⁷¹⁵ followed by the R-ARCSS from 2018, both signed by the principal parties: President Salva Kiir of the TGoNU, the SPLM/SPLA-IO, the Sudan People’s Liberation Movement - Former Detainees faction (SPLM-FDs), and the South Sudan Opposition Alliance (SSOA).⁷¹⁶ The *purpose* of the agreement is to “lay the foundation for a united, peaceful and prosperous society based on justice, equality, respect for human rights and the rule of law.”⁷¹⁷ UNMISS still has the *object* of supporting the implementation of this in res. 2514 (2020).⁷¹⁸

Prior to these two, was the *Agreement to Resolve the Crisis in South Sudan* between the RSS Government and the SPLM/SPLA-IO.⁷¹⁹ An agreement that was thought of as a framework creating a non-military solution for cohesion and durable peace in the RSS.⁷²⁰ In the case of the RSS it is also important to consider the *context* prior to the independence when it became party to the CPA. An agreement between the National Congress Party (NCP) and the SPLM/SPLA signed in January 2005, after a process mediated by the IGAD, the United Kingdom, Norway, the United States, and Italy.⁷²¹ Both Sudan and the RSS still have outstanding matters from the agreement, because though being divided into two sovereign states, they still have a common responsibility over the conflict-torn border areas of Abyei, South Kordofan/Nuba Mountains, and the Blue Nile states.⁷²²

⁷¹³ Security Council resolution 2348, S/RES/2348, para. 34(ii)(a)

⁷¹⁴ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 3

⁷¹⁵ Intergovernmental Authority on Development, *Agreement on the Resolution of the Conflict in the Republic of South Sudan*, 17 August 2015

⁷¹⁶ Clayton Hazvinei Vhumbunu, *Reviving peace in South Sudan through the Revitalised Peace Agreement*, (available at: <https://www.accord.org.za/conflict-trends/reviving-peace-in-south-sudan-through-the-revitalised-peace-agreement/>)

⁷¹⁷ Intergovernmental Authority on Development, *Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan*, 12 September 2018, 1

⁷¹⁸ Security Council resolution 2514, S/RES/2514, 12 March 2020, para. 8(c)

⁷¹⁹ Intergovernmental Authority on Development, *Agreement to Resolve the Crisis in South Sudan Addis Ababa*, 9 May 2014

⁷²⁰ Security Council resolution 2304, S/RES/2304, 12 August 2016, 1

⁷²¹ Marina Ottaway & Amr Hamzawy, *The Comprehensive Peace Agreement*, 4 January 2011, (available at: <https://carnegieendowment.org/2011/01/04/comprehensive-peace-agreement-pub-42223>)

⁷²² The United Nations Secretary-General, *Witnesses of Sudan’s Comprehensive Peace Agreement, in Joint Statement, Confirm Acceptance of Referendum’s Result in Favour of Southern Sudan’s Secession*, 8 February 2011, (available at: <https://www.un.org/press/en/2011/sg2169.doc.htm>)

Commitments that the RSS are reminded of in the first resolutions including res. 2046 (2012).⁷²³ In res. 2057 (2012), these outstanding commitments are addressed in accordance to how they affect the security situation.⁷²⁴ Several ceasefire agreements are also part of the *context* of the RSS. This includes the one from 2014,⁷²⁵ mentioned in res. 2241 (2015). Here the UNSC repeats its support for the agreement.⁷²⁶ Additionally the one from 2016,⁷²⁷ and latest, the *Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access* signed by the Government of the RSS and several South Sudanese armed groups in 2017.⁷²⁸ All these being agreements with the purpose of settling agitated conditions through creating calmer settings.

In Mali, the *object* of MINUSMA is to stabilise the state, re-establish state authority, and protect civilians.⁷²⁹ The Agreement in Mali was signed in 2015 by the Malian Government, the Plateforme coalition of armed groups, and the Coordination des Mouvement de l'Azawad coalition of armed groups.⁷³⁰ It was as an attempt to create conditions that would mount to a lasting peace in Mali,⁷³¹ as well as for the Sahel region.⁷³² The agreement was signed as the outcome of the month long *Algiers Process*.⁷³³ An agreement that the UNSC at first intended "to facilitate, support and follow closely" the implementation of,⁷³⁴ yet in 2017 the Agreement is not fully implemented.⁷³⁵ Even though the UNSC states in the latest res. 2480 (2019), "that more progress was made during the past nine months than during the first years after the signing of the Agreement." It is still not fully implemented.⁷³⁶ In *context*, the signing of the *Ouagadougou Preliminary Agreement* in June

⁷²³ Security Council resolution 2046, S/RES/2046, 2 May 2012, 1

⁷²⁴ Security Council resolution 2057, S/RES/2057, 5 July 2012, 3

⁷²⁵ Intergovernmental Authority on Development, *Agreement on Cessation of Hostilities between the Government of the Republic of South Sudan and the People's Liberation Movement/Army (in opposition) (SPLM/A in Opposition)*, 23 January 2014

⁷²⁶ Security Council resolution 2241, S/RES/2241, 9 October 2015, para. 1

⁷²⁷ *Agreement on Cessation of Hostilities between the Government of the Republic of South Sudan and the South Sudan national Liberation Movement/Army (SSNLM/A)*, 2 April 2016

⁷²⁸ Intergovernmental Authority on Development, *Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access*, 21 December 2017

⁷²⁹ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 16

⁷³⁰ European Council on Foreign Relations, *Mapping Armed Groups in Mali and the Sahel*, Last updated May 2019 so there can be changes, (available at: https://www.ecfr.eu/mena/sahel_mapping/cma#menuarea)

⁷³¹ The Algiers Process, *Agreement on Peace and Reconciliation*, 20 June 2015

⁷³² Security Council resolution 2391, S/RES/2391, 8 December 2017, 2

⁷³³ Arthur Boutellis and Marie-Joëlle Zahar, *Mali: Two Years After Bamako Agreement, What Peace Is There to Keep?*, 22 June 2017, (available at: <https://theglobalobservatory.org/2017/06/mali-bamako-agreement-agiers-process-minusma/>)

⁷³⁴ Security Council resolution 2374, S/RES/2374, 5 September 2017, 4

⁷³⁵ Security Council resolution 2391, S/RES/2391, 8 December 2017, para. 24

⁷³⁶ Security Council resolution 2480, S/RES/2391, 28 June 2019, 2

2013,⁷³⁷ led to the signing of the Agreement. The latest development was President Keita sending MDSF soldiers to the city of Kidal in the beginning of February this year, as a “key component in implementing the Agreement.”⁷³⁸ A city that has been under the ruling of Tuareg groups since they occupied it in 2012. Just like in the RSS, there are several Cessation of Hostilities Agreements in Mali, constituting the *context*, some of which are mentioned in res. 2227 (2015).⁷³⁹ Ceasefires that are part of MINUSMAs *object* of monitoring and supervising.⁷⁴⁰ These agreements were though violated in the beginning of June 2017, affecting the little progress which the Agreement had managed to achieve. This caused the Malian Government to send a letter to the President of the UNSC in August 2017, with a request of targeted sanctions “against those who take actions to obstruct or threaten the implementation of the Agreement (...).”⁷⁴¹

The negotiations for the three peace agreements in the DRC, the RSS, and Mali, have all been led by another party solely or in cooperation with the UN. In the case of the RSS and the ARCSS it is a regional organisation facilitating the negotiations, that being the IGAD in cooperation with the UN. A facilitation that the IGAD and the UN was encouraged to partake in, in 2014 by the UNSC.⁷⁴² The IGAD has been repeatedly encouraged to facilitate this process.⁷⁴³ The PSC Framework was mediated by AUs conflict mediators with four guarantors of the agreement: the UNSG, the Chairperson of the AU Commission, the Chairperson of the SADC, and the Chairperson of the ICGLR.⁷⁴⁴ For Mali the Agreement consisted of a larger mediation team including the ECOWAS, the AU, the UN, the EU, the Organisation for Islamic Cooperation, Burkina Faso, Mauritania, Niger, Nigeria, and Chad.⁷⁴⁵

Richard Caplan and Anke Hoeffler have found evidence that a PKO can create the conditions for a lasting peace if the conflict ends in a settlement. From the analysis above, it is clear that the three operations are still working on settling into agreements. Caplan and Hoeffler also finds that if there is a presence of a DDR component and a police component, peace also has a better chance.⁷⁴⁶

⁷³⁷ Security Council resolution 2164, S/RES/2164, 25 June 2014, 1

⁷³⁸ France 24, *Mali's president admits to holding talks with senior jihadist leaders*, 10 February 2020, (available at: <https://www.france24.com/en/20200210-exclusive-mali-s-president-acknowledges-dialogue-with-jihadist-leaders>)

⁷³⁹ Security Council resolution 2227, S/RES/2227, 29 June 2015, 2

⁷⁴⁰ Security Council resolution 2227, S/RES/2227, 29 June 2015, para. 12

⁷⁴¹ Security Council resolution 2374, S/RES/2374, 5 September 2017, 4

⁷⁴² Security Council resolution 2155, S/RES/2155, 27 May 2014, para. 2

⁷⁴³ Security Council resolution 2428, S/RES/2428, 13 July 2018, 1

⁷⁴⁴ Security Council resolution 2098, S/RES/2098, 28 March 2013, 1

⁷⁴⁵ The Algiers Process, *Agreement on Peace and Reconciliation*, 20 June 2015, 2

⁷⁴⁶ Richard Caplan & Anke Hoeffler, *Why peace endures: an analysis of post-conflict stabilization*, 22 March 2017, 149

MONUSCO is under its stabilising part of the mandate authorised and therefore *objected* to support both the DDR component of Congolese armed groups, and the Disarmament, Demobilization, Repatriation, Resettlement, and Reintegration (DDRRR) of foreign armed groups.⁷⁴⁷ UNMISS also has the *object* from the beginning in supporting the government in developing a DDR strategy.⁷⁴⁸ As well as MINUSMA is *objected* to assist the transitional authorities of Mali in developing and implementing DDR programmes from the beginning of the deployment of the operation.⁷⁴⁹ All three RPKOs have a police component, which can be seen in res. 2100 (2013) for MINUSMA,⁷⁵⁰ res. 1996 (2011) for UNMISS,⁷⁵¹ and res. 1925 (2010) for MONUSCO.⁷⁵²

Discussing the Room for Improvement

In many ways, RPKOs do many of the right things when it comes to settling conditions, that can have a say on the duration of peace. Their mere presence and purpose in the first place of stabilising the state, being one such thing.⁷⁵³ As previously mentioned the snag of talking future for these operations is that they are not terminated yet. But instead of seeing this as a snag, one could also see this as an opportunity. It is more or less easy to determine when a traditional PKO has achieved its mandate: when the disputing parties have arrived at an agreed settlement to the conflict.⁷⁵⁴ It becomes a little more tricky with a multi-dimensional operation, which is characterised by creating stability and security, facilitating political processes, and providing a common framework for the UN and all international actors to work under.⁷⁵⁵ Operations that also entail the use of force adds on a variable worth considering.

According to the Capstone Doctrine, “a domestic peace is truly sustainable when the warring parties are able to move their struggles from the battlefield and into an institutional framework where disputes can be settled peacefully.”⁷⁵⁶ In spite of the UN doing several things in the right direction

⁷⁴⁷ Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 12(i) and para. 12(j)

⁷⁴⁸ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 3(c)(ii)

⁷⁴⁹ Security Council resolution 2039, S/RES/2039, 25 April 2013, para. 16(a)(v)

⁷⁵⁰ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 12

⁷⁵¹ Security Council resolution 1996, S/RES/1996, 8 July 2011, para. 1

⁷⁵² Security Council resolution 1925, S/RES/1925, 28 May 2010, para. 2

⁷⁵³ Richard Caplan & Anke Hoeffler, *Why peace endures: an analysis of post-conflict stabilization*, 22 March 2017, 149

⁷⁵⁴ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 87

⁷⁵⁵ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 23

⁷⁵⁶ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 87

with their RPKOs, things can still be done in order to improve the mandate. James Fearon argues for two overall explanations for why wars occur: problems with commitment and incomplete information sharing.⁷⁵⁷ This is where peacekeeping troops can have an advantage. They are deployed to help parties create conditions to overcome differences that keeps them from making peace. Just as in the RSS, where UNMISS helped implementing the previously mentioned the *Agreement on Cessation of Hostilities* from 2014 between the RSS Government and the SPLM/SPLA-IO.⁷⁵⁸

Based on the assessments made in the analysis it is fair to conclude that in order to create a lasting peace all actors need to be on-board, in order not to risk neglect. Considering the Agreement in Mali, where the political opposition and civil society in Bamako criticised the government for initiating the agreement without consulting them.⁷⁵⁹ Tactically, it is necessary to get everybody on the ground, the ones everything revolves around, on-board for an agreement. Otherwise the process is doomed in just a matter of time. It is therefore necessary to think of all parties early on, also those that potentially can put a peace agreement under the risk of breach. When not breached, there are evidences pointing to the fact that a peace agreement comes with a longer lasting peace than a ceasefire,⁷⁶⁰ making hope for the DRC, the RSS, and Mali.

The Robust Path to Peace

The report from the United Nations Department of Peacekeeping Operations and Department of Field Support, *A New Partnership Agenda - Charting A New Horizon for UN Peacekeeping* (2009) stated that: “At the tactical level, a robust approach means that contingents may be required to use force in defence of the mandate. Such operations would always be limited in time and space.”⁷⁶¹ Maybe that limit is when a peace settlement is reached or is it necessary that it goes beyond this?

⁷⁵⁷ Michael J. Gilligan & Ernest J. Sergenti, *Do UN Interventions Cause Peace? Using Matching to Improve Causal Inference*, 2008, 92

⁷⁵⁸ Security Council resolution 2155, S/RES/2155, 27 May 2014, para. 4(d)

⁷⁵⁹ Arthur Boutellis & Marie-Joëlle Zahar, *A Process in Search of Peace: Lessons from the Inter-Malian Agreement*, June 2017, 17

⁷⁶⁰ Richard Caplan & Anke Hoeffler, *Why peace endures: an analysis of post-conflict stabilization*, 22 March 2017, 148

⁷⁶¹ The United Nations Department of Peacekeeping Operations and Department of Field Support, *A New Partnership Agenda - Charting A New Horizon For UN Peacekeeping*, July 2009, 21

Cedric de Coning describes a development in the peacekeeping capacity required for the abovementioned type of operations.⁷⁶² A development that might be owed to the increase in robust mandates and the reasoning for the robustness in these three operations. All operations have a degree of violence committed by armed groups that hampers the settlements that are planned, and by which UN troops sees themselves compelled to use force against. The allowed target of force for the peacekeepers is originally defined under the name “spoilers.”⁷⁶³ In the Capstone Doctrine defined as “individuals or parties who believe that the peace process threatens their power and interests, and will therefore work to undermine it.”⁷⁶⁴ A definition Marco Longobardo argues to have more of a political than legal ring to it and even more problematic when used in a RPKO, because when deploying a robust mandate, one also determines who is in and who is out of peace-negotiations.⁷⁶⁵ UNMISS was an operation tasked with containing these types of actors. Actors that the UNSC had determined as threats and thereby could use force under the robust mandate. The problem arises when the “categorisation of enemies” becomes blurred, as the case of Mali. President Keita of Mali announced that he was in dialogue with the prominent figure, Iyad Ag Ghali of the Tuareg group, one of the parties to the Agreement. Ghali is both affiliated with the legitimate political party of Tuareg but also leader of the jihadist group Ansar-Eddine.⁷⁶⁶ The UNSC determined that actors who threaten peace and security must be considered as non-legitimate parties, but with interests that are still reflected in the Agreement.⁷⁶⁷

That these conflicts contain several jihadist insurgencies, do not simplify the process of reaching a settlement, as is the case for Mali. According to Sebastian von Einsiedel these types of groups have a tendency to go for maximalist demands that are either difficult or impossible to incorporate into a settlement. A settlement made to create peace and therefore protect human rights and change the governmental conditions to be equivalent to something that can foster a sustainable society. Jihadist groups that are often forbidden by sanctions list made by either the EU, the US, or in this case the

⁷⁶² Cedric de Coning, *Is stabilization the new normal? Implications of stabilization mandates for the use of force in UN peace operations*, 4 October 2016, (available at: <https://cedricdeconing.net/2016/10/04/is-stabilisation-the-new-normal-implications-of-stabilisation-mandates-for-the-use-of-force-in-un-peace-operations/>)

⁷⁶³ Christine Gray, *The Use of Force and the International Order*, Oxford University Press, 2018, 626

⁷⁶⁴ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 43

⁷⁶⁵ Marco Longobardo, *Robust Peacekeeping Mandates: An Assessment in Light of Jus Post Bellum*, 2019, 18

⁷⁶⁶ France 24, *Mali's president admits to holding talks with senior jihadist leaders*, 10 February 2020, (available at: <https://www.france24.com/en/20200210-exclusive-mali-s-president-acknowledges-dialogue-with-jihadist-leaders>)

⁷⁶⁷ Cedric de Coning, *Is stabilization the new normal? Implications of stabilization mandates for the use of force in UN peace operations*, 4 October 2016, (available at: <https://cedricdeconing.net/2016/10/04/is-stabilisation-the-new-normal-implications-of-stabilisation-mandates-for-the-use-of-force-in-un-peace-operations/>)

UN.⁷⁶⁸ In Mali the previous mentioned Tuareg figure and leader of Ansar Eddine, Ghali, along with other groups, was already in 2013 listed on the sanctions list.⁷⁶⁹ A list that was established with res. 1267 (1999) by the *UN ISIL (Da'esh) and Al-Qaida Sanctions Committee*, telling states to sanction the group in every possible way.⁷⁷⁰ A sanctioning that still counts confer res. 2480 (2019).⁷⁷¹ Prospects for a completion of settlements with this type of group seems bleak and create disbelief in the actual benefits of a peace agreement. This makes the UN implicitly intertwined in who is legitimate to include and exclude in talks of settlements.⁷⁷² Take the DRC where MONUSCO rubber-stamps the government and President Kabila and his instable force the FARDC, but brand M23, the FDLR, the APCLS, the ADF, the Maï-Maï groups, and the LRA as less worthy for peace talks.

The UN has been authorised to use force as a matter of removing violations of human rights, and by that create an environment for a settlement that can abolish the likelihood of them happening again. RPKOs deal with the state and its opponents, that being armed groups or non-state actors, and the protection of attacks from these.⁷⁷³ Whereas the state should undertake the responsibility of protecting its population and treat it according to IHRL.⁷⁷⁴ IHRL is relevant both during war- and peacetime and IHL during armed conflict.⁷⁷⁵ Making IHRL *lex generalis* and IHL *lex specialis*.⁷⁷⁶ The omnipresence of IHRL and the blurriness of when to apply it becomes visible in the resolutions, where the UNSC e.g. states in res. 2100 (2013) for MINUSMA that it is “to abide by international humanitarian, human rights and refugee law.”⁷⁷⁷ The status of peacekeeping has always been a debated matter, whether it is classified as a NIAC confer common Art. 3 to the Geneva Conventions⁷⁷⁸ as well as Art. 1 of the Additional Protocol II,⁷⁷⁹ or an IAC confer common

⁷⁶⁸ Sebastian von Einsiedel, *Civil War Trends and the Changing Nature of Armed Conflict*, March 2017, 6

⁷⁶⁹ Security Council resolution 2100, S/RES/2100, 25 April 2013, 2

⁷⁷⁰ Security Council resolution 1267, S/RES/1267, 15 October 1999, para. 4

⁷⁷¹ Security Council resolution 2480, S/RES/2480, 28 June 2019, para. 3

⁷⁷² Charles T. Hunt, *All necessary means to what ends? the unintended consequences of the 'robust turn' in UN peace operations*, 2017, 124

⁷⁷³ Røde Kors, *Menneskerettighedernes betydning under væbnet konflikt*, Jurist- og Økonomforbundets Forlag, 2015, 84

⁷⁷⁴ David Turns, *The Law of Armed Conflict (International Humanitarian Law)*, 2018, 842

⁷⁷⁵ Røde Kors, *Menneskerettighedernes betydning under væbnet konflikt*, Jurist- og Økonomforbundets Forlag, 2015, 80

⁷⁷⁶ David Turns, *The Law of Armed Conflict (International Humanitarian Law)*, 2018, 842

⁷⁷⁷ Security Council resolution 2100, S/RES/2100, 25 April 2013, para. 24

⁷⁷⁸ International Committee of the Red Cross (ICRC), *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention)*, 12 August 1949, Art. 3

⁷⁷⁹ International Committee of the Red Cross (ICRC), *Protocol I Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts – Wounded, sick and shipwrecked*, 7 December 1978, Art. 1

Art. 2 to the Geneva Conventions⁷⁸⁰ and Art. 1 of the Additional Protocol 1.^{781 782} A distinction that is difficult to make because of confusion on how to classify an armed conflict, when one participant is an international organisation such as the UN. It can be argued that RPK is one of the factors making this distinction even harder to make, but the ICRC has made a “support based approach” that might work as a guideline for which stance should be taken on these three operations. In applying law to the situation of a foreign intervention in support of the host nation, the ICRC considers the law of NIAC applicable and not the law of IAC, covering the relationship of an international organisation intervening to support a host state.⁷⁸³ An approach that fits the three cases, considering that they are intervening with the consent of the state authority in order to take part in hostilities, fighting armed groups and non-state actors threatening peace and security. Therefore, IHL does apply to the RPK troops deployed in the DRC, the RSS, and Mali under the CIL status of a NIAC. IAC is not the case because this applies to two or more entities with legal personality, meaning that it does not include armed groups or non-state actors that do not have a legal personality.⁷⁸⁴ These things add to the interpretation of the use of force because it creates a grey area where IHL is applicable but, as is the case for these three operations.

Coning argues, that though stabilising operations tend to have a more “robust interpretation” of the use of force, it is not equal to a military resolution to the conflict being sought. Rather, he says, it is a part of a strategy that in a proactive manner can shape an environment that is made secure by halting assaults from attackers, and by that create conditions for political resolutions.⁷⁸⁵ Alastair Smith and Allan Stam counter argues this by saying that parties will not settle for an agreement as long as they find their relative strength better than the opponent, and that they therefore, can do

⁷⁸⁰ International Committee of the Red Cross (ICRC), *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention)*, 12 August 1949, Art. 2

⁷⁸¹ International Committee of the Red Cross (ICRC), *Protocol II Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts – General provisions*, 7 December 1978, Art. 1

⁷⁸² Nicholas Tsagourias & Alasdair Morrison, *Definition and Classification of Armed Conflicts*, Cambridge University Press, 2018, 11

⁷⁸³ Tristan Ferraro, *The ICRC's legal position on the notion of armed conflict involving foreign intervention and on determining the IHL applicable to this type of conflict*, 2015, 1243

⁷⁸⁴ Tristan Ferraro, *The ICRC's legal position on the notion of armed conflict involving foreign intervention and on determining the IHL applicable to this type of conflict*, 2015, 1244

⁷⁸⁵ Cedric de Coning, *Is stabilization the new normal? Implications of stabilization mandates for the use of force in UN peace operations*, 4 October 2016, (available at: <https://cedricdeconing.net/2016/10/04/is-stabilisation-the-new-normal-implications-of-stabilisation-mandates-for-the-use-of-force-in-un-peace-operations/>)

better by negotiating with arms than with pens.⁷⁸⁶ This makes it even more important, that the use of force is controlled by IHL in order to reach an environment for peace settlements, not to escalate matters.

The changing nature of conflict, which is also visualised in this thesis, affects the way peace is negotiated, mediated, put down on paper, and not to mention exercised. Many civil wars today take place in an environment where a variety of actors complicates peace – that includes the DRC, the RSS, and Mali, where these actors are restraining the UNs freedom to do its work.⁷⁸⁷ This nonetheless make the RPKOs and the processes it can establish and lead of even bigger importance. Possibly, it is in these processes that the most efficient answer lies now. Certain actors create instability – the UN work to counter this by creating stability, either by making it, keeping the bit of it that is left, or building it from scratch - no matter the resistance.

All Men On-board

A strategy for leaving can work, and work so well, that it does not result in a return later on. Virginia Page Fortna has investigated how PKOs affect the likelihood of this enduring peace. She has ascertained that during the Cold War period, the risk of peace being broke off was decreased with 50 percent if a PKO was present.⁷⁸⁸ On the other hand Barbara Walter finds no direct causal relation between peacekeeping and their value in maintaining a peace. She finds that “third-party enforcement may help combatants temporarily end one civil war, but it appears unable to consistently prevent groups from returning to war.”⁷⁸⁹ It is important to note that this conclusion is reached by using a certain type of method for her analysis.⁷⁹⁰ This means that other variables are maybe not considered such as why the peacekeepers are deployed – it is only registered, that they are there.⁷⁹¹ Richard Caplan, who is in the same camp as Walter and in opposition to Fortna, states that there is no direct evidence that a PKO has a stabilising effect on peace.⁷⁹² He though finds that there is some evidence pointing in the direction that peace agreements provide a peace that lasts

⁷⁸⁶ Alastair Smith & Allan Stam, *Mediation and Peacekeeping in a Random Walk Model of Civil and Interstate War*, 2003, 116

⁷⁸⁷ Sebastian von Einsiedel, *Civil War Trends and the Changing Nature of Armed Conflict*, March 2017, 6

⁷⁸⁸ Richard Caplan & Anke Hoeffler, *Why peace endures: an analysis of post-conflict stabilization*, 22 March 2017, 135

⁷⁸⁹ Barbara, F. Walter, *Why Bad Governance Leads to Repeat Civil War*, 2015, 1255

⁷⁹⁰ Barbara, F. Walter, *Why Bad Governance Leads to Repeat Civil War*, 2015, 1242

⁷⁹¹ Barbara, F. Walter, *Why Bad Governance Leads to Repeat Civil War*, 2015, 1255

⁷⁹² Richard Caplan & Anke Hoeffler, *Why peace endures: an analysis of post-conflict stabilization*, 22 March 2017, 149

longer than just a ceasefire, which could shine a light of hope for the three operations.⁷⁹³ The same goes for Walter who is also pro-peace agreements as a means to endure a lasting peace.⁷⁹⁴

Paul Pillar argues: “most wars ultimately end at the negotiating table.”⁷⁹⁵ As can be extracted from the analysis and the above statements, the three operations are on their way to the most sustainable long-term solution to their disputes. If it is possible to get all relevant parties to buy-in on a durable arrangement before the Blue Helmets depart, one could hope that this will give more good reasons to stay put and not fall back into “old routines”. The UN therefore needs to realize their presence has changed: they are no longer only stationed to keep the peace – they are stationed to build it. In the DRC, the RSS, and Mali they are placed in the midst of disputes over territorial integrity and unity and should use the benefit that lies in negotiating while the conflict is ongoing. This will potentially guarantee an agreement where disputes are taken directly from the battlefield and on to the negotiation-table.

Smith and Stam concludes that a mediator can only break “an honest deal” if they are unbiased and not in favour of one outcome over the other.⁷⁹⁶ Kyle Beardsly argues, that regional organizations is the adequate choice of mediator.⁷⁹⁷ One could argue in favour of this, saying that they represent their country, where the outcome of peace is much more preferable, since these conflicts have a large spill over effect as they create instability all over the continent. In theory, the UN is an impartial mediator, bound by basic principles, and by being an exogenous part. This makes it more distanced and leaves it without the same at stake as the AU. The UN itself do also consent to the advantage of regional organisations as mediators for political agreements. It is observable in the HIPPO report, where it is stated that,

Absent a major role in supporting a peace process, the success of a UN mission may be undermined (...) When working with regional organizations, as is likely to be

⁷⁹³ Richard Caplan & Anke Hoeffler, *Why peace endures: an analysis of post-conflict stabilization*, 22 March 2017, 148

⁷⁹⁴ Barbara, F. Walter, *Why Bad Governance Leads to Repeat Civil War*, 2015, 1255

⁷⁹⁵ Alastair Smith & Allan Stam, *Mediation and Peacekeeping in a Random Walk Model of Civil and Interstate War*, 2003, 120

⁷⁹⁶ Alastair Smith & Allan Stam, *Mediation and Peacekeeping in a Random Walk Model of Civil and Interstate War*, 2003, 118

⁷⁹⁷ Kyle Beardsley, *The UN at the peacemaking-peacebuilding nexus*, 2013, 373

*increasingly the case in the future, unity of vision, approach and message is important.*⁷⁹⁸

The benefit from starting negotiations while conflict is ongoing could be that it can fulfil the prospects of Smith and Stam. At the same time, it can provide a result that is more likely to be maintained in the long run, since this will be able to consider aspects that might be forgotten when the conflict has peaked.

Mediation followed by actual good faith are crucial under these circumstances. If the RSSs CPA was not mediated, the NCP and the SPLM/SPLA would never have reached an agreement – none of the parties would have budged. The NCP had no interest in sharing power and the SPLM/SPLA could not wait until the day of the referendum and independence, creating conditions that were everything but peace.⁷⁹⁹ One thing is what is written, another is what is being exercised. The intention of adhering to the principles of IHL must be in good faith just as prescribed by CIL and written in the VCLT Art. 26,⁸⁰⁰ making this a reciprocal desire implicitly expected.⁸⁰¹ In res. 2147 (2014), concerning the mandate of MONUSCO, it is written that it is important that all UN entities collaborate in the work that the UN is doing – both in the conflict but also post-conflict.⁸⁰² In res. 2406 (2018) for UNMISS, it is stressed that the peace process is only worthwhile if all parties are committed and participate in it.⁸⁰³ In res. 2423 (2018) of MINUSMA, all parties to the Agreement share the responsibility of a progressing implementation.⁸⁰⁴ One thing is to incorporate all parties but when this is done, a minimum of good faith is also to be expected which is why these announcements in the resolutions are mere formalities. But it could also be interpreted as another bad sign of these agreements ending in the pile of failed attempts, as the analysis could provide a long list of. All these peace agreements are written to make somebody responsible for changing a descending situation where human rights are being violated time after time, placing civilians in an armed conflict they have not requested to participate in.⁸⁰⁵

⁷⁹⁸ The High-level Independent Panel on Peace Operations, *Report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people*, 17 June 2015, para. 49

⁷⁹⁹ Marina Ottaway & Amr Hamzawy, *The Comprehensive Peace Agreement*, 4 January 2011, (available at: <https://carnegieendowment.org/2011/01/04/comprehensive-peace-agreement-pub-42223>)

⁸⁰⁰ Malcolm D. Evans, *The Vienna Convention on the Law of Treaties (1969)*, Oxford University Press, 2017, 140

⁸⁰¹ Røde Kors, *Opfyldelse af den humanitære folkeret*, Jurist- og Økonomforbundets Forlag, 2015, 47

⁸⁰² Security Council resolution 2147, S/RES/2147, 28 March 2014, para. 7

⁸⁰³ Security Council resolution 2406, S/RES/2406, 15 March 2018, para. 8

⁸⁰⁴ Security Council resolution 2423, S/RES/2423, 28 June 2018, 1

⁸⁰⁵ David Turns, *The Law of Armed Conflict (International Humanitarian Law)*, 2018, 843

Applying the Just War Theory

In order to negotiate a just settlement that has the greatest opportunity to last, is to get all stakeholders included in the process. That would be the most valid, fair, and just way. But what if one party to the deal have a history of sabotaging the just peace by violating civilians or by being standby to these deeds? The aspect concerning *a reasonable chance of success* from a *jus ad bellum* point of view will be considered in this section, looking at the background of parties to peace settlements and how these affect the level of success in order to classify how just they are.

Many of the peace agreements and frameworks for stabilizing the three countries are slow in the implementation process, which create doubts on their likelihood of success. This could create some speculations of whether the settled benchmarks, are yardsticks of success or just bad compromises. According to Avishai Margalit compromises need to be made in order to have a chance to get past the stalemate when negotiating agreements, and the likelihood of reaching this is increased by making mutual concessions.⁸⁰⁶ He has made a theoretical framework on political compromises, asking which can be made for the sake of peace and at the expense of justice.⁸⁰⁷ But there are not only the better kind of compromises, there are also rotten compromises. This is when an agreement either maintain or establish an inhumane regime, and this kind is not tolerable in the search for peace.⁸⁰⁸

For the case the DRC, the RSS and Mali, one could argue that the peace negotiations have ended in rotten compromises, staling the chances of success. The governments of the three states are far from perfect, but they are all making concessions in attempting to put themselves in a place, where they are worthy, but do the same go for their negotiation partners? Take for instance UNMISS where several ceasefire agreements are put in place, in order to situate the TGoNU of the RSS, the SPLM/SPLA-IO, the SSOA, SPLM-FDs, and other political parties to sign the R-ARCSS.⁸⁰⁹ Or the Malian Government also settling agreements with armed groups. It can be argued, that in spite of being agreements working to improve conditions they at the same time keep these groups alive, not

⁸⁰⁶ Avishai Margalit, *Two Pictures of Political Compromise*, Princeton University Press, 2010, 20

⁸⁰⁷ Avishai Margalit, *Introduction - Why Compromise?*, Princeton University Press 2010, 8

⁸⁰⁸ Avis Avishai Margalit, *Introduction - Why Compromise?*, Princeton University Press 2010, 2010, 2

⁸⁰⁹ Intergovernmental Authority on Development, *Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan*, 12 September 2018, 1

to mention that it keeps the naivety alive that these actors are going to improve and that they sincerely are ready to change their behaviour. Rotten or not these agreements are made as compromises in a search for peace, but to what degree are the aim of them just?

The problem with determining how just these agreements are, based on their successful outcomes, is the uncertainties around how much they in praxis involve all parties. That be both the governments and their signatory partners, but also the common population and non-state actors.⁸¹⁰ In res. 2227 (2015), it is requested that for the UN to approach the crisis in Mali, it needs to be ensured that “the Agreement translates into concrete benefits for the local populations.”⁸¹¹ How that is ensured is more easily proposed than practised. One could argue that the Agreement, and the peace agreements in general, are made to improve entities and environments that do not create the right conditions for an established well-working society. But then the discussion once again ends back at the table of impartiality. When mediating these three agreements, though being a third party and another party than the UN, there is a clear side being taken. All have the goal of brokering a deal between a legitimate party, that being the authority/government, and an illegitimate party, from whom it is expected to conform under prescribed parts of the pact.

James Murphy contend that the majority of peace settlements “contain the seeds of future wars.”⁸¹² At some point historians, will be able to trace back some of the causes to a later war, to that specific peace agreement. Murphy do not automatically render the agreement morally unjust, as one agreement cannot preclude the need for future agreements. Murphy uses examples of interstate wars whereas these cases concern intrastate conflicts – with external interference. By these examples he argues that some peace agreements are wrongly imposed. That being the ones where the settlement has a probability of leading to war short after, or when the agreement is so burdensome for the defeated parties, or that the agreement has another intent and therefore might not be obviously morally doubtful.⁸¹³ As when it comes to the three peace agreements in the DRC, the RSS, and Mali, respectively the PSC Framework, the R-ARCSS, and the Agreement, it is difficult to announce a winner and a loser, in particular because of the parties involved. The armed groups

⁸¹⁰ Cedric de Coning, *Is stabilization the new normal? Implications of stabilization mandates for the use of force in UN peace operations*, 4 October 2016, (available at: <https://cedricdeconing.net/2016/10/04/is-stabilisation-the-new-normal-implications-of-stabilisation-mandates-for-the-use-of-force-in-un-peace-operations/>)

⁸¹¹ Security Council resolution 2227, S/RES/2227, 29 June 2015, 4

⁸¹² James G. Murphy, *Just War Thought and the Notion of Peace*, Palgrave Macmillan, 24 October 2017, 114

⁸¹³ James G. Murphy, *Just War Thought and the Notion of Peace*, Palgrave Macmillan, 24 October 2017, 114

playing their own game racking territories would not have an interest in settling a deal that first of all would announce them as “losers”, or not give them a fair share of the cake. But that is maybe when Murphy’s pessimistic take has a point to it. Here one should consider the history of breaches on ceasefire agreements by diverse parties and the ongoing implementation of the three agreements. With the implementation dragged out, space is given to incongruence of both the smaller and larger kind. This can conclusively result in an increase in the probability of war later, even if the case it is only relatively just.⁸¹⁴ This must be assumed, since the agreements are mediated by a third part and morally weighted in that sense, and that the purpose of them is to create security to the state and its population.

A peace agreement can be read and exercised as just, not necessarily equal for all parties, but just in the way it creates a foundation for a peace. But from these three cases it can be argued that a just agreement is not equal with guaranteed success. It creates the reasoning for it – as it is demanded by the JWT, but there are many factors playing the role in evaluating the degree of success. History provides us with no soothing answers, as moral have a little say for some parties to such agreements. Some parties lack moral and conscience and have a different way of measuring success. If this was not the case, there would not be violations of IHRL and actions of a despicable kind, and there would be no theory of what is moral and immoral in order to build justice in the world.

Summary

“The rapid and thorough implementation of the peace agreement remains the only viable path for the stabilization of Mali,” said USG DPKO, Jean-Pierre Lacroix on the 15 January 2020.⁸¹⁵

Emphasizing what the authors suggest, based on an analysis of the resolutions for MONUSCO, UNMISS, and MINUSMA, that a peace agreement would benefit from an exit-strategy and that it should always be included – and included early in the process. The mere presence of the UN makes a difference, as it supports the creation of the conditions that can lead disputes to settlements.

⁸¹⁴ James G. Murphy, *Just War Thought and the Notion of Peace*, Palgrave Macmillan, 24 October 2017, 115

⁸¹⁵ The United Nations, *Implementing peace deal only path for stabilization in Mali: UN peacekeeping chief*, 15 January 2020, (available at: <https://news.un.org/en/story/2020/01/1055362>)

The history of unsuccessful agreements in the DRC, the RSS, and Mali have proven to be long. These agreements are dependent on compromises to even have a chance of success, but the compromises must not be made at every expense. What might seem as a realistic benchmark at one time, can prove itself to be a bad compromise later, once again creating injustice. Creating a situation where it is possible to go from battlefield to framework is the optimal scenario, but it can be inhibited by jihadist groups having difficult goals to incorporate in settlements. These groups that are often labelled as the opponent by the UNSC in the resolutions, implicitly settling who is a legitimate partner for negotiations, and by that also who it is permissible to use force against. This creates troubles for the principles which UN troops are meant to adhere to, because impartiality needs to weigh what is necessary to do to create the right environment for negotiations.

CONCLUSION

Former United Nations Secretary-General Ban Ki-moon stated in the 2015 report on *The Future of United Nations peace operations*, that the increase in conflicts were outpacing the United Nations' efforts to contain these.⁸¹⁶ The United Nations works to prevent and mitigate violent conflicts as those in the Democratic Republic of the Congo, the Republic of South Sudan, and Mali. Besides these good intentions of peacekeeping operations, efforts have too often been characterised as fragmented and incapable of meeting the high expectations of both mandates and the international community.⁸¹⁷ The action plan in the report had three pillars: a renewed focus on prevention and mediation, stronger regional-global partnerships, and a new planning and conduct of operations, with the purpose of making them better suited to respond to conflicts.⁸¹⁸ There are continuous room for improvement of robust peacekeeping, which this thesis has proven.

Therefore, the authors have found incitement for reconsidering aspects including the *division of roles, the current use of force, and the fostering of a good post-conflict environment*, in robust peacekeeping operations. The reason for this is to make more synergy between the mandates on paper and the praxis of these on the ground. The purpose of focusing on these aspects have been to

⁸¹⁶ The United Nations Secretary-General, *The future of United Nations peace operations: implementation of the recommendations of the High-level Independent Panel on Peace Operations*, 2 September 2015, para. 4

⁸¹⁷ The United Nations Secretary-General, *The future of United Nations peace operations: implementation of the recommendations of the High-level Independent Panel on Peace Operations*, 2 September 2015, para. 5

⁸¹⁸ The United Nations Secretary-General, *The future of United Nations peace operations: implementation of the recommendations of the High-level Independent Panel on Peace Operations*, 2 September 2015, 9

surpass previous tendencies of only considering the conflict management aspect. Instead the authors have painted a broader picture of robust peacekeeping operations by including considerations of aspects prior to deployment, but also aspects relating to the aftermath when United Nations personnel withdraw. MONUSCO, UNMISS, and MINUSMA, all robust operations authorised to “use all necessary means,” have constituted the basis for the authors to comprehend the current use of robust peacekeeping. A comprehension that in this thesis has been further developed to the above-mentioned aspects.

Peacekeeping is a huge machinery involving several actors, each having assigned tasks. With focusing on the role of the African Union and the Special Representative of the Secretary-General in this great machinery there remain problems on the definition of the appropriate role of such actors. First, the mentioning of the African Union and the Special Representative of the Secretary-General is limited in the United Nations Security Council resolutions of the three operations. This is despite these two actors having an important part to play in solving violent conflicts through non-violent means. These includes mediation and arbitration as both actors are better suited to decide on what measures are necessary to apply in operations. This is due to their combined knowledge on African states in general and a more in-depth knowledge of specific situations on the ground within conflicts. The agreements reached by these actors have better chances of resulting in a duration of peace. Second, there is a legal basis for cooperation between the African Union and the United Nations in Chapter VIII of the Charter, which grants regional arrangements to deal with matters in maintaining international peace and security. This only speaks into the authors’ argument of the importance of both enhancing and defining the relationship between the African Union and the United Nations. Yet, there seems to be a long way ahead, as the United Nations is hesitant in outsourcing responsibilities under peacekeeping because of the African Union’s lack in capabilities and resources. Despite the United Nations’ frustration with the lack of capabilities of the African Union, the United Nations itself struggles to implement the broad mandates assigned by the United Nations Security Council. It is also restricted in terms of capabilities, therefore, the African Union must focus on overcoming its own limited capacities to enhance its credibility in peacekeeping. If the roles of the United Nations and the African Union were clarified when dealing with peacekeeping, it would provide the two actors with a template on their division of roles instead of the current praxis, which relies on a case-by-case approach. This would only fit into Moritz P.

Moelle's argument of both the UNSC and the AU PSCs wish to rely on more predictable mechanisms in future cooperation.

Another role within peacekeeping that are dependent on the credibility of other actors involved in operations is the Special Representative of the Secretary-General. With a lack of information flow from robust peacekeeping operations on the ground back to the United Nations Security Council, it is reasonable to assume that Special Representative of the Secretary-Generals are legitimate in providing the United Nations Security Council directly with information. Since the Special Representative of the Secretary-General is chosen by the United Nations Secretary-General it must be assumed that there can be strong bond of trust between the two. This only supports the authors' argument in delegating more responsibility of reporting to the Special Representative of the Secretary-General. If the Special Representative of the Secretary-General could report directly to the United Nations Security Council, it would enable the United Nations to respond faster to grave circumstances on the ground.

In responding to these circumstances, the United Nations has deployed an increased amount of robust mandates allowing the use of force in peacekeeping. It might, at first seem controversial to use force in establishing or maintaining peace but rethinking why force has been applied, it might become justified. Based on the scenarios of the Democratic Republic of the Congo, the Republic of South Sudan, and Mali, reality has shown that actors within these states have created a fundamental instability of a kind that makes it impossible to establish a foundation for sustainable peace. The awareness of the doctrinal shift in the conduct of peacekeeping has been articulated by both scholars and the United Nations itself. However, there is still a lack of acknowledging the shift, which then blocks the execution of robust measures. If one acknowledged the doctrinal shift and its effect on peacekeeping, it would increase the demand for a concretisation of what stabilisation entails in terms of the use of force, since this remains unclear. All three operations are equipped with stabilising tasks, entailing efforts in consolidating peace, be providing support in implementing peace agreements, restore state authorities, and protect civilians. All allowed to be done with all means necessary. The problem of stabilisation is that it entails the use of force, without having any concrete definition to it. It makes one speculate how something so harmful as military means can be used in such a "loose manner" to create conditions for a peaceful development without guaranteeing it. Attempts with arms embargoes and economic sanctions, that all seem not to provide sufficient

results, leaves the agenda of force even more easy to resort to, despite it always being sought as a last resort which is in alignment with the Just War Theory.

When deciding to apply force in robust peacekeeping one must consider the principles of military necessity, humanity, proportionality, and distinction under international humanitarian law. In terms of peacekeeping it is vital that military necessity is used to limit the use of force and not to abuse it. It is a constant and delicate balance of removing instabilities without creating more, which is also why it must constantly adhere to the principle of proportionality in order not to get carried away. Proportionality always forces peacekeepers to go through their moral considerations before firing arms. Under the principle of humanity, United Nations troops are required to respond to conflict situations in a humane manner in their conduct of robust peacekeeping. This has an additional implication for the use of force, as peacekeepers are to respect the principle of distinction and thereby not target civilians and civilian objects when resorting to force.

The use of “necessary means” as part of stabilising efforts in the Democratic Republic of the Congo, the Republic of South Sudan, and Mali, includes the consideration of protection of civilians. Civilians continue to comprise the majority of casualties in conflicts. Peacekeeping efforts within these states face several challenges as this thesis have proven. Some of these problems include that robust peacekeeping operations remain rather state-centric and includes vaguely formulated protection mandates. This leaves peacekeepers with moral obligations in considering the appropriate threshold for when to apply force to protect civilians. It has been argued that peacekeepers do not resemble regular soldiers in conventional warfare and are therefore limited to only apply the least amount of force necessary to achieve their ends. The use of force in peacekeeping has been highly discussed by scholars and will continue to be, because current protection of civilians mandates provide little guidance on this matter. Peacekeepers are currently left with applying force on a case-by-case basis. The authors have made the case that certain templates for the use of force are required to help peacekeeping troops in manoeuvring through the difficult waters of robust peacekeeping operations. There is a need to engage civilians within their own protection. To do so would mean to include them in early warning mechanisms on the ground. This would help the United Nations to better assess the needs in protecting civilians, as these are at the forefront of conflicts. Such a people-centred approach would allow the United Nations Security Council to adjust its mandates in time to prevent and mitigate atrocities before they happen.

In the assessment of the use of force in robust peacekeeping operations it has become clear, that there remains a gap from theory to praxis. The only ones capable of overcoming this gap are the ones drafting the resolutions. There is a constant discussion on policy level where a case-by-case basis is strongly advocated for. A solution to this, however, could be to take it away from singular evaluations, and instead create a concept for what stabilisation entails, to ensure that the right amount of force is being sought. An amount that considers how it contributes to the overall purpose, but at the same time accept the doctrinal shift, that the robust peacekeeping is born out of and thereby realise that force is unavoidable. Although, as long as the use of force is only outlined as “necessary means”, which gives no indication of the amount, there is no contribution to this clarification at the moment.

Peacekeepers fill in a trust gap – that is why they should not leave so fast.⁸¹⁹ None of the three cases had an exit strategy planned in the mandate from the beginning. For MONUSCO, one was planned when the Force Intervention Brigade was deployed in 2013, whereas UNMISS and MINUSMA has no mentioning of an exit strategy, all being examples of long interventions. Therefore, a strategy for leaving should be developed from the beginning, being a natural part of the peacebuilding process. This should be done to plan peacebuilding efforts in accordance with this and monitor it by referring to benchmarks. A process that in fact could be preferred done on a case-by-case basis. This will leave indicators for when an operation can be handed over to state authorities and how this handover should consider the United Nations system, the national authorities, civil society, and other relevant stakeholders.⁸²⁰ That peacekeepers fill out a gap is the argument for making their presence the bridge between before, during, and after a peacekeeping operation. A binding structure, that can somewhat secure that governments and civilians are not left on their own against the combatants they were fighting.⁸²¹

The purpose of the three robust peacekeeping operations is to build peace – a clear-cut purpose. Yet, a blurriness of when to initiate peacebuilding efforts remains. That combined with a late

⁸¹⁹ Michael J. Gilligan & Ernest J. Sergenti, *Do UN Interventions Cause Peace? Using Matching to Improve Causal Inference*, 2008, 92

⁸²⁰ The United Nations Department of Peacekeeping Operations, The United Nations Department of Field Support, *United Nations Peacekeeping Operations - Principles and Guidelines*, 2008, 88

⁸²¹ Kyle Beardsley, *The UN at the peacemaking-peacebuilding nexus*, 2013, 383

development of exit strategies together with a slow implementation of the political agreements, have resulted in longer deployment of troops and alienation of the state authority from its responsibility. Good things are being done, yet violations breaching peace are still taking place, which signals a serious lack of commitment from all parties to agreements. These parties might find their demands overlooked, neglected in negotiations, or being pigeonholed. A division the United Nations is part of making, when deciding who is legitimate. A say the United Nations might not be worthy of having, considering their own collaboration with governments that themselves breaches international human rights law and violates international humanitarian law over and over again.

In assessing how the Just War Theory can contribute to the legitimization of robust peacekeeping, this thesis has made clear that peacekeeping operations are always deployed with a just cause. Therefore, focus has been on actors and methods of robust operations. The main actor has been the United Nations and there is a reason for this. This actor is according to the United Nations Charter the only public legitimate authority for maintaining international peace and security, when it comes to the authorisation of the use of force. Despite the African Union's wish to maintain peace and security in Africa, they do not possess the required resources and capabilities to do so, as was seen with the African-led International Support Mission to Mali. In solving conflicts in Africa there are differing intentions for engagement. The African Union is led by self-interest in protecting its member states from conflicts spilling over into neighbouring states. The West in general is more focused on containing African conflicts both to prevent migration flows as well as to keep trade relations intact. This question the legitimacy of the intentions of the West.

Since it has been stated that it is only the United Nations who can authorise the use of force within the framework of peacekeeping operations' stabilising tasks, it is also their responsibility to ensure that it is used as a last resort and for a proportionate cause. When talking of peacekeeping it is self-evident that Blue Helmets must be dealing with the least amount of force possible to create a better state of peace. The three operations have been authorised to use "all means necessary" in achieving their purpose of establishing peace. This authorisation, however, can just as well entail the use of force at the upper limit than at the lower limit, giving no indication of when it is used proportionately just. As peacekeepers must consider the least amount of force, they are dependent on factors such as engaging civilians in their own protection. This can, potentially, decrease the reliance on force in mandates that includes the explicit mentioning of protecting civilians. An early

engagement with civilians is the best way of ensuring the prevention of atrocities. A prevention that can also be made possible by the direct reporting from the SRSG to the UNSC, to adjust mandates in time. This would only reinforce the just cause of peacekeeping.

The point of United Nations' peacebuilding, exit-strategies, and peace agreements is to develop a just peace. An imperfect peace might be a sufficient end-result, which lowers the bar for what amounts to a reasonable chance of success. Creating peace is a mutual relation entailing compromises that might at first create an imperfect peace, which can in turn motivate a better and even more just peace. It is difficult to say how many parties the peace agreements involve in praxis, making it harder to assess how just an outcome would be. A just agreement, one entailing all parties, does not equal success, but it increases the chances of it. Chances that are only increased by the role of the SRSG in him/her facilitating peace processes. The work of SRSGs provide all parties involved with a sense of direction in achieving success based on the implementation of peace agreements. However, history and a slow-paced implementation record of current agreements do not give good odds for a reasonable chance of success of these peace agreements. When looking at the three cases of the DRC, the RSS, and Mali, it can be argued that a peace agreement does not equal a guarantee for peace, but it creates the foundation for it. The robust peacekeeping operations of MONUSCO, UNMISS, and MINUSMA have all been deployed for years, demanding lives lost for both peacekeepers, opponents, and civilians. As shown with the use of the Just War Theory, peacekeeping and the use of force will always be an ill-matched couple, entailing great moral considerations when turning peacekeeping robust.

To summarize, the advice for future robust peacekeeping operations in making a cohesion between the UNSC mandates on paper and praxis on the ground, this thesis has found that in many cases two factors would contribute positively to operations of this kind. First, focus should be moved from being centred around state authorities, and instead favour a more people-centred approach where civilians contribute with their knowledge. This would create more social cohesion and protect the actual victims of these conflicts. Second, in spite of the United Nations Security Council's preference for a case-by-case basis, it has repeatedly been shown that alternatives could be sought. The UN is constantly facing budgetary cuts, making an incitement for reconsidering procedures. Instead of always focusing on the individual cases, overall templates, concepts, or guidelines could also prove beneficial. These might include lessons learned and help in specifying matters that at the

moment are unclear, for example the definition of stabilisation in peacekeeping. When this is said, there are of course always exceptions where such templates are insufficient, as with exit-strategies where out-phasing will depend on state-specific matters at that time.

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Security Council resolution 2132, S/RES/2132, 24 December 2013

Security Council resolution 2136, S/RES/2136, 30 January 2014

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APPENDIX 1 - DIVISION OF WORKLOAD AND KEYSTROKES

For workload for this thesis has as far as possible been equal throughout the entire process. This means that the entire research phase, that being reading materials including reports, the UNSC resolutions, academic articles, and other scientific literature has taken place in close cooperation. This also counts for the narrowing and choosing of the three robust peacekeeping operations of MONUSCO, UNMISS, and MINUSMA.

The *Introduction* and its subsequent subjects of *Problem Statement, Relevance and Limitation of Topic, Structure, Historical Background, the United Nations Organization Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO), the United Nations Mission in the Republic of South Sudan (UNMISS), the Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA), and Interdisciplinary Focus* has all be formulated and written in collaboration. This is consistent with the course description for Master Thesis Spring 2020.

The section *Methodical and Theoretical Framework* has been prepared in cooperation but written separately, of course with constant feedback from the other part. Julia Friis Jørgensen has written the subject of *Analytical Tool*. Whereas Caroline Brothmann Heindahl has written the subjects of *Presentation and Legitimation of the Just War Theory, Presentation of Empirical Data, Methodical Choices and Definition of Terms*.

The analytical phase of the three operations have also been done in collaboration, meaning that the UNSC resolutions of respectively MONUSCO, UNMISS, and MINUSMA have been analysed together. Both to ensure a coherent understanding of what has been extracted from these, but also to be able to determine the three topics that subsequently were emphasized in the analysis and discussion. To sum up, all preparatory work has been done in collaboration.

For the *Analysis and Discussion of MONUSCO, UNMISS, and MINUSMA* there has been a constant professional back-and-forth during the entire process, but the writing has been delegated as follows:

Caroline Brothmann Heindahl has written *the Division of Roles in Robust Peacekeeping* and its subsequent topics of *the Loosely Defined Role of the African Union and Increasing Responsibilities*

of the Special Representative of the Secretary-General. As well as part of the topic the Robustness Exercised, being the subject of Decreasing the Robustness of Mandates Through Civilians.

Julia Friis Jørgensen has written the other part of *the Robustness Exercised*, being *When Force is Used to Stabilise*. As well as the *Fostering a Good Post-conflict Environment* and its subsequent subjects of *Strengthening United Nations' Departure through Peacebuilding and Agreements Consolidating the Aftermath*.

The summarizing introductory part of *Analysis and Discussion of MONUSCO, UNMISS, and MINUSMA* as well as the *Summary* of each subject, has been compiled and written in cooperation, just as the final *Conclusion* has been made in cooperation. The same goes for the *Abstract, List of Acronyms and Abbreviations*, and the *Bibliography*. All in accordance to the course description for Master Thesis Spring 2020. The above-mentioned amounts to an equal division of workload and keystrokes which appears from the table below.

The division of keystrokes are as the following:

Element	Written by	Keystrokes
Introduction <ul style="list-style-type: none"> - <i>List of Acronyms and Abbreviations</i> - <i>Problem Statement</i> - <i>Interdisciplinary Focus</i> - <i>Relevance and Limitation of Topic</i> - <i>Structure</i> - <i>Definition of Terms</i> - <i>Historical Background</i> - <i>The United Nations Organization Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO)</i> - <i>The United Nations Mission in the republic of South Sudan (UNMISS)</i> 	Collaboration	27,556

- <i>The Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA)</i>		
The Analytical Tool - <i>Holistic and Comparative Approach</i>	Julia Friis Jørgensen	10,471
Presentation and Legitimisation of the Just War Theory	Caroline Brothmann Heindahl	5,890
Presentation of Empirical Data	Caroline Brothmann Heindahl	647
Methodical Choices	Caroline Brothmann Heindahl	5,064
Analysis and Discussion of MONUSCO, UNMISS and MINUSMA (summarising introduction)	Collaboration	3,454
Division of Roles in Robust Peacekeeping: Introduction + the Loosely Defined Role of the African Union	Caroline Brothmann Heindahl	35,748
<i>Summary</i>	Collaboration	1,448
Division of Roles in Robust Peacekeeping: Increasing Responsibilities of the Special Representative of the Secretary-General	Caroline Brothmann Heindahl	26,628
<i>Summary</i>	Collaboration	1,344
The Robustness Exercised (Introduction)	Caroline Brothmann Heindahl	1,705
The Robustness Exercised: When Force is Used to Stabilise	Julia Friis Jørgensen	38,199
<i>Summary</i>	Collaboration	1,640
The Robustness Exercised: Decreasing the Robustness of Mandates Through Civilians	Caroline Brothmann Heindahl	32,956
<i>Summary</i>	Collaboration	1,263
Fostering a Good Post-conflict Environment: Introduction + Strengthening Unites Nations' Departure through Peacebuilding	Julia Friis Jørgensen	30,500

<i>Summary</i>	Collaboration	1,699
Fostering a Good Post-conflict Environment: Agreements Consolidating the Aftermath	Julia Friis Jørgensen	34,251
<i>Summary</i>	Collaboration	1,531
Conclusion	Collaboration	18,157
Total		280,151

APPENDIX 2 – LIST OF UNITED NATIONS SECURITY COUNCIL RESOLUTIONS

MONUSCO:

- Security Council resolution 1925, S/RES/1925, 28 May 2010
- Security Council resolution 1991, S/RES/1991, 28 June 2011
- Security Council resolution 2021, S/RES/2021, 29 November 2011
- Security Council resolution 2053, S/RES/2053, 27 June 2012
- Security Council resolution 2076, S/RES/2076, 20 November 2012
- Security Council resolution 2078, S/RES/2078, 20 November 2012
- Security Council resolution 2098, S/RES/2098, 28 March 2013
- Security Council resolution 2136, S/RES/2136, 30 January 2014
- Security Council resolution 2147, S/RES/2147, 28 March 2014
- Security Council resolution 2211, S/RES/2211, 26 March 2015
- Security Council resolution 2277, S/RES/2277, 30 March 2016
- Security Council resolution 2293, S/RES/2293, 23 June 2016
- Security Council resolution 2348, S/RES/2348, 31 March 2017
- Security Council resolution 2388, S/RES/2388, 21 November 2017
- Security Council resolution 2409, S/RES/2409, 27 March 2018
- Security Council resolution 2502, S/RES/2502, 19 December 2019

UNMISS:

- Security Council resolution 1996, S/RES/1996, 8 July 2011
- Security Council resolution 1999, S/RES/1999, 13 July 2011
- Security Council resolution 2046, S/RES/2046, 2 May 2012
- Security Council resolution 2057, S/RES/2057, 5 July 2012
- Security Council resolution 2109, S/RES/2109, 11 July 2013
- Security Council resolution 2132, S/RES/2132, 24 December 2013
- Security Council resolution 2155, S/RES/2155, 27 May 2014
- Security Council resolution 2187, S/RES/2187, 25 November 2014
- Security Council resolution 2206, S/RES/2206, 3 March 2015
- Security Council resolution 2223, S/RES/2223, 28 May 2015

- Security Council resolution 2241, S/RES/2241, 9 October 2015
- Security Council resolution 2252, S/RES/2252, 15 December 2015
- Security Council resolution 2280, S/RES/2280, 7 April 2016
- Security Council resolution 2290, S/RES/2290, 31 May 2016
- Security Council resolution 2302, S/RES/2302, 29 July 2016
- Security Council resolution 2304, S/RES/2304, 12 August 2016
- Security Council resolution 2326, S/RES/2326, 15 December 2016
- Security Council resolution 2327, S/RES/2327, 16 December 2016
- Security Council resolution 2353, S/RES/2353, 24 May 2017
- Security Council resolution 2392, S/RES/2392, 14 December 2017
- Security Council resolution 2406, S/RES/2406, 15 March 2018
- Security Council resolution 2418, S/RES/2418, 31 May 2018
- Security Council resolution 2428, S/RES/2428, 31 July 2018
- Security Council resolution 2459, S/RES/2459, 15 March 2019
- Security Council resolution 2471, S/RES/2471, 30 May 2019
- Security Council resolution 2514, S/RES/2514, 12 March 2020

MINUSMA:

- Security Council resolution 2100, S/RES/2100, 25 April 2013
- Security Council resolution 2164, S/RES/2164, 25 June 2014
- Security Council resolution 2227, S/RES/2227, 29 June 2015
- Security Council resolution 2295, S/RES/2295, 29 June 2016
- Security Council resolution 2364, S/RES/2364, 29 June 2017
- Security Council resolution 2374, S/RES/2374, 5 September 2017
- Security Council resolution 2391, S/RES/2391, 8 December 2017
- Security Council resolution 2423, S/RES/2423, 28 June 2018
- Security Council resolution 2480, S/RES/2480, 28 June 2019