

'Impartial' Use of Force in United Nations Peacekeeping

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This article explains how the idea of 'impartial' use of force by peacekeepers, first proposed in the Brahimi Report of 2000, has been translated into practice. It first links the report's definition of impartiality to mandates of post-Brahimi operations to identify what impartiality has come to mean in peacekeeping mandates. It argues specifically that impartiality has encompassed two different components of robust mandate implementation and humanitarian protection and that the former has been prioritized over the latter. It then evaluates these two components in the light of peacekeeping experiences in Sierra Leone and Haiti.

The notion of impartiality has long occupied the place of an established and yet somewhat ambiguous principle for the use of force by peacekeepers. The notion was first explicitly articulated by Dag Hammarskjöld in his January 1957 report on the UN Emergency Force I, in which he argued that the use of force in a UN non-Chapter VII operation must be 'impartial, in the sense that it does not serve as a means to force settlement, in the interests of one party, of political conflicts or legal issues recognized as controversial'.¹ The idea was reiterated in October 1958 when the Secretary-General made clear that the force should not 'be used to enforce any specific political solution of pending problems or to influence the political balance decisive to such a solution'.² Since then, impartiality has constituted one of the three core principles for peacekeepers along with the use of force only in self-defence and consent by the parties.³

The problem of conceptual ambiguity has also persisted, however, and seems to have found expression in two phases. In one, there was the tendency to understand impartiality as *neutrality*, which has been generally understood as equidistance from the local parties. This tendency is clear in Hammarskjöld's description of impartiality mentioned above, which consists in two prohibitions: not to force one's will on the parties, and not to tip the local balance of power. Impartiality, in this rendition, was the idea that peacekeepers should avoid forcing a solution because that would probably affect the local balance of power.⁴ It is easy to notice that this idea is commensurate with the imperative of keeping an equal distance from all the warring parties. Logically, however, this understanding still raises the question of whether there can be a mode of forcible action *without* undermining equidistance: can peacekeepers use force 'as a means to force settlement' in a way that does *not* influence the interests of any one party? But that question was largely left unanswered in the period when traditional peacekeeping under Chapter VI was the norm, and its activities such as force separation and border monitoring required little more of

peacekeepers than to stay away from any posture or action that might favour one of the warring parties. Impartiality and neutrality both meant equidistance, and there was no conceptual distinction between the two. Impartiality in this reading was also a doctrine for a minimum use of force: insofar as neutrality hinges on maintaining a balance between parties and as the use of force on any one occasion is usually directed against one of them, the best way to ensure peacekeepers' neutrality is not to use force – except, of course, in defence of their own lives. An 'impartial/neutral' use of force therefore meant a minimum use of force.

The tendency to understand impartiality as neutrality was replaced in the course of the 1990s by a growing awareness that impartiality and neutrality are different.⁵ The background behind this change was, first, the evolution of peacekeeping into a multidimensional mode of international involvement with intrastate conflict. Many complex peacekeeping missions came to be organized often for deployment in volatile situations, while, burdened with many tasks and faced with increasing physical risks, they were mostly under-resourced and lacked sufficient mandate. Moreover, and as a direct result of this development, peacekeepers found themselves in deteriorating situations, often involving humanitarian crises of various proportions.⁶ In Bosnia and Herzegovina, Rwanda, and elsewhere, UN peacekeepers were sometimes accused of standing powerless in the face of genocide and ethnic cleansing: the pressure was on peacekeepers to 'do something' to alleviate civilian suffering and punish perpetrators. Responding to these two demands, UN peacekeeping missions were increasingly authorized under Chapter VII to use 'all necessary means'. But the traditional principle of impartiality/neutrality as equidistance provides a rationale only for what *not* to do. The previously unexplored potential of forcible action without undermining equidistance thus became important in this context. If one could redefine impartiality to express this potential, it would create a new freedom of action for peacekeepers, who now have to implement a complex range of tasks and responsibilities in an increasingly dangerous environment; and this freedom could in turn even salvage the UN's legitimacy and reputation that was deeply tarnished by the peacekeeping failures in the previous decade. Devising such a principle would also differentiate impartiality from neutrality.

The problem, however, is that there are different views as to the exact meaning of the new impartiality. They all share the need for a rationale that would enable peacekeepers to take some sort of forcible action in certain circumstances without appearing to side with one party to the conflict, but differ in what that rationale should exactly mean. The most influential articulation can of course be found in the August 2000 report by the Panel on United Nations Peace Operations, chaired by Lakhdar Brahimi.⁷ The Brahimi Report first acknowledges that party consent, neutrality/impartiality, and use of force only in self-defence should remain the 'bedrock principles' of peacekeeping.⁸ But even in cases where these principles do not work, peacekeepers, once deployed, 'must be able to carry out their mandate professionally and successfully'. More precisely:

UN military units must be capable of not only defending themselves, but also other mission components and the mission's mandate. Rules of

engagement should not limit contingents to stroke-for-stroke responses but should allow ripostes sufficient to silence a source of deadly fire that is directed at UN troops or at the people they are charged to protect and, in particularly dangerous situations, should not force UN contingents to cede the initiative to their attackers.⁹

The report argues from this that impartiality 'for such operations must therefore mean adherence to the principles of the Charter and to the objectives of a mandate that is rooted in those Charter principles' and that this notion of impartiality is different from neutrality as 'equal treatment of all parties in all cases for all time'.¹⁰ Impartiality is here defined as *loyalty* to the mission mandate and to the Charter principles. Impartiality in this understanding constitutes a different code of action from neutrality, because it potentially enables peacekeepers to use force against those who act against their mandates and the 'Charter principles' on which they are based. This definition, however, still contains two sources of ambiguity. First, the expression 'for such operations' implies the existence of a different type of impartiality, possibly geared to more traditional operations.¹¹ But the Brahimi Report does not explain what this is; more pointedly, it fails to distinguish this 'traditional' impartiality from neutrality. Second, the definition's unqualified inclusion of the Charter principles complicates the scope of loyalty. The principles, as listed in Article 2, contain both sovereign equality and non-interference *and* their potential overriding under Chapter VII. Is the inclusion, then, intended to reinforce or restrict the pursuit of peacekeeping mandates?

Beyond the panel's definition, analysts and commentators have proposed different versions of new impartiality. For instance, Dominick Donald puts the distinction between impartiality and neutrality as follows:

An impartial entity is active, its actions independent of the parties to a conflict, based on a judgement of the situation; it is fair and just in its treatment of the parties while not taking sides. A neutral is much more passive; its limited actions are within restrictions imposed by the belligerents, while its abstention from the conflict is based on an 'absence of decided views'.¹²

Impartiality here seems to emphasize *active* conduct anchored in the *independence* of judgement. This is also the idea behind Maj.-Gen. Patrick Cammaert's distinction: 'Being neutral means that you stand there and you say "Well, I have nothing to do with it", while being impartial means that you stand there, you judge the situation as it is and you take charge'.¹³ In contrast, John Ruggie's definition is somewhat more restrictive. He defined impartiality in the use of force as 'meaning without *a priori* prejudice or bias and in response to violations of agreements, Security Council mandates, or norms stipulated in some other fashion'.¹⁴ Impartiality here is a *reactive* rather than active rationale, and this does not necessarily presuppose the independence of judgement or the need to seize an initiative *in situ*. Jane Boulden articulates the concept as the 'sense of decisions that should be "without prejudice" and not favouring one side or another', and 'on this basis' she opines that 'any Security Council decision that

affects one of the parties to the conflict, in either a positive or negative way, strays from impartiality'.¹⁵ This definition, like Ruggie's, sees the essence of impartiality in the lack of prejudice instead of the equality of treatment (as in neutrality), and yet the latter part of her statement casts doubts on how this notion of impartiality can be distinguished from neutrality. Finally, in what appears to be an attempt to integrate these earlier conceptualizations, the 2008 *Principles and Guidelines* (previously known as the 'capstone doctrine'), the highest-level document in a newly created series of UN guidance material on peacekeeping, defines impartiality as 'without favour or prejudice to any party' or as 'even-handedness'. At the same time, it argues for the need not to 'condone actions by the parties that violate the undertakings of the peace process or the international norms and principles that a United Nations peacekeeping operation upholds'.¹⁶ Relying on the rhetoric of a good referee, this articulation is, however, rather vague in explaining what actions that need entails and how they relate to even-handedness.¹⁷

These definitional efforts broadly confirm that discussion on new impartiality took place in the context of the search for a principle for forcible action without undermining equidistance. But they also reveal differences as to the nature of such a principle. First, new impartiality is intended to expand the range of possible action by peacekeepers beyond that prescribed by neutrality, especially in the direction of a more forcible and proactive posture. But different definitions offer different ideas on what basis such action should become possible. Second, though this conceptualization entails and indeed requires the differentiation of impartiality from neutrality, new impartiality does not intend to erase neutrality from the peacekeeping vocabulary. The question here is the exact relationship between new impartiality and neutrality: how can the requirement of not undermining equidistance be ensured in designing the concept of new impartiality? Again, the above definitions give different answers, ranging from emphasizing the sanctity of peacekeeping mandates to pointing out the actual lack of overlap between impartial conduct and neutral conduct.

New impartiality thus continues to suffer from these ambiguities, which are not likely to be resolved by merely offering another conceptual articulation. Instead, this article takes a different approach: it seeks to grasp the meaning of new impartiality by looking at how it has been operationalized in recent peacekeeping missions. Operationalization here means two things. The first concerns the process in which the notion has been expressed in peacekeeping mandates. A review of post-Brahimi operations generates two such expressions, here called *robust mandate implementation* and *humanitarian protection*, respectively. The second concerns the way in which these two components of impartiality are reflected in peacekeeping practice. From this perspective, I briefly consider the cases of the UN Mission in Sierra Leone (UNAMSIL) and the UN Stabilization Mission in Haiti (MINUSTAH). The case of Sierra Leone deserves special attention in our discussion because the UN coinage of the language of new impartiality was closely connected to the process of UNAMSIL's expansion in the first half of 2000. Examining MINUSTAH's operation in Cité Soleil is important because it suggests a set of difficulties for new impartiality that may be increasingly typical in peacekeeping. The review of these cases as well as

peacekeeping mandates will show how robust mandate implementation rather than humanitarian protection has constituted the actual substance of the meaning of impartiality. The conclusion summarizes the key findings. Since this article has a relatively narrow focus on articulating a meaning of new impartiality from operational perspectives, it does not deal with broader politico-strategic issues surrounding new impartiality. The conclusion, however, sketches some of these as areas for further analysis.

Impartiality in Peacekeeping Mandates

A review of post-Brahimi peacekeeping mandates reveals two ways in which impartiality has been operationalized in peacekeeping mandates. Robust mandate implementation means a use of force to achieve the mission mandate, including by ensuring the security and free movement of UN personnel in discharging the mandate.¹⁸ Humanitarian protection means a use of force to protect civilians in danger and provide secure conditions for humanitarian workers, within peacekeepers' capabilities and areas of responsibility and without prejudice to the government concerned.

These two ideas emerged first in the expanded mandate of UNAMSIL. The expansion took place in early 2000, at the very time when the Brahimi panel was deliberating recommendations. That the expansion and the panel's work formed part and parcel of the evolution of UN thinking on peacekeeping at that time was acknowledged by Kofi Annan. In a report on UNAMSIL issued three days after the release of the Brahimi Report, the UN Secretary-General argued that 'the course taken by the Security Council, Member States and the Secretariat with regard to the situation in Sierra Leone represents an important first test of our joint responsibility to implement the practical recommendations made by the Panel, with a view to making the United Nations truly credible as a force for peace.'¹⁹ UNAMSIL, originally established by Resolution 1270 (22 October 1999) to help implement the Lomé Peace Agreement, was expanded in February and August 2000. In the first expansion, Resolution 1289 (7 February 2000) authorized UNAMSIL to 'take the necessary action' for the new tasks, including provision of security at key locations, government buildings, and major transport routes; facilitation of the free flow of people, goods and humanitarian assistance; provision of security at disarmament, disengagement and reintegration (DDR) sites; assistance to law enforcement authorities; and guarding collected military equipment.²⁰ It also reaffirmed a provision in Resolution 1270, which had decreed that 'in the discharge of its mandate UNAMSIL may take the necessary action to ensure the security and freedom of movement of its personnel and, within its capabilities and areas of deployment, to afford protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone and ECOMOG [Economic Community of West African States Monitoring Group].'²¹

If Resolution 1289 thus put forward robust mandate implementation and humanitarian protection, the second expansion in August connected these ideas with the need for peacekeepers to downplay the operational priority of the

neutrality principle. In response to the attacks on and hostage-taking of UNAMSIL personnel by the Revolutionary United Front (RUF) in May 2000 (eventually resolved following the arrival of British rapid reaction forces), Resolution 1313 (4 August 2000) authorized the peacekeepers to 'deter and, where necessary, decisively counter the threat of RUF attack by responding robustly to any hostile actions or threat of imminent and direct use of force'.²² UNAMSIL was here authorized to repel attacks – direct or even imminent; moreover, the RUF was named the hostile party to UNAMSIL. The reason for this change was the realization that the RUF's actions constituted 'a breakdown of the prior, generally permissive environment based on the Agreement and predicated on the cooperation of the parties' and that 'the structure, capability, resources and mandate of UNAMSIL require appropriate strengthening' in order to deal with this breakdown.²³ This acknowledged break with neutrality certainly appears to go against the idea of impartiality as a rationale for forcible action *without undermining equidistance*. But this is precisely where new impartiality shows its uniqueness: to use the distinctions made in debates in the 1990s concerning the issue of consent in 'wider peacekeeping' or 'grey-area operations',²⁴ the requirement of not undermining equidistance is retained only at the highest political or strategic level, and this effective downplaying of neutrality as an operational principle is justified by the power of the foundations on which impartial uses of force would now be based. There are two such foundations. One is a peacekeeping mandate itself, which in turn presumes the existence of a peace agreement between belligerent parties. As in the case of UNAMSIL, these two have come to be closely connected: the duties specified in the former are usually designed to help implement the corresponding provisions of the latter. In the words of the 2008 *Principles and Guidelines*: 'Since United Nations peacekeeping operations are normally deployed to support the implementation of a cease-fire or a more comprehensive peace agreement, Security Council mandates are influenced by the nature and content of the agreement reached by the parties to the conflict.'²⁵ Combined, they justify and call for robust implementation of the mandated tasks.

The inclusion of peace agreement as part of such foundation distinguishes robust mandate implementation from peace enforcement, because the latter does not presume the presence of party consent as implied in the existence of a peace agreement.²⁶ The other foundation applies to humanitarian protection: the power of the human rights and humanitarian norms that justifies a use of force to save the unarmed from unprovoked violence.

The two operational principles of new impartiality introduced in Resolution 1289 are thus strengthened in Resolution 1313 by relegating neutrality to a background principle. Downplaying neutrality in favour of impartiality, however, is different from replacing neutrality with impartiality: neutrality still does play a role in assessing the overall political situation of a country, and yet new impartiality now leads peacekeepers by virtue of their mandates, the peace agreements, and the human rights norm. Indeed, it should be noted that Resolution 1313's self-conscious break with neutrality stands as a rather rare exception. In most peacekeeping missions created or expanded in the subsequent period, robust

TABLE 1:
IMPARTIALITY IN UN PEACEKEEPING AFTER UNAMSIL

Mission	Resolutions	Mandate implementation	Humanitarian protection
UN Organization Mission in the DRC (MONUC)	1291 (24/2/2000) 1417 (14/6/2002) 1493 (28/7/2003)	×	○
MONUC – expanded	1565 (1/10/2004) 1756 (15/5/2007)	○	○*
UN Mission in Liberia (UNMIL)	1509 (19/9/2003) 1521 (22/12/2003) 1607 (21/6/2005)	○	○*
UN Operation in Ivory Coast (UNOCI)	1528 (27/2/2004) 1584 (1/2/2005) 1609 (24/6/2005)	○	○*
UN Stabilization Mission in Haiti (MINUSTAH)	1542 (30/4/2004)	○	○*
UN Operation in Burundi (ONUB)	1545 (21/5/2004)	○	○*
UN Mission in Sudan (UNMIS)	1590 (24/3/2005)	×	○
UN Interim Force in Lebanon (UNIFIL) – expanded	1701 (11/8/2006)	×	○
AU/UN Hybrid Operation in Darfur (UNAMID)	1769 (31/7/2007)	×	○

*Humanitarian protection is included as one of the tasks of the overall mandate.

mandate implementation and humanitarian protection have been the stated aims of peacekeepers' use of force, while these mandates do not contain a reference to a clear 'hostile party' to the peacekeepers (Table 1).

Some notes of clarification are necessary at this juncture. First, the UN Mission of Support in East Timor is not included in Table 1 because of its novel nature as a mission for transitional administration of the country. The UN Integrated Mission in Timor-Leste is a non-Chapter VII operation without military component and also ruled out. Second, UNMIL and MINUSTAH (see also below) both lack a standard expression authorizing the use of force ('all necessary means'). But they were defined under Chapter VII as 'stabilization forces' that would be based on the need for 'a robust approach, to have the capacity to react adequately to changing circumstances and pre-empt potentially destabilizing events'.²⁷ Third, the fact that the Sudanese government persistently objected to the deployment of UN peacekeepers cast a clear shadow on the mandates of UNMIS and UNAMID, both of which lack a reference to robust-use-of-force authorization.²⁸

Now, with regard to the application of the two operational rationales of impartiality to peacekeeping mandates, there are at least two trends. First, the scope of humanitarian protection appears to have been gradually expanded. All the operations listed above were given explicit authorization to protect civilians under imminent physical threat. Moreover, starting with UNMIL, six of the subsequent missions (UNOCI, expanded MONUC, ONUB, UNMIS, UNIFIL, and UNAMID) were explicitly tasked with the provision of security for humanitarian

workers as well. In April 2006, the Security Council confirmed this expansion by articulating the scope of the protection: UN peacekeeping mandates can include 'where appropriate and on a case-by-case basis, provisions regarding (i) the protection of civilians, particularly those under imminent threat of physical danger within their zones of operation, (ii) the facilitation of the provision of humanitarian assistance, and (iii) the creation of conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and internally displaced persons'.²⁹

Second, and contrary to this first point, it nevertheless appears that humanitarian protection is gradually subsumed under a wider notion of robust mandate implementation. There are two ways in which this takes place. In UNMIL, UNOCI, MINUSTAH, ONUB, and (after October 2004) MONUC, humanitarian protection forms part of the mandate: humanitarian protection becomes one of the mandated tasks for which peacekeepers are authorized to use force. For UNMIS, expanded UNIFIL, UNAMID, and early MONUC, humanitarian protection appears to be given a separate treatment, whereby an explicit use-of-force authorization is granted for this purpose, but not for mandate execution. However, this authorization to take all necessary means is not dedicated solely to humanitarian protection: rather, it invariably aims at the protection of UN personnel, facilities, and equipment as well. This informs a wider assumption: to use the expression used in Resolutions 1270 and 1289, the overall context is the need to afford protection to UN personnel as well as civilians and humanitarian personnel *in the discharge of the mandate* of a peacekeeping force. For proper execution of the mandate, UN personnel must be reasonably protected and ensured the freedom of movement; and once they are *in situ*, they must be equipped and authorized to protect civilians and humanitarians *under their care* (hence the oft-added proviso limiting humanitarian protection 'in the areas of deployment of its forces and as it deems within its capabilities'). The assumption that humanitarian protection plays a limited part in the operationalization of new impartiality vis-à-vis robust mandate implementation can also be gleaned from the typical manner in which the protection of civilians is authorized. Humanitarian protection is qualified not just to the areas and capabilities of the mission's deployment; it also always goes with a reminder of the responsibilities of the government and police authorities. The latter restriction, however, usually does *not* apply to robust mandate implementation, which thus enjoys wider latitude in practice.

In short, as far as peacekeeping mandates are concerned new impartiality has come to mean, in practice, robust mandate implementation. Though the quest for new impartiality was motivated in part by the humanitarian crises faced by peacekeepers in the past decade, humanitarian protection has not been established as a principle that expresses new impartiality on its own. Instead, it has become a functional component of peacekeeping mandates, which, however, focus on wider objectives concerning the extension of state authority and the restoration of stability. Thus located, humanitarian protection may or may not be activated, depending on the overall assessment of the situation in the field.³⁰ As Richard Gowan and Ian Johnstone point out: 'Although much of the original rhetoric of protection was rooted in humanitarian language, therefore, it is coming to be associated with law and order more generally.'³¹

Impartiality in Peacekeeping Practice: UNAMSIL and MINUSTAH

We have seen how post-Brahimi operations have translated new impartiality into robust mandate implementation, whose authority derives directly from the peacekeeping mandate itself that often includes an explicit use-of-force authorization. But has this translation been reflected in peacekeeping practice? The following examines the cases of Sierra Leone and Haiti.

UNAMSIL: The Hostage Crisis

The UNAMSIL operation after the injection of British troops on 9 May 2000 suggests a positive answer. Operation *Palliser* gave a much-needed boost to the peacekeepers, who, along with government forces and pro-government militias, initiated counter-attacks against the RUF, and in the course of June and July successfully conducted a series of offensive (and even pre-emptive) operations in cooperation with the British to break RUF resistance and rescue UN hostages. These operations were directed mainly against the RUF but also against the West Side Boyz (comprising members of the former Sierra Leone army), who had initially cooperated with UNAMSIL and the government but had turned anti-government and clashed with the government forces from late May.³² Since it was these rebel militias that blocked the implementation of the Lomé Agreement, UNAMSIL took robust action against them to defend its mandate, which was integrally connected to the agreement itself. In contrast, humanitarian protection did not feature prominently in UNAMSIL's new robust posture. Annan reported in July that all the fighting groups had perpetrated human rights violations such as 'extrajudicial executions, mutilation, torture, rape and sexual abuse, forced labour, abduction and forced recruitment, use of children as soldiers, and destruction and looting of civilian property, as well as massive internal displacement of persons'.³³ As indicated already, however, UNAMSIL's robust operations focused on the strategic tasks of recapturing the RUF-held territory, stabilizing the country and rescuing its own personnel.

But this robust posture was not without difficulties. First, it is important to note that these robust actions in June and July can be better explained with reference to Resolution 1313 than Resolution 1289, and that the former was adopted only *after* these operations passed their peak. In this context, Resolution 1313's authorization to respond robustly to the RUF threat can be rightly seen as an *ex post facto* justification for what had already been done by the peacekeepers. As noted, Resolution 1289 had already given a use-of-force authorization for a wide range of mandated tasks as well as for the protection of UN personnel and civilians, but it would require some creative interpretation of its provisions to perceive all the UNAMSIL actions in the period on that basis. Between these two resolutions, there were two other resolutions on Sierra Leone adopted in May and July, and yet neither of them addressed the lacuna in the existing mandate. Resolution 1299 (19 May 2000) increased UNAMSIL's military component to a maximum of 13,000.³⁴ In proposing this reinforcement, the Secretary-General had argued that it would serve not only to ensure the protection of civilians and government institutions but also to maintain 'a sufficient strength

in the areas under Government control to deter and, if necessary, repel further attacks by [the] RUF'.³⁵ But Annan did not propose reinforcement of the mandate along that line, because he judged that Resolution 1289 had provided UNAMSIL 'with sufficient authority to conduct the necessary operations'.³⁶ In the preceding weeks, in early May, there were also voices calling for a revision of the existing mandate to make UNAMSIL a 'peace-enforcement mission'.³⁷ It was nevertheless only three months later that the clear need to take robust action against the RUF was recognized – with an almost identical wording to Annan's proposal quoted earlier – in the text of a Security Council resolution (Resolution 1313).

As noted, robust mandate implementation as the operational principle of new impartiality is founded on the need to implement Security Council-mandated tasks. As such, it depends for its impartial status on a close 'fit' between the mandate and peacekeeper actions. UNAMSIL action in the most crucial period of its operation lacked such a fit. It must also be pointed out, however, that the realities in the field between May and August 2000 did indeed require UNAMSIL to take *more* robust action than had been authorized by its mandate. The responsibility of the Security Council and the Department of Peacekeeping Operations (DPKO) in its supporting role therefore looms large: ensuring robust mandate implementation in practice requires continuous review and flexible adjustment of the given mandate by the Security Council, which in turn needs accurate input of information from the field and the UN headquarters.

Another potential problem suggested in the UNAMSIL experiences concerns the gap between the mandate and the available resources. The gap itself is fairly pervasive and applies to virtually all UN peacekeeping missions. But it takes on a greater importance in the context of robust mandate implementation because of its very robustness: the tasks are mandated with an estimate that they may require occasional use of force. This means that a robust force with sufficient equipment and rules of engagement must be present and, without appearing provocative, must establish itself as such through an effective show and use of force. But UNAMSIL peacekeepers were poorly equipped and briefed from the start,³⁸ as a result of which their organization easily broke down as the RUF tried to test its resolve by a series of detentions and ambushes from early 2000,³⁹ culminating in the events of May 2000. As previously suggested, while many Security Council members were pressing for a more robust mandate in the debates leading to the adoption of Resolution 1299 in mid-May, Annan opted for a change only in the size of UNAMSIL's military component. This was because he did not think that such a mandate could be matched by offers of necessary resources by member states. '[W]hatever mandate is decided,' he told the Security Council on 11 May, 'the first priority for the Council must be to ensure that we have the capacity to carry out the tasks that its mandate implies.'⁴⁰ But as the UN assessment team found out in its visit to the country in early June, UNAMSIL continued to suffer from lack of proper resources and training.⁴¹ This situation was further exacerbated by the adoption of Resolution 1313, which created a new pressure on UNAMSIL to take on additional tasks and extend deployment areas. In late August, the Secretary-General proposed an increase in the mission's

military strength to 20,500 military personnel, but the proposal did not receive Security Council authorization because of the absence of sufficient offers by member states – in fact, newly offered gains of personnel and equipment were outnumbered by subsequent losses caused by the decisions of major contributing countries to withdraw.⁴²

Third, the case of UNAMSIL suggests the width of potential military action required for robust mandate implementation. Robust execution of the mission mandate and the related provisions of the peace agreement demands not merely defending the mission and the mandate from collapsing (as UNAMSIL nearly did), but also imposing the will of the mission upon recalcitrant parties in a pre-emptive manner. This allows peacekeepers to respond flexibly to changing situations, but also permits diverse and even confusing interpretations as to the priority of tasks.⁴³

MINUSTAH: Stabilizing Operation in Cité Soleil

Unlike UNAMSIL, MINUSTAH was given a relatively consistent mandate from the start. After the anti-Aristide riots forced the Haitian president to go into exile in late February 2004, the new interim president, Boniface Alexandre, asked the UN to dispatch a stabilization force. In Resolution 1529 (29 February 2004), the Security Council authorized a US-led multinational force to maintain security in the country for not more than three months, while announcing its intention to establish a peacekeeping mission that would serve as a follow-on stabilization force. Resolution 1542 (30 April 2004) established MINUSTAH, under Chapter VII, as such a force, and gave it a mandate consisting of three parts: ensuring a secure and stable environment, supporting the political process and the extension of state authority, and promoting the protection of human rights. The first part of the mandate made MINUSTAH responsible for ensuring a secure and stable environment in support of the transitional government and assisting it with 'the restoration and maintenance of the rule of law, public safety and public order in Haiti', especially through the provision of operational support to the Haitian National Police (HNP). This part also includes humanitarian protection as well as the protection of UN personnel and properties. Though the resolution did not provide an explicit use-of-force authorization, MINUSTAH was thus created as a Chapter VII-based stabilization force with a comprehensive mandate. As Annan wrote in his proposed concept of operation, the mission 'would operate under robust rules of engagement with sufficient capacity to be able to deal with threats to the implementation of its mandate'.⁴⁴

The security situation in Haiti deteriorated from late September 2004, triggered by pro-Aristide demonstrations in Port-au-Prince to commemorate the thirteenth anniversary of the military coup on 30 September. The demonstrations turned violent, and flared up as the transition government arrested political and religious leaders associated with Aristide and his party, Fanmi Lavalas, for inciting the violence in the following week. More than 60 people, including 13 HNP officers, were killed in October.⁴⁵ Partly due to its slow pace of deployment, MINUSTAH was slow to intervene at the start of this crisis, but widespread criticism of its inaction moved the mission to implement its mandate more robustly

from mid-December.⁴⁶ Resolution 1608 (22 June 2005) backed this through such reinforcements as a 750-member rapid reaction force, a new sector HQ in the capital, and an additional 275 civilian police.

The mission's operations in Cité Soleil demonstrate this orientation, along with the difficulties associated with it. Cité Soleil was one of the shanty towns in Port-au-Prince that had become a stronghold among armed Lavalas supporters and gangs and, in contrast to places such as Bel-Air, posed an increasing security threat in the capital. On 14 December 2004, MINUSTAH started a stabilizing operation with the HNP, following which they set up police stations and conducted extensive patrols in the area.⁴⁷ In the following months, MINUSTAH conducted a series of operations to arrest gang members and seize weapons and ammunition. The slum's pro-Aristide gang leader, Emmanuel 'Dread' Wilme, was killed during the operation on 6 July 2005. Though MINUSTAH peacekeepers rescued kidnap victims and conducted a 'variety of humanitarian activities within their limited means',⁴⁸ their focus was mainly on the regaining of security and stability in the area through robust military and police operations.⁴⁹

There are two issues worth highlighting, both related to the broad issue of enforcement. One is the absence of peace agreement that would provide a foundation of legitimacy for the MINUSTAH operation. MINUSTAH was deployed by invitation from the transition government, whose relations with Fanmi Lavalas were tense. The 'Consensus on Political Transition' agreement of 4 April 2004 was meant to serve as a starting point for a peace process, but Fanmi Lavalas refused to sign it. And this situation continued until the process of presidential and legislative elections managed to take hold in late 2005. In short, in this period, MINUSTAH was to work in support of one side in this polarized political environment; and this perception deepened through its cooperation with the HNP that was seen as largely anti-Aristide.⁵⁰ If robust mandate implementation relies in part on the existence of a peace agreement, MINUSTAH's robust operations lacked this condition; and when they were directed against parties who did not agree with its deployment, they took on the character of *peace enforcement*.

The second issue is related to the nature of the violence in Cité Soleil. It became increasingly evident that the violence, though initially connected with and supported by the members of Fanmi Lavalas, took on a life of its own.⁵¹ The election of René Preval (who was supported by Lavalas moderates and some hardliners too)⁵² to the presidency and the establishment of a broad-based government in May 2006 did not lead to the dissolution of armed gangs, who continued to kidnap, kill, rob and displace civilians.⁵³ With backing from competing political, business and criminal interests, they also fought each other.⁵⁴ This raises a question: how can an impartial use of force be applied to control the violence that is not political but *criminal*? At this point, the question becomes one of *law enforcement*: there is a need for impartial peacekeeping to be effectively combined with law enforcement operations by civilian police and formed police units.

The relationship between impartiality and the two modes of enforcement is a question that goes well beyond the scope of this article, but deserves some

additional comments here. It is clear that impartial peacekeeping is compatible with law enforcement, but not peace enforcement. On the one hand, differences remain as to the premises of peacekeeping and peace enforcement. In order to retain new impartiality as a unique mode of forcible action by peacekeepers, every political effort should be expended to frame the commitment of local parties and groups within some sort of political agreement that can be linked to the peacekeeping mandate. On the other hand, law enforcement has long been a feature of UN peacekeeping, whose importance has grown with the awareness of the prevalence of organized criminal violence in many situations to which peacekeepers are deployed.⁵⁵ It is this combination of robust mandate implementation and law enforcement that should guide peacekeeping operations.

Conclusion

The mandates and practices of the post-Brahimi operations suggest that new impartiality has come to mean robust mandate implementation, founded on the powers of the Security Council-authorized mandate as well as the peace agreement signed by the parties to the conflict. Humanitarian protection has become a staple component of peacekeeping mandates, though the centre of gravity usually lies in their military and strategic aspects. Neutrality as equidistance is retained only as a strategic perspective from which to evaluate the international community's overall relationship with the main political groupings.

The brief analysis of the experiences of UNAMSIL and MINUSTAH broadly confirms this articulation, and yet also suggests several problems as well. UNAMSIL's experience suggests a range of difficulties that are pervasive in the management of peacekeeping in general (mandate, resources, and the priority of tasks) but become pronounced as it becomes more impartial. The case of Haiti suggests two different ways in which peacekeeping impartiality is related to the issue of enforcement: the absence of peace agreement encompassing all the main political actors made MINUSTAH's robust operation take on the character of peace enforcement; and the growing challenge of gang violence required the peacekeepers to engage in law enforcement operations.

The notion of impartial use of force has evolved more or less consistently on the operational level, but the problems and limitations listed above suggest that its operationalization requires more resource backup, better mandate and task management, and clearer articulation of its relationship with law enforcement activities. Beyond these difficulties faced in the field, there are also several broader issues that deserve further analysis. One such area concerns how new impartiality has played out in the politics concerning the deployment of peacekeepers. Though new impartiality is a principle established on a number of Security Council resolutions and therefore presumed to be accepted among many member states, this new and riskier posture probably raises the threshold for these states, especially those in the industrialized West, to contribute troops to UN missions. On the receiving side, it changes the calculus of the host government which can become more cautious in agreeing with a proposed concept of operation. A second issue is the impact of new impartiality on the UN's standing in global

politics. As mentioned at the outset, new impartiality was introduced against the background of UN peacekeeping failures in the 1990s. UN peacekeeping with a robust mandate can boost the UN standing and expand its legitimacy, but only insofar as it produces tangible results. The current unprecedented scale and number of UN peacekeeping deployments will provide ample sources of investigation in this regard. Finally and relatedly, the introduction of new impartiality can be seen as part of the historical change in rules concerning military intervention on behalf of the 'international community'.⁵⁶ From this perspective, one could see the rearticulation of UN peacekeeping as a robust, impartial mode of intervention in at least two different ways: either as a positive, realistic development of the notion of collective security that the UN purports to represent, or as the latest, subtle version of the Western-led efforts to manipulate post-conflict (and often post-colonial) societies with less human cost to their own societies. The notion of new impartiality is indeed central to all these questions and likely to remain on the peacekeeping agenda for quite some time.

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NOTES

1. Quoted in Trevor Findlay, *The Use of Force in UN Peace Operations*, Oxford: Oxford University Press, 2002, p.29.
2. 'Summary Study of the Experience Derived from the Establishment and Operation of the Force', UN doc., A/3943, 9 Oct. 1958, para.167.
3. This article focuses on the principle of impartiality. For a concise overview of issues related to the UN peacekeeping doctrine in general, see Salman Ahmed, Paul Keating and Ugo Solinas, 'Shaping the Future of UN Peace Operations: Is There a Doctrine in the House?', *Cambridge Review of International Affairs*, Vol.20, No.1, 2007, pp.11–28.
4. See Shyla Vohra, 'Impartiality in United Nations Peace-Keeping', *Leiden Journal of International Law*, Vol.9, No.1, 1996, pp.63–85.
5. This tendency has not disappeared altogether. See, e.g., Nicholas Tsagourias, 'Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension', *Journal of Conflict and Security Law*, Vol.11, No.3, 2006, pp.465–82.
6. See, e.g., 'Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda', UN doc., S/1999/1257, 16 Dec. 1999; 'Report of the Secretary-General pursuant to General Assembly Resolution 53/35: The Fall of Srebrenica', UN doc., A/54/549, 15 Nov. 1999.
7. 'Report of the Panel on United Nations Peace Operations', UN doc., A/55/305-S/2000/809, 21 Aug. 2000.
8. *Ibid.*, para.48.
9. *Ibid.*, para.49.
10. *Ibid.*, para.50.
11. Dominick Donald, 'Neutrality, Impartiality and UN Peacekeeping at the Beginning of the 21st Century', *International Peacekeeping*, Vol.9, No.4, 2002, pp.26–7.
12. *Ibid.*, p.22; see also Dominick Donald, 'Neutral Is Not Impartial: The Confusing Legacy of Traditional Peace Operations Thinking', *Armed Forces and Society*, Vol.29, No.3, 2003, pp.417–18.
13. 'When the Gloves of Peace Come Off', *BBC News*, 18 Apr. 2007, accessed at http://news.bbc.co.uk/go/pr/fr/-/2/hi/in_depth/6542399.stm.

14. John Gerald Ruggie, 'The UN and the Collective Use of Force: Whither or Whether?', in Michael Pugh (ed.) *The UN, Peace and Force*, London: Frank Cass, 1997, p.14.
15. Jane Boulden, 'Mandates Matter: An Exploration of Impartiality in United Nations Operations', *Global Governance*, Vol.11, No.2, 2005, pp.150; see also Jane Boulden, *Peace Enforcement: The United Nations Experience in Congo, Somalia, and Bosnia*, Westport, CT: Praeger, 2001, p.3.
16. *United Nations Peacekeeping Operations: Principles and Guidelines*, Peacekeeping Best Practices Section, Division of Policy, Evaluation and Training, Department of Peacekeeping Operations (DPKO), New York, Jan. 2008, p.33.
17. One can also note that this definition somewhat widens the scope of loyalty to unspecified 'international norms and principles' and further complicates the associated problem pointed out earlier.
18. As such, robust mandate implementation is intended to be more active than the notion of mission defence, which originally emerged as an extension of the self-defence norm for Chapter VI operations. For discussions on the concept of mission defence, see Findlay (n.1 above), ch.4; Christopher K. Penny, "'Drop That or I'll Shoot... Maybe": International Law and the Use of Deadly Force to Defend Property in UN Peace Operations', *International Peacekeeping*, Vol.14, No.3, 2007, pp.354–8.
19. 'Sixth Report of the Secretary-General on the United Nations Mission in Sierra Leone', UN doc., S/2000/832, 24 Aug. 2000, para.56.
20. Security Council (SC) Res. 1289, para.10.
21. SC Res. 1270, para.14.
22. SC Res. 1313, para.3.
23. SC Res. 1313, para.2. For subsequent changes in the UNAMSIL mandate, see SC Res. 1389, 16 Jan. 2002, paras.1–3; SC Res. 1537, 30 Mar. 2004, para.5; SC Res. 1562, 17 Sept. 2004, paras.2–3.
24. For a good summary of the debate, see Neil Fenton, *Understanding the UN Security Council: Coercion or Consent?* Aldershot: Ashgate, 2004, pp.23–32.
25. *Principles and Guidelines* (see n.16 above), p.16.
26. *Ibid.*, p.19.
27. 'Report of the Secretary-General to the Security Council on Liberia', UN doc., S/2003/875, 11 Sept. 2003, para.57.
28. UNAMID was established after the authorized expansion of UNMIS to Darfur (Resolution 1706, 31 Aug. 2006) failed to materialize. Resolution 1769 authorized UNAMID to 'take the necessary action ... to support early and effective implementation of the Darfur Peace Agreement, [and] prevent the disruption of its implementation and armed attacks', but the linkage between this and the mission mandate was apparently left vague. See 'Report of the Secretary-General and the Chairperson of the African Union Commission on the Hybrid Operation in Darfur', UN doc., S/2007/307/rev.1, 5 Jul. 2007, paras.54–5.
29. SC Res. 1674, 28 Apr. 2006, para.16.
30. But even in situations that require humanitarian protection, its execution contains a number of difficulties such as the lack of standardized guidelines and the generation of unnecessary expectations among civilians. See Ian Johnstone, 'Dilemmas of Robust Peace Operations', in Center on International Cooperation, *Annual Review of Global Peace Operations 2006*, Boulder, CO: Lynne Rienner, 2006, pp.6–7.
31. Richard Gowan and Ian Johnstone, 'New Challenges for Peacekeeping: Protection, Peacebuilding and the "War on Terror"', *Coping with Crises* working paper, International Peace Academy, Mar. 2007, p.6.
32. 'Fifth Report of the Secretary-General on the United Nations Mission in Sierra Leone', UN doc., S/2000/751, 31 Jul. 2000, paras.22–3.
33. *Ibid.*, paras.37, 47–8.
34. Resolution 1306 (5 Jul. 2000) focused on the reinforcement of the bans on the diamond and arms trades and did not touch on UNAMSIL.
35. 'Fourth Report of the Secretary-General on the United Nations Mission in Sierra Leone', UN doc., S/2000/455, 19 May 2000, para.83.
36. *Ibid.*, para.89.
37. Quoted from the remarks by the representative of Algeria on behalf of the Organization of African Unity. See also remarks by the representatives of Canada, Malaysia, Bangladesh, Namibia, Jamaica, Ukraine, France, Tunisia and China. UN doc., SCOR, S/PV.4139, 11 May 2000.
38. John L. Hirsch, 'War in Sierra Leone', *Survival*, Vol.43, No.3, 2001, pp.157–8; DPKO Peacekeeping Best Practices Unit, 'Lessons Learned from United Nations Peacekeeping Experiences in Sierra Leone', Sept. 2003, pp.36–8, 79–80.

39. 'Third Report of the Secretary-General on the United Nations Mission in Sierra Leone', UN doc., S/2000/186, 7 Mar. 2000, paras.11–15.
40. S/PV.4139. Representatives of India and Jordan also expressed similar views.
41. UN doc., S/2000/751, paras.53–4.
42. See Sixth, Seventh and Eighth 'Reports of the Secretary-General on the United Nations Mission in Sierra Leone', UN docs., S/2000/832, S/2000/1055 and S/2000/1199, 24 Aug., 31 Oct. and 15 Dec. 2000.
43. Johnstone (see n.30 above), p.5.
44. 'Report of the Secretary-General on Haiti', UN doc., S/2004/300, 16 Apr. 2004, para.105.
45. 'Report of the Secretary-General on the United Nations Stabilization Mission in Haiti', UN doc., S/2004/908, 18 Nov. 2004, paras.9–14.
46. International Crisis Group (ICG), 'A New Chance for Haiti?', Port-au-Prince/Brussels, 18 Nov. 2004, p.18; 'Haiti's Transition: Hanging in the Balance', Port-au-Prince/Brussels, 8 Feb. 2005, p.4.
47. 'Report of the Secretary-General on the United Nations Stabilization Mission in Haiti', UN doc., S/2005/124, 25 Feb. 2005, para.5.
48. 'Report of the Secretary-General on the United Nations Stabilization Mission in Haiti', UN doc., S/2006/60, 2 Feb. 2006, para.22.
49. This can be seen in the fact that MINUSTAH conducted its operations in cooperation with the HNP, which had long been associated with human rights violations and criminal activities. Police credibility among Haitians was so low that, as an ICG report warned in November 2004, association with the HNP could endanger the credibility of MINUSTAH's civilian police component. ICG (see n.46 above), p.20. See also Todd Howland, 'Peacekeeping and Conformity with Human Rights Law: MINUSTAH Falls Short in Haiti', *International Peacekeeping*, Vol.13, No.4, 2006, pp. 462–76.
50. ICG, 'Update on Haiti', 8 Apr. 2005, p.2; 'Spoiling Security in Haiti', Port-au-Prince/Brussels, 31 May 2005, p.13.
51. ICG, 'Haiti: Security and the Reintegration of the State', Port-au-Prince/Brussels, 30 Oct. 2006, p.5.
52. ICG, 'Haiti's Elections: The Case for a Short Delay', Port-au-Prince/Brussels, 25 Nov. 2005, pp.6–7.
53. ICG, 'Consolidating Stability in Haiti', Port-au-Prince/Brussels, 18 Jul. 2007, pp.2–10.
54. The intergang rivalry, for instance, led to the murder of a pro-Aristide gang leader, Robenson Thomas, on 30 March 2005.
55. For an informed discussion of related issues, see Renata Dwan (ed.) *Executive Policing: Enforcing the Law in Peace Operations*, Oxford: Oxford University Press, 2002.
56. From the literature on the topic, see in particular Martha Finnemore, *The Purpose of Intervention: Changing Beliefs About the Use of Force*, Ithaca, NY: Cornell University Press, 2004.

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