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Peacekeeper Impartiality: Standards, Processes, and Operations

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Introduction

It is a commonplace (at least among those concerned with peacekeeping) that peacekeeping operations (PKOs) have changed dramatically since the end of the Cold War. At the same time, UN peacekeeping is still ostensibly governed by the “holy trinity” of principles developed earlier in its history – consent, impartiality, and minimum use of force. Understandings of impartiality, in particular, seem to have shifted in response to the increasing prominence of intrastate conflict, and to expectations that peacekeepers will stop human rights abuses and protect civilians as much as oversee an end to open conflict between parties. Impartiality in this context cannot mean simply standing aloof from the conflict – but what then does it mean? UN officials, analysts, and peacekeepers in the field have given different answers. I have my own – impartial peacekeepers should take the impact on the peace process as their primary standard for deciding when and how to take action; should create structured consultations with local parties (armed and otherwise) for deciding how to act when people disagree over what the peace process requires; and should be willing to put all elements of their power, including but not limited to the use of force, in the service of the peace process.

My answer is frankly normative and revisionist, based in reflection on the best concept of impartiality. I will discuss the varieties of answers given publicly, and in my own research to questions about what impartiality means, but I take that variety as evidence that there are many plausible interpretations of “impartiality,” and that some reflection on the space of possible meanings and the arguments that can be given for one interpretation or another can help us make good decisions about how we *should* understand the concept. If nothing else, I hope that clarifying that space of possible meanings may help clarify things and help someone come up with a better answer than mine.

Clarification is needed as peacekeepers undertake more complex and dangerous missions, and are called on to use more force. Lack of consensus is present in the field, and this puts peacekeepers in literal danger if they are not resourced properly for the missions they will undertake and also in danger of failing in the eyes of the international public because expectations were not clear.

The discussion here has implications far beyond the context of UN peacekeeping proper, though. First, UN practices cast a long shadow over peacekeeping/peace enforcement missions undertaken by other organizations, such as the African Union and NATO. Second, national militaries are increasingly involved in irregular contests with intrastate forces, generating increased interest in “peace and stability operations,” even if these are not labeled “peacekeeping.” The UN’s peacekeeping principles were developed to respond to the need of maintaining legitimacy for operations designed to quell conflict in situations not that different from the ones international forces currently face in places like Afghanistan and Iraq. While national militaries may not be constrained by a historical fidelity to impartiality, or by quite the same interests and norms that govern UN peacekeeping, any intervention force that hopes to present itself as “on the side of the people” and not just a foreign conqueror can learn from the issues that have arisen with UN impartiality.

What is Peacekeeping?

This question should be easier to answer than it is, and the answer I give here will inevitably be partial and provisional. Not only is “peacekeeping” vaguely defined in most official sources and a concept that has shifted over time, missions labeled peacekeeping often differ greatly, and the concept borders on a number of related types of operations such as “peace enforcement,” “peacebuilding,” and “stability operations.” Few analysts use precisely the same terminological distinctions, so I will draw from the UN's own doctrine.

The UN capstone peacekeeping doctrine distinguishes between peacekeeping, peacemaking, peace building, and peace enforcement, and marks out peacekeeping as the technique used to “preserve the peace, however fragmented, where fighting has been halted, and to assist in implementing peace agreements.” However, the doctrine itself acknowledges that peacekeeping and other tasks can overlap.¹ While peacemaking-peacekeeping/enforcement-peacebuilding initially sounds like a linear temporal sequence, there is significant overlap, especially when security in one part of a theater of operations may be more stable than that in another. In addition, many elements of peacebuilding, such as disarmament and security sector reform, are found in “multidimensional” missions like the United Nations Mission in the Congo (MONUC) that are colloquially referred to as “peacekeeping.”

In terms of impartiality since (as noted below) the concept is often discussed in the context of the use of force, the most interesting distinction is between peacekeeping and “peace enforcement.” Peacekeeping missions are permitted to use force “at the tactical level,” in self-defense or in defense of the mission, while force at the “strategic” level is reserved for peace enforcement missions. The doctrine does not clearly define its distinction between tactical and strategic force but the key intended difference seems to be that peacekeepers are not to seek the military defeat of groups working against the peace process while peace enforcers may.²

The line is not always entirely sharp, either theoretically or practically. Missions that are ostensibly peacekeeping may use force in part to influence members of spoiler groups to participate in disarmament and demobilization processes – MONUC being a prime example. While this is not defeating the enemy in the sense of killing or capturing all combatants, it is not that far different from counterinsurgency best practices, and so stretches the boundary between tactical and strategic force. Alternatively, we may just admit that missions like MONUC are hybrids between peacekeeping and peace enforcement, just as such complex missions straddle the line between peacebuilding and peacekeeping. But then it is not clear how much guidance the doctrinal distinction gives members of the missions, especially since there are not separate military units for enforcement, the way that a mission will generally have a separate, e.g., Disarmament, Demobilization, Reintegration, Resettlement, and Repatriation (DDRRR) unit.

1 United Nations Department of Peacekeeping Operations Department of Field Support, *United Nations Peacekeeping Operations: Principles and Guidelines* (New York: United Nations, 2008), 18-19 (hereinafter, “DPKO Field Support”).

2 DPKO Field Support, 34-35. This is the doctrine's distinction. “Peace enforcement” is sometimes also used to describe *any* use of force in defense of the mission, as opposed to self-defense, such as actions taken to defend humanitarians in Somalia in the early 1990s. These actions would, I believe, fall under “tactical” uses of force in the Doctrine definition (though the campaign to capture or kill Aideed that grew out of the Somalia operations presumably would not). I am indebted to Dr. Kólá Abímbólá for pressing me to clarify this point.

Despite these concerns, the distinction embodies an important concept for thinking about impartiality. The intuitive grip that impartiality has as an element of peacekeeping is tied to the idea that peacekeepers do not have enemies, properly speaking. If the overall goal is to stabilize a fragmented peace, even the most abusive and recalcitrant spoiler group is potentially part of that process, and peacekeepers should hence not use force in a way that takes sides against any group *qua* group. Peacekeepers are not there to impose their view of a good society, but to help local forces and stakeholders build a society they can live within peacefully. This then raises the core question of impartiality – if peacekeepers are there to bring all the various societal factions together in peace by protecting the process, how can they take actions that harm some factions and not others while maintaining this unbiased caretaker role?

Conceptual Dimensions of Impartiality and Neutrality

Peacekeeper neutrality/impartiality originated in the negotiations between Dag Hammarskjöld and Gamal Nasser over the United Nations Emergency Force (UNEF) in 1956. The compromise concept that emerged was, Dominick Donald argues, ambivalent. On the one hand, Hammarskjöld committed peacekeepers to not altering the distribution of power or prejudicing the interests of either party. On the other, he maintained that the UN should be able to act on its understanding of the charter principles. Practically, the tension tended to be resolved in favor of the more passive, do-not-influence-the-situation neutrality. “Neutrality” and “impartiality” tended to be used interchangeably until post-Cold War operations began to put neutral peacekeepers in tight spots.³

Neutrality, understood as not taking action against any side's interests, coheres nicely with an image of peacekeepers as there not to solve problems, but merely to keep a lid on violence while problems are solved through other means. Neutrality may be appropriate when peacekeepers are serving primarily as an assurance mechanism – creating trust between parties by making sure that any violations of an agreement are publicized. But the post-Cold War has seen increasing pressure for peacekeepers to take more robust action to resolve conflicts, including perhaps using force to enforce their mandate. As a result, a notion of “impartiality” that favors principle over noninterference has gained favor.

Deputy Secretary-General Louise Fréchette made the distinction this way in June 2000:

Impartiality is not the same as neutrality. Of course, United Nations forces must apply impartially the mandate given them by the Security Council. But that is not at all the same as being neutral between parties that obey that mandate and those that resist it, or between those who respect international humanitarian and human rights law, and those who grossly violate it.⁴

The 2000 *Report of the Panel on United Nations Peace Operations* (commonly known as the “Brahimi Report”) put the matter similarly:

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. Such impartiality is not

3 Dominick Donald, “Neutral is Not Impartial: The Confusing Legacy of Traditional Peace Operations Thinking,” *Armed Forces and Society* 23 (2003), 421-430.

4 Louise Fréchette, “Deputy Secretary-General Describes ‘Changing Landscape’ of Peacekeeping in Ottawa Address,” United Nations Press Release DSG/SM/96, 8 June 2000, <http://www.un.org/News/Press/docs/2000/20000608.dsgsm96.doc.html> (accessed October 27, 2006).

the same as neutrality or equal treatment of all parties in all cases for all time, which can amount to a policy of appeasement. In some cases, local parties consist not of moral equals but of obvious aggressors and victims, and peacekeepers may not only be operationally justified in using force but morally compelled to do so.⁵

To these definitions I would add another, proposed by scholar/practitioners with experience in Kosovo. As Michael Dziedzic and Len Hawley put it, a peace operation should take the position that “we support those who support the peace process and actively oppose those who obstruct it.”⁶ Though the authors are not primarily concerned with the neutrality/impartiality distinction, this clearly represents a kind of “even-handedness” in line with impartiality and opposed to a more passive neutrality.

The UN's “capstone doctrine” for peacekeeping operations folds together several different considerations into its definition of impartiality:

United Nations peacekeepers should be impartial in their dealings with the parties to the conflict, but not neutral in the execution of their mandate. The need for even-handedness towards the parties should not become an excuse for inaction in the face of behavior that clearly works against the peace process. Just as a good referee is impartial, but will penalize infractions, so a peacekeeping operation should not 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.⁷

Discussions of impartiality and neutrality often assume that these are more or less unequivocal concepts, that are understood similarly by everyone in the debate, and that the main issue is justifying impartiality against those who would still require the UN to accept passive neutrality. But into all of these short definitions are packed a number of considerations.

The fact that there are different possible understandings of impartiality is not just of theoretical interest. Throughout 2009, a graduate student, Michael Kniss, and I conducted a number of semi-directed interviews with peacekeepers on ethics, in the US, Ghana, the Democratic Republic of Congo (DRC), and Rwanda. We spoke with individuals who had served in a variety of missions, from the early 1990s to the present. Military participants ranged in rank (at the time of their service) from Major to Brigadier General (also, in one case, force commander of the mission); civilians ranged from low-level national staff to leadership-level headquarters staff, and included both civilian police and others. Interviewees were given assurances of confidentiality, so full details of their positions cannot be made public, but notes on specific quotes used in this paper give more indication of their background.

These discussions revealed diverse understandings of neutrality/impartiality.⁸ While interviews were conducted with an eye towards grounded hypothesis generation, and so statistically valid generalizations cannot be derived from them, they indicate that differences of perspective on impartiality do exist among peacekeepers, and can be found across a variety of missions, national origins, roles, and ranks.

5 Panel on United Nations Peace Operations, *Report of the Panel on United Nations Peace Operations*, UN Doc. A/55/305, S/2000/809, §50.

6 Michael J. Dziedzic and Len Hawley, “Introduction,” in *The Quest for Viable Peace: International Intervention and Strategies for Conflict Transformation*, eds. Jock Covey, Michael Dziedzic, and Leonard R. Hawley (Washington, DC: United States Institute of Peace Press, 2005), 16.

7 DPKO Field Support, 33

8 Peacekeepers in the field also seemed to use both the terms “neutrality” and “impartiality,” without the usage necessarily corresponding to different views.

Some peacekeepers held that their role was to work within their often-limited formal mandate, even if this meant they could not take sides they would like to. In a group interview with members of the Ghanaian armed forces who had served with UN missions, they emphasized that their role had often been to observe and report, and they could do little more than ask the mission leadership to intervene at a political level if civilians were threatened. As one put it, attacks on civilians were “affecting,” but there was little to be done – citing both the military weakness and limited mandate of most UN forces.⁹ Holding to the mandate even against personal conscience was seen by some as a way of demonstrating professionalism, avoiding conflict with factions that could undermine the mission, and protecting personnel under the peacekeeper's command from legal problems.¹⁰ On the other hand, another peacekeeper who focused on impartiality as sticking to the mandate, emphasized that this should be done even when it caused conflict with local factions. This same interviewee acknowledged that sometimes a mandate or orders were “fragmented” or vague, but that in such cases recourse should be had to superior officers, not to one's own understanding of things.¹¹

In direct contrast, some took a very strong line that impartiality permitted peacekeepers to act according to their own conscience and understanding of fundamental legal and moral principles, even if this was outside the formal mandate and/or did not have superiors' approval. One interviewee was vehement on the subject of the failures of the United Nations Assistance Mission for Rwanda (UNAMIR):

“General Dallaire says he wants instructions. According to me, and according to our teachings, you are to act! Don't tell me you are asking Kofi Annan and he hasn't replied. It's stupid. Act. The UN has sent you and what else do you need? UN frowns on that. So act within what UN doesn't like! ... So, any excuse of inaction, or action saying that you do not know what to do, and blaming instructions is – to me, is punishable. You should be punished for that. We have subscribed to the international humanitarian law. We have signed. So how can your forces be in the field and you have forgotten that? Hasn't Ghana signed international, the Geneva Convention? Haven't you signed? So what excuse do you have for not acting in the face of clear violations of human rights? You have no excuse. So you should act. Act within those documents.¹²

Or, as another interviewee pithily put it, “going by the book is good, but making exceptions is perfect.”¹³

Others aligned their understanding more closely with the Brahimi report's aggressor/victim distinction, such as one member of the MONUC force who told us that impartiality meant that

9 Confidential group interview (A), with several Ghanaian officers, Accra, Ghana, July 2009. It should be noted that these officers were fairly high-ranking, and most had not served with UN missions in at least a decade (their primary UN service was with the UN Force in Lebanon, UNIFIL), so their views may represent an older understanding of impartiality/neutrality.

10 Confidential interview (B), with a member of the RPF who had served with the African Union/United Nations Hybrid Operation in Darfur (UNAMID), Kigali, Rwanda, December 2009.

11 Confidential interview (C), with a member of the RPF who had served with the United Nations Mission in Sudan (UNMIS), Kigali, Rwanda, December 2009.

12 Confidential interview (D) with former member of Ghana Armed Forces who had served with the Economic Community of West African States Monitoring Group (ECOMOG) and the United Nations Operation in the Congo (ONUC), Accra, Ghana, July 2009. Note that while this interviewee did not serve in UNAMIR, Ghana was one of the nations that maintained troops in country after the main body of the force was withdrawn in the face of the genocide; the interviewee was part of the armed forces leadership at that time. The interviewee raised the issue of Dallaire and UNAMIR of his own accord, not at the prompting of the interviewer.

13 Confidential interview (E) with a member of the RDF who had served with UNAMID military, Kigali, Rwanda, December 2009.

his first priority was to protect civilians, since “civilians are neutral.”¹⁴ Another member of the MONUC military component expressed a similar view, but seemed to take his task as preventing violence *in general*, “as long as nobody is being hurt, I am neutral. If people are being hurt, I am not neutral,” adding that impartiality could not mean standing by while parties killed each other, so that this was not a reference only to preventing harm to *civilians*.¹⁵

Understandings of impartiality sometimes seemed to bleed into consent, as when an interviewee included a need to support the local government forces, since “there can only be one army.”¹⁶ At the same time, other interviewees mentioned national forces as a special *problem* for impartiality, since the mission was mandated to support national forces which themselves violated human rights (and impartiality, implicitly, demanded that all rights violations be treated equally).¹⁷

Interestingly, while official statements on impartiality emphasize penalties and use of force, that was not the first connection for everyone in the field – including some military officers. One military leader with whom we spoke explained his understanding of impartiality as first being about reporting the truth and being unwilling to hide any crimes, even if committed by the national army (that MONUC was supporting). He discussed punishment only later, as a bit of an afterthought.¹⁸ Another spoke about impartiality primarily as a way of understanding the fact that his primary goal in the mission was to de-escalate conflict, making any use of force, even for good reason, a problem.¹⁹

Members of mission political staff, perhaps less suprisingly, also tended to avoid operationalizing impartiality in terms of use of force, extending the concept in spirit to their work. For instance, a MONUC DDRRR staff member described impartiality in terms of being as honest as possible with the individuals they were trying to demobilize.²⁰ A member of the political staff of UNMIS based at UN headquarters described his approach as being modeled on the Red Cross', involving discussing human rights violations with parties privately but evenhandedly publicizing those that could not be addressed adequately.²¹

Even though these concepts of impartiality are often compatible, they reveal diversity in what peacekeepers think is important, and their order of priorities. Clarity about impartiality would at least help peacekeepers understand the ways in which it might manifest differently in their different operational contexts. In addition, having a “deep,” reflective understanding of impartiality will help peacekeepers make better decisions in cases where their obligations might not be entirely clear.

Failure to make expectations about impartiality clear, especially as they relate to use of force, can cause direct operational problems for missions. As one former UN military leader put it, “the

14 Confidential interview (F) with a MONUC military officer, Kibumba, DRC, November 2009.

15 Confidential interview (G) with a MONUC military officer, Goma, DRC, November 2009.

16 Interview G.

17 Confidential interviews (H) with a MONUC international staff member, Goma, DRC, November 2009; and (I) with a member of the Rwanda Defense Forces (RDF) who had served as UNAMID military, Kigali, Rwanda, December 2009.

18 Confidential interview (J) with a MONUC military officer, Goma, DRC, November 2009.

19 Confidential interview (K) with a Rwandan officer who had served with AMIS, Kigali, Rwanda, December 2009.

20 Confidential interview (L) with a member of MONUC DDRRR staff, Goma, DRC, November 2009.

21 Confidential interview (M) with a member of UNMIS political affairs staff, New York, USA, May 2009.

UN is very ambiguous in its resolutions for peacekeeping, the resolutions are never straight to the point... if you insert troops into a mission and the troops know that they are going to fight belligerents, then you go prepared for a firefight... but when you send troops where the situation is still not very clear, most of the time you find their responses are 50-50... If troops are clear in their minds as to what they are going to do there, then they get into that theater and do what they are supposed to do.”²²

Understandings of impartiality can vary along three axes:

- To what standards of conduct should peacekeepers impartially appeal?
- What process should be used to determine whether standards have been violated, and the appropriate response?
- Which aspects of a peacekeeping mission's capacity should be subject to impartiality?

In what follows, I will lay out what I take to be the major, plausible positions that one might take on each of these three questions. I will then turn to my own suggestion about where best to “locate” impartiality along those axes.

Standards

Seven possible standards for impartiality are explicit or implicit in the definitions above.

The Mandate (1): Frechette's statement, the Brahimi Report, the Doctrine, and many interviewees make reference to the mission mandate. This may be the most straightforward understanding of an “impartial” standard. Peacekeepers are given an explicit mission, and may pursue it, even when that harms some parties; they may not follow their consciences beyond the mandate.

A Peace Agreement (2): While no definition I have cited explicitly makes the case for it, the relevant standard might be any peace treaty, cease-fire, or similar *agreement* in place for the conflict into which peacekeepers are introduced.²³ Support for agreements is often incorporated into the mandate, which might account for its absence as a separate standard but we might also understand the overall goal of peacekeepers as there to support a peace agreement, even when that may go beyond the explicit mandate. For instance, Romeo Dallaire, the Force Commander of UNAMIR, regarded supporting the Arusha Accords as authorizing him to create a weapons-secure area in Kigali, including aggressively confiscating weapons.²⁴ Arguably, this action would be permitted by the standards of supporting the peace agreement, but was not ultimately authorized in the mandate. Still, if peacekeepers are supporting the peace agreement, they can plausibly say in defense of their impartiality, “all we are doing is what you agreed to.”

Adhering to a peace agreement rather than the mandate, however, may raise concerns both about peacekeepers overstepping their authority – which comes from the UN, not the parties to the conflict – and conversely of subordinating UN decision-making too much to the local parties. It

²² Confidential interview (N) with a Ghanaian officer who had served with UNIFIL, UNAMIR, and the UN Mission in Liberia (UNMIL), Accra, Ghana, July 2009.

²³ I will refer to any such document as a “peace agreement,” for brevity's sake.

²⁴ Michael Barnett, *Eyewitness to a Genocide: The United Nations and Rwanda* (Ithaca: Cornell UP, 2002).

is one thing to mandate peacekeepers to support a peace agreement, thereby incorporating it into the mandate at the discretion of the Security Council, and another to make it a primary authority.

International Law (3) generally or the UN Charter specifically (4): Frechette refers to the principles of international humanitarian and human rights law, and the Doctrine refers a bit more vaguely to international norms. Alternatively, the Brahimi Report appeals to the principles of the UN Charter.

These sorts of “constitutional” appeals to rules and principles which are to be taken as implicit in any peacekeeping mandate provide a basis for departing from the mandate in some cases of egregious abuse. International law and the Charter represent existing, independent, “black letter” rules to which peacekeepers can appeal as an objective standard. Peacekeepers can plausibly argue that they are all governed by those standards, regardless of particular mandates.

Universal Morality (5): Appeals to “the principles of the Charter,” and the Ghanian officer's angry invocation of the Geneva Conventions, above, seem to be more about the *moral* principles of respect for civilians threatened by conflict involved than about technical legal details of the Conventions. Appeals may be to a comprehensive moral theory, or something more limited, like an appeal to certain universal and basic human rights.²⁵ Only the Brahimi Report language explicitly references the moral character of the parties, but a moralized interpretation of impartiality is often found in practitioners' views.

The advantage of an unabashed appeal to morality is that it gives maximum reign to the prevention of abuses, as impartiality is *definitionally* connected to prevention of evils. The disadvantage is that appeals to morality, where they go beyond what is codified in law or the mandate, are likely to be the most controversial. Without deciding the question of whether there are universal moral truths, we know that not everyone shares the same moral viewpoint. If “impartiality” just means “do what you think is right,” offers no meaningful guidance. It may be possible to define “moral” impartiality in meaningful terms, especially if the reference is to some sub-set of morality, like human rights, but it is not obvious how to do so.

The Aggressor/Victim Distinction (6): An interesting variation on the morality standard is the Brahimi Report's particular moral stance that peacekeepers should not be neutral between aggressors and victims (and should presumably take the side of victims).

It is not clear whether this standard can be formulated in a way that is both distinctive and plausible. If “aggressor” simply means “someone who is using force to achieve his or her goals,” then it is not plausible that peacekeepers should *always* oppose “aggressors,” since some may have perfectly valid moral or even legal reasons for using force. On the other hand, if we understand the distinction in moralized or legalized terms, where “aggressor” means something like “someone who is using *illicit* force to achieve his or her goals,” then we seem to be back with either a legal or moral standard.

The Peace Process (7): Finally, we can move away from explicit mandates and peace

25 That is, someone who believes human rights are universally valid moral principles may not believe they *exhaust* morality. For example, she may believe that everyone, everywhere, has a right to be protected from arbitrary killing. She may also believe that everyone has a right to free health care. Nonetheless, it would be plausible to believe that the special seriousness, or the “negative” nature of the right against arbitrary killing, makes it an appropriate standard for peacekeepers to uphold, while they would not be justified in enforcing free health care if the parties to a conflict did not agree to it.

agreements, but instead of escalating to “higher” rules like international law, take a more functional approach – making the peace *process* the standard rather than a peace *agreement*. This standard shows up in Dziedzic and Hawley, as well as the Doctrine. It is also implicit in interviewees' concerns to de-escalate conflict and not become an enemy to any parties. Peace agreements may be deeply imperfect, as they represent the outcome of a particular negotiation process at a particular time between particular parties, and will bear the marks of the existing balance of power and the strategic maneuvering of the parties to the agreement. They may thus be deeply inequitable, provide cover for re-armament, freeze out certain parties who may then return as spoilers, or provide incentive for parties to become spoilers if their assessment of the situation changes. Focusing on the peace *process* allows peacekeepers to be more flexible and strategic in the face of changing situations on the ground, at the cost of stripping them of much of the cover that pursuit of an explicit agreement provides.

The standard of upholding the peace process may also shade into other standards, especially if peacekeepers take themselves to be pursuing “positive peace,” which includes some measure of good governance and respect for human rights, rather than merely “negative peace,” i.e., the absence of large-scale violence.

There is some overlap between these standards, which is, I think, behind the fact that most definitions of impartiality in official documents and academic discussion appeal to several of them at once. But even closely related standards may have different pros and cons, and so a serious discussion of impartiality should involve determining which one peacekeepers are supposed to appeal to when making decisions.

Process

Standards are impotent without some process for applying them, and decisions about process can often overwhelm decisions about standards in terms of practical import.

The basic problem is that different people may – even if we assume they are judging in good faith – disagree about what the standards require in context.

Some of the standards I have laid out in the previous sections have worse problems on this count than others. We might all agree that peacekeepers ought to obey universal morality, but are unlikely to agree entirely on the content of morality. Similar problems beset a focus on the peace process (since different parties may have different visions of the end-state) and moralized understandings of the aggressor/victim distinction.

If we appeal to the mission mandate, a peace agreement, international law, or the UN charter, there is the advantage of being able to point to a *document*. The basic problem of interpretation is that documents which set out rules and standards are rarely if ever absolutely clear in meaning, especially regarding how they are to be applied to complex situations.

The wording may simply be vague or unclear. Different rules of a system may conflict, with no clear procedure in the rules for resolving that conflict.²⁶ Rules may need to be extended “in

²⁶ This can arise even in a system with a hierarchy of rules. For instance, in the US legal system, the Constitution “trumps” any other laws, but the meaning of the Constitution is often disputed and laws are to be interpreted, if possible, in a way that does not conflict with the Constitution. There are often multiple ways of interpreting the

spirit” to cases not explicitly covered. Rules may make sense in an unspoken/implicit social context that not everyone who is subject to the rules always understands in the same way. Or, the authoritative document may use language that inherently invites judgment, such as “reasonable.”

In peacekeeping, vagueness and judgment-prone language tend to be the most prominent issues. Where peacekeeping missions are expected to support peace treaties or ceasefire agreements, they may run into the problem that vagueness is a very common tool of diplomacy. If there is no true “meeting of the minds” between parties to a conflict, one tactic is to draft an agreement that everyone knows can be interpreted differently. Perhaps surprisingly, this often works – but it leaves peacekeepers who try to be “on the side of the agreement” with unclear guidance.

The problem of judgment-prone language arises, for example, with respect to mandates that require missions to protect civilians when danger is “imminent” and protection is within the mission's “capacity.” Is a militia that is known to be re-arming, and has attacked civilians in the past, an “imminent” danger? What if it is re-arming personnel specifically in areas where tensions are likely to escalate, or its political arm is simultaneously spreading hateful propaganda?²⁷ Specific intelligence about planned attacks may sometimes be available, but not always, and it is not always clear how credible the information is, or how credible it needs to be to support a judgment of “imminence.” “Capacity” looks different if you are wondering what a unit could certainly do without taking any casualties, what it might be able to do if willing to suffer heavy casualties, or something in between.²⁸ Yet trying to be more specific in mandate language might undermine the legitimate exercise of judgment by field commanders.

These problems of interpretation are well-known in the context of legal systems, and the most common practical solution is to give some institution final interpretive authority. This is a power to close the conversation, not to define the right answer. In the U.S., I may think that the Supreme Court has made a mistake about the way the law *should* be interpreted – but our system is set up such that police, lower courts, and other agents of the law are expected to follow the Court's interpretation even when they think a mistake has been made.

The larger point is that, even if we settle the question of by what standard peacekeepers should define their neutrality, the question of process will remain in the sense of asking who should make decisions about how standards are to be interpreted when interested parties disagree – the peacekeepers (even possibly including disputes within the mission), other internationals, parties to the conflict, local civilians, etc.

There are three major options.

First, peacekeepers could refrain from taking action when there is a dispute about what they should do. Regardless of the standard used, this would amount to a neutral, rather than impartial, stance. If parties are willing to act in bad faith, they could stop peacekeeper action merely by inventing grounds on which to disagree. Even if we assume parties are acting in good faith, robust peacekeeper action would only be needed when parties were not already in agreement,

Constitution and the law in question so that they do not conflict, all of which are at least reasonable – so the Constitution's supremacy can introduce complexity into legal interpretation, rather than remove it.

27 Highlighting the difficulty with terminology like “imminent,” note that there is a very contentious analogue in international relations, over what counts as (justified) “pre-emptive” warfare versus (unjustified) “preventative” warfare. I am indebted to Nancy Gallagher for reminding me of this connection.

28 Interview participants varied in the amount of risk they thought it was appropriate to take on either personally or on behalf of individuals under their command, in pursuit of peacekeeping objectives.

effectively rendering them neutral exactly when there is a conflict.

Second, and on the other extreme, peacekeepers could themselves claim the mantle of authoritative interpreters. Peacekeepers might be answerable to their own consciences, or to the Security Council, for their adherence to and interpretation of the relevant standards, but in the field they would both be bound by the standards and the arbiters of what that binding meant. There might be institutional variations on this approach, especially regarding at what level in the mission decisions can be taken. E.g., do all controversial cases go to the SRSG?

I suspect most defenders of robust understandings of impartiality envision standards of impartiality as internalized rules that peacekeepers will follow according to their own judgment. Peacekeepers probably ought to try to explain how their actions are impartial if they are in question, but ultimately impartiality is to be wielded as a standard of conduct by the UN, to shape peacekeepers' own judgment, and perhaps against UN personnel by internal disciplinary units.

A possible third stance is to institutionalize a process of negotiation/mediation in the case of disputes about the application of standards, whether between parties or between parties and the peacekeepers. For instance, where parties were about to engage in armed conflict, peacekeepers might have the capacity and mandate to call those parties to the table to negotiate. Or, if peacekeepers were considering punitive or preventative action against some group, they might meet with the group to discuss what action was being contemplated and why before acting.

There are some important details about this approach that would need to be worked out.

First, should any negotiations be *ad hoc* or should there be a standing “contact group” of stakeholders? *Ad hoc* arrangements have the advantage of being able to bring in any stakeholders to a particular problem that may arise, which may be difficult to predict in advance, and may be able to better accommodate social groups that lack formal organization (e.g., women, children). On the other hand, standing arrangements allow for more advance notice, more ability to sense oncoming trouble, and more opportunities to build trust outside moments of crisis. Semi-formal contact groups including NGOs, peacekeepers, and local parties have shown some success, for instance during the first UNOSOM mission in Somalia.²⁹

Second, since negotiations are not instantaneous, this approach would need to be supplemented by one or both of the other approaches. In short, peacekeepers need to know what to do while negotiations are underway.

To prevent abuse of the negotiation process through delaying tactics, there would need to be some provision for peacekeepers making decisions on their own judgment. For instance, where civilians are under clear and immediate threat from open violence, peacekeepers might act first with a process of “appeal” open later. Or, failure to heed a call to negotiate with the mission could result in a “default judgment,” where peacekeepers then go on to act without regard to the no-show's interests.

Even with these provisions, a negotiation option need not collapse into “peacekeepers judge.” Not all cases in which peacekeepers are called to act in ways that might be seen as partial to one side are ones in which bullets are flying. In cases where prompt, but not *immediate*, action is

²⁹ William J. Durch, “Introduction to Anarchy: Humanitarian Intervention and 'State Building' in Somalia,” in William J. Durch, ed., *UN Peacekeeping, American Policy, and the Uncivil Wars of the 1990s* (New York: St. Martin's Press, 1996), 324.

called for, there may well be time for peacekeepers to do nothing besides talking to the parties, as long as they are using this time to seriously negotiate. In addition, different rules might apply to the enforcement of “procedural,” as opposed to “substantive” rules. Parties might be on notice that failures to follow the consultation rules will result in non-negotiated sanctions.

Finally, regardless of with whom the interpretive buck stops, it is important not to jump straight to enforcement, and to assume that every delay or failure in negotiations *must* be the result of bad faith. Armed groups may simply be *bad* at negotiating, and need training and/or material assistance (think of how much paper and computer time we academics consume “just talking”). A focus on negotiation as the core process of impartiality is as much about foregrounding the importance of providing support for the ability of stakeholders to negotiate as it is about pushing back the point of enforcement. This is an area in which bad lessons may be learned from many Western legal systems, that tend to focus more on formal protections and process than on supporting the ability of everyone to effectively access and operate the system.

Operational

The Brahimi Report language explicitly ties the issue of impartiality to use of force, and it is my experience that impartiality *in the use of force* dominates most academic discussions of the topic. But, of course, peacekeepers do plenty of things besides use force. Why then focus on the military?

The too-easy answer would be that only in coercive measures can peacekeepers demonstrate impartiality. Were this true, then humanitarians would never have concerned themselves with their own neutrality. If you are feeding my enemy, you are helping him or her, and potentially hurting me by comparison. Neutrality or impartiality in the use of non-military capacities is an important part of an overall non-partial stance.

A second answer might be that only military force can be used as a strategy for punishing/influencing those who violate standards; avoiding impunity is a main concern of impartiality. Consider the centrality of resource control to counterinsurgency doctrine. Counterinsurgents consider “winning hearts and minds” a key element of their strategy, and part of that strategy can be using resources *differentially* to demonstrate the benefits of working with the counterinsurgents.³⁰ If counterinsurgents can induce civilians to turn against insurgents by providing the best services in areas under counterinsurgent control, peacekeepers could certainly undermine the power of factions by choosing to focus their non-military support on populations in areas controlled by more cooperative parties. This is not to say that they *should* do this, but just that impartiality in the distribution of resources is a moral and/or tactical *choice*.

Closest to the truth, I suspect, is the idea that neutrality in the use of non-military capacities is so *obviously required* as not to deserve further comment. Military force is used to punish and deter spoiler groups *directly*, while the provision or withholding of aid puts pressure on those who

30 This is a central element of the standard “Clear-Hold-Build” counterinsurgency strategy. In the “build” phase, non-military assets are used to improve the well-being of the population in counterinsurgent-held areas in part with the aim of “winning over passive or neutral people.” See, e.g., Headquarters, Department of the Army, *Counterinsurgency* (FM3-24/MCWP3-33.5) (Washington, DC: US Army, 2006), §5-68 – 5-80 (quote is from §5-77).

violate standards *indirectly*, largely via pressure on the civilian population that provides part of their powerbase. Peacekeeping missions often curtail, e.g., provision of humanitarian aid to areas where they cannot protect the civilians who provide it, but deciding to refrain from providing aid where it *could* be provided because the faction in control of the area is being otherwise uncooperative with the mission or violating the relevant standards may seem clearly odious. In terms of international humanitarian and human rights norms, though it is not a direct attack, it may seem to violate the spirit of the ban on targeting civilian populations for harm.

I am not sure that the moral issue here is so clear. Treating all civilians as fearful, huddled masses at worst coerced into service by armed elites not only oversimplifies the situation in nearly all cases, it perversely – and implausibly – robs civilians of all moral autonomy. The power of armed elites generally represents a complex relationship with civilians in which both sides try to pursue their interests and goals, even if it is a lopsided bargain.³¹ Even if armed groups tend to hold power in part because of dysfunctional situations, it is not as if peacekeepers are always and everywhere welcomed as liberators, and it would be naïve to assume that all resistance to their presence was based on mistake or propaganda. Civilians may have venal motives for supporting armed groups, or legitimate and understandable and even noble reasons for supporting even serious abusers, or a mixed muddle of morality, self-interest, fear, confusion, and anger. In such situations, as Jeff McMahan has argued, civilians may be liable to certain sorts of harm; though, in his view, generally *not* armed attack, but leaving open various non-neutral ways of arranging other peacekeeping operations.³²

I have advanced some views on the proper moral approach to using coercion against civilians in situations of irregular warfare elsewhere.³³ Here, let me just leave it open that peacekeepers might choose to apply a non-neutral impartiality standard in their use of other operational capacities, such as humanitarian aid, infrastructure projects (especially including quick-impact projects often undertaken as part of a “winning hearts and minds” strategy by military elements), DDRRR, election support, governance assistance, education/training, even good offices for mediation of disputes.

One reason that such measures might seem morally objectionable, even if we grant that civilians may be morally involved in the actions of non-civilian actors, is that we commonly make exceptions to the right against physical harm that we do not for other rights.³⁴ We are accustomed to thinking of the right against threats to life as a right against *arbitrary* threats to life. Many people who defend a “right to life” do not object to a lawfully executed death penalty, and absolute pacifists are a small fraction even of those who oppose judicial deprivation of life. In Western legal systems, and more importantly in general social morality that underpins

31 For a masterful analysis of the interaction between insurgents and civilians that determines patterns of insurgent violence, see Stathis N. Kalyvas, *The Logic of Violence in Civil War* (New York: Cambridge UP, 2006), esp. chs. 7, 10-11.

32 Jeff McMahan, *Killing in War* (New York: Oxford UP, 2009), 218-220.

33 Daniel H. Levine, “Care and Counterinsurgency,” *Journal of Military Ethics* (forthcoming)

34 I must note the limits of my own cultural competence here. I am primarily speaking of the way such rights are treated within the dominant Western human rights discourse that seems to underly most of the thinking about the ethics of such things like peacekeeping and humanitarian intervention – at least where I live. My anecdotal sense, from speaking with a number of Africans and South Asians about these things, is that their views do not tend to be drastically different on the points I am discussing. That said, if necessary, read these comments and any invocation of “we” as an exploration of the Western approach influential in international decision-making, rather than with a serious claim to true universality.

these systems, the right to life shares a certain exception-laden structure with rights to property and liberty.

But fewer exceptions are made to other rights. Many people who would happily endorse the imprisonment of a murderer, or even his (or her) execution, would be appalled if he were knowingly allowed to die of disease because available medical care was withheld, if he were allowed to live in filth while awaiting execution, or if his right not to be raped were allowed to be violated.

Intuitions that oppose the “tactical” use of things like humanitarian aid may be grounded in the idea that while the right not to be attacked in armed conflict can be forfeited or waived, the right to be given food and medical care one needs to survive is something one possesses merely in virtue of being *human* and so cannot be lost.

Choosing a Position

I have laid out a space of possible understandings of impartiality along three dimensions: standards, procedures, and operations. I hope that, in itself, this is a useful exercise. But, it would smack of intellectual cowardice for me not to say anything about how I think we should understand impartiality.

Standard: Peace Process

Though I have identified seven possible standards, they fall into three categories: written rules, unwritten rules, and functional standards. Each has things to be said for and against.

Written rules include mission mandates, provisions of peace agreements/ceasefires, international laws, and UN charter rules. These standards have two advantages. First, they are often the product of an *explicit* act of granting consent, by at least many parties to the conflict, giving them an initial advantage in terms of legitimacy. Second, while they do not settle questions of application on their own, they certainly help by giving all parties an explicit text as a starting point.

Unfortunately, there is no guarantee that any such rules will reflect either the legitimate interests of all stakeholders or that enforcing them will advance the cause of peace.

Unwritten rules include deontological versions of universal morality (including non-legal understandings of human rights), moralized versions of the aggressor/victim distinction, and possibly UN Charter “principles” if these are understood as distinct from explicit provisions of the Charter. They share the inflexibility of written rules, and lack the advantage of being explicit – being unwritten, parties may disagree about what the rules are, and hence they are less effective at constraining and shaping disputes.

They make up for this with a stronger claim to being *right*. Genuine moral rules claim higher authority than other considerations and include all *legitimate* stakeholder interests by definition. Enforcing them may not promote peace, but defenders could argue that this would only prevent *unjust* peace from being achieved.

Functional standards include only focus on the peace process, of the standards I listed above.

Functional standards have the advantage and disadvantage of maximal flexibility in pursuit of their goal, since the goal *is* the only standard to be respected. The advantage is that the goal – peace, in this case – is more likely to be reached. The disadvantage is that, similar to unwritten rules standards, functional standards provide less guidance for disputes than written rules.

In addition, functional standards encode values, and so are subject to many of the same vices and virtues as unwritten moral rules. To take a position on what “peace” means, whether mere absence of violence or some more substantive “positive peace” - is to take a moral position on what *ought* to be the outcome of the conflict and intervention. If this moral position is correct, it has a strong claim on the ability to supersede negotiated agreements and formal mandates. On the other hand, the correctness of any moral stance is likely to be hotly contested, and may itself be a source of conflict that makes the PKO seem like an interested party, and undermines any appearance of impartiality.

Of these three approaches, understanding impartiality as adhering to a functional standard would be best. Peacekeepers are charged with laying the foundations for peace, first and foremost, and their impartiality should reflect that overriding goal.

A Focus on the Peace Process is Superior to a Focus on Written Rules

There is one simple reason I say this: written rules are the outcomes of negotiations between parties who may not have the legitimate interests of all stakeholders in the conflict at heart. In the case of “high level” rules like international laws, this is because they are most often crafted without any specific reference to the conflict at hand – they couldn't be.

In the case of “ground level” rules like peace agreements and ceasefires, this is because not all stakeholders are always brought to the negotiating table, and new stakeholders may emerge in the process of trying to implement the agreement. In particular, since a peace agreement needs to give *armed* factions incentives to end their conflict, groups that are not able to use force and/or are not organized as groups, are less likely to see their interests protected. These stakeholders who are left out may include women, ethnocultural minorities, and locally legitimate social structures not organized for violence (e.g., the non-violent LDK in the Balkans or the traditional Somali clan structures that had been usurped by “warlords.”). The fact that they are not included in the agreement does not mean that they do not have morally legitimate interests, and the advantages of clarity provided by written agreements should be overridden by these moral concerns. Furthermore, their exclusion undermines another potential advantage of explicit agreements, in that there was no moment of consent for excluded groups.

Aside from legitimacy, including as many stakeholders as possible in the peace process seems to yield practical benefits. For example, one report credits female participants in Sierra Leone's Lomé peace process with ensuring that language protecting women and girls in the peace agreement. They also argue that a public shaming of Sankoh (the rebel leader, appointed a minister in the new government) by a group of elderly religious women was a major catalyst for mass protests that ultimately brought about Sankoh's arrest and the collapse of the rebel movement, which had played a continuing spoiler role in the peace process.³⁵

35 Dyan Mazurana and Khristopher Carlson, *From Combat to Community: Women and Girls of Sierra Leone*, Hunt Alternatives Fund/Institute for Inclusive Security, January 2004, available at http://www.huntalternatives.org/download/8_from_combat_to_community_women_and_girls_of_sierra_leone.p

An example from the opposite side, Elmi and Barise argue that the Somali peace process is threatened by the fact that merchants and members of many Islamic courts and local security forces were excluded from the formal peace negotiations, and hence need to be brought into the process.³⁶

Mandates deserve special mention; they are crafted to deal with a particular conflict, and telling peacekeepers that they are subject to a higher principle of impartiality that can conflict with the explicit mandate may seem dangerous.

While the mandate is crafted to fit the conflict, it still suffers from the problem that its creation does not involve many relevant stakeholders – the issue is even more extreme with most mandates than with peace agreements, which are at least not written in New York. Mandates probably are written in good faith and with an attempt to protect the interests of everyone involved in the conflict, but this is no substitute for a process that can be directly accessed by people involved in the conflict.

The issue of superseding mandates is more serious, but is actually a feature of any standard besides the mandate. If any general principle of peacekeeping could not contradict any mandate, then they would serve no purpose, and peacekeepers might as well be told that there were no principles beyond the mandate they are given.³⁷

The concern can be mitigated but not eliminated entirely.

First, as a general principle, impartiality is not only applicable to peacekeepers in the field. It should also be a guiding principle for those writing mandates.

Second, there is a difference between going beyond the explicit mandate and contradicting the mandate; peacekeepers are more likely to be called to do the former. General principles like impartiality are most important where a mandate or orders are unclear in application, and peacekeepers need guidance in using their judgment.

Third, some potential conflict may occur, but this is no more damning than, e.g., the fact that soldiers in the US military swear their primary oath to uphold the Constitution of the US. In some cases, soldiers may be given orders that they believe violate their Constitutional obligations. The first option in cases of apparent conflict is to assume that the conflict is *only* apparent or seek clarification, but some cases of genuine conflict may remain. The fact that educating peacekeepers with general ethical standards of the profession may occasionally cause them to question directives that do not live up to those standards cannot be a fatal objection. Mandates can claim no privileged status in virtue of being explicit directives to peacekeepers, and adherence to the mandate suffers from the fault all written standards have, that they are crafted by a subset of interested parties in a particular power relationship.

A Focus on the Peace Process is Superior to a Focus on Unwritten Rules

If the big problem with written rules is that their mortal origins undermine their claims to legitimacy, unwritten rules seem to fix that. The advantage is not that they are unwritten, but the

df, 21-22.

36 Afyare Abdi Elmi and Abdullahi Barise, “The Somali Conflict: Root Causes, Obstacles, and Peace-building Strategies,” *African Security Review* 15:1 (March 2006), p. 46.

37 This is, in fact, the purpose that “impartiality is adherence to the mandate” seems to serve – it is presented a corrective against the thought that peacekeepers are required to refrain from forceful action because of impartiality/neutrality concerns, even when the mandate authorizes them to act.

nature of the suggested rules. Universal morality, the basic principles of international law, and the principles of the UN Charter are all unwritten because they purport to represent higher standards that transcend the petty details of human agreements. The UN Charter is a document, but the *principles* of the charter are the highest aspirations of humankind coming together in the name of peace and human rights.

Unfortunately, what these rules gain in legitimacy, they lose in the concrete ability to solve disputes and confusion. We should not forget that the impartiality concept is intended to give peacekeepers guidance for decision-making. The content of highly abstract ideals and principles is deeply contested and difficult to determine. By contrast, a focus on the peace process is relatively concrete, even if not as explicit as written rules.

As noted above, there is also a severe lack of consensus about the content of most of the proposed unwritten-rule standards, which undermines the entire point of impartiality. Partiality is not likely to be the result of blind bias on the part of peacekeepers. It is more likely to represent their belief that one side of a conflict is in the right (or less in the wrong) and should be supported. Defining impartiality in terms of standards which peacekeepers are likely to interpret very differently from other parties thus renders the concept likely to reinforce behavior seen as partial, rather than limiting it.

There is also a more practical reason to favor an understanding of impartiality that focuses on the peace process, rather than holds peacekeepers to moral or quasi-legal principle. The most common unwritten standard to which peacekeepers are held is protection of human rights, but saying this is not a strategy for ensuring that people have their rights protected. Of course peacekeepers themselves should refrain from abusing human rights; that idea does not need to be backed by a concept of impartiality.

Beyond that, some understandings of impartiality seem to imply that the concept should obligate peacekeepers to react immediately to any violation of human rights. We should not expect peacekeepers to take such a reactive stance. All manner of evils flourish during periods of armed conflict – human rights violations, poverty, misery, ill health, lack of political freedom, even economic inefficiency. Peace provides a much better platform, in almost all cases, from which to pursue other goods. One reason to intervene in cases of human rights abuses is that they can fuel further conflict, so a focus on peace will not always recommend different action than a human-rights-focused impartiality. But peacekeepers should bear in mind that their role is to help usher in a stable situation in which human rights can be effectively protected on a regular basis.

Process: Formalized Mediation

Interpretive authority should not rest entirely with the mission – some form of institutionalized mediation process with stakeholders best expresses the moral core of impartiality.

First, peacekeepers are not set against simplistically evil spoilers. Parties may have legitimate or understandable disputes even with well-intentioned PKOs, that ought to be taken into account. Spoiler groups often have constituencies who regard them as at least partly legitimate authorities and protectors of the population's interests. As one UN official put it to me, speaking of *janjawid* (government-allied militias, accused of genocide) leaders in Darfur:

Well, you will need some of these so-called guys who have committed atrocities to get peace here.

You need them. So, if you start demonizing them, you'll fail. And not only fail then, you'll get the population against you, because they have built their bases, they have built their constituencies. You can't just say, because you announce it that he's a criminal, that the people on the ground accept him as a criminal. No. You've got to understand the dynamics on the ground. Some of them are not doing that because they like fighting. They were chiefs, they were elders in their community. So, it was their responsibility to protect, just like we are saying, "responsibility to protect," they also had a responsibility to protect their tribe. So, any fighting they did, any atrocities you think they committed, was done in the name of that. You need to understand these dynamics.³⁸

PKOs best express their position not as parties to the conflict, but as facilitators of an end to that conflict, by assuming that any standards-violation may in fact reflect an underlying reasonable dissatisfaction. By providing a venue in which parties can explain their actions, they stand a better chance of transforming the bigger drivers of conflict. If conflict drivers are not effectively addressed any use of force or coercion by the PKO will at best be able to change the calculation of incentives. And, given the relative military weakness of most PKOs, change in incentives is likely to be temporally and geographically local. While it may seem ludicrous to look for the legitimate motivation behind some undisciplined soldier looting and raping in the aftermath of conflict, we should keep in mind that this is often a bit of an exaggerated stereotype, and that the bigger issue for a PKO is that soldier's *leadership*, who are likely encouraging/allowing such violations to occur for reasons that can be addressed.

Conversely, negotiations/discussions also provide a venue in which the PKO can explain *its* actions. Just because the PKO sees its actions – especially aggressive ones – as impartial and justified does not mean that everyone else sees them that way, and armed factions may worry that a PKO has “declared war” on them. In Somalia, for instance, the contact group set up with representatives from various “warlord” factions was instrumental in calming the situation after an early attack on Aideed's forces.³⁹ The need for a PKO to communicate clearly with factions was also emphasized by some interviewees, such as a Rwandan officer in AMIS, who discussed the need to approach rebel forces and explain why the mission was living only alongside government police.⁴⁰

Second, we should be wary of what picture of the PKOs mission we are building into the impartiality standard. While criticism of PKOs often focuses on failure to stop acute human rights violations, the primary goal of the mission should be to facilitate peace between the formerly warring factions. Reserving the right to punish transgressors in line with the mission's own understanding of things is not necessarily the best way to do this – whether we are talking about transgressions against peace agreements or more fundamental human rights. It is widely acknowledged and understood that the use of coercive measures should only be one part of a PKOs approach, and should not be done for its own sake or without regard for political, humanitarian, etc. consequences. Embedding any use of ostensibly impartial coercion in a negotiation process with stakeholders helps practically embody that perspective.

³⁸ Confidential interview (O) with a UN political officer, who had served in the AMIS military component, New York, USA, May 2009.

³⁹ Durch, 324.

⁴⁰ Interview K.

Impartiality Should Encompass All Operational Dimensions

The focus in many discussions of impartiality is on use of force, because that is the typical image of how serious rights violations are to be prevented and punished. This is perhaps the case for *imminent* and violent rights violations. But this is a relatively narrow focus, and ignores the ways in which other capacities of a mission can be used to shape an environment that discourages abuses.

Keep in mind that peacekeepers are unlikely to have enough resources to provide for all of a population's needs. How should they make decisions regarding where to put those resources to use?

We surely do not want to lock peacekeepers into a purely reactive “first come, first served” approach, especially when we move away from classic humanitarian aid like food and toward resources like support for governance. The most plausible competitor seems to be something like “greatest need.”

But if we are trying to maximize the good done, the point about ending conflict helping to end many associated evils holds. Purely humanitarian agencies typically do not have the capacities to try to end the conflict as a whole – but peacekeeping missions do (or should). Using humanitarian capacities in a fashion impartially designed to help the peace process along, at least so long as this is a matter of scarce resource allocation, not of simply withholding resources that are available, should be seen as preferable to aiding the neediest now if it will perpetuate a situation in which they are needy.

Much more needs to be said beyond this basic moral orientation. In particular, peacekeepers need to be both careful and honest. Careful, in that they do not jump to quickly to a kind of naïve utilitarianism. The impact of using non-military resources as a tool to shape the conflict is just as difficult to predict as the use of force, and just as subject to the law of unintended consequences. Honest, in that peacekeepers should *not* pretend to themselves or others that the goals of promoting peace, long-term development, and ameliorating the immediate situation of particular people will always coincide nicely. If peacekeepers focus on manipulating the situation to advance the peace process, they must recognize that such a focus takes resources away from other goals.

The Whole Picture

Combining these three choices, I recommend an understanding of impartiality as:

- The mission will deploy all of its resources, including but not limited to its capacity to use force
- toward the aim of promoting the peace process.
- Where parties in the area of operations disagree about what “peace” should entail, or whether some particular use of mission resources promotes it, the usual process for resolving the issue should be through a standing contact group/mediation process

involving all major stakeholders.

The overall image is that the mission's impartiality consists in it not appearing as a pure outside force nor as standing apart from disputes, but rather as part of an outside-supported process of creating resources primarily directed *by the stakeholders* to achieving peace. Its impartiality does not come from being an incorruptible guardian of a strict standard (let alone a passive observer, on the old neutrality standard) but by actively striving to ensure that resources for peace are directed in a way that gives all parties a say.

The main benefit I would claim for this understanding of impartiality is legitimacy. Standards like impartiality are ultimately about justifying the actions of peacekeepers, who whatever their motives are outside interveners who make life-and-death decisions about how to distribute resources and when to use lethal force.

This understanding of impartiality, while admittedly revisionist, also coheres with other elements of how peacekeepers with whom we have spoken understand their role. In general, references to a need to “de-escalate,” “tone down,” or similarly reduce the intensity of conflict were common in interviews. One high-ranking MONUC military leader told us that it was “tricky” to maintain peace as soldiers, since their role as peacekeepers was to exercise their diplomatic and communicative skills, and this was in tension with their identity as soldiers. He was especially emphatic – even after defining MONUC as having a “peace enforcement clause” - that innovative approaches, besides resort to force, were critical to the mission.⁴¹

In a couple cases, specific references to negotiation even when it might seem most difficult were noted. A Rwandan officer told us that while force was needed, it was primarily to maintain credibility. Once the peacekeepers had established that they could defend themselves if provoked, the primary task was to negotiate with armed groups – even, in one case, when his group had been ambushed by rebels apparently intent on taking their vehicles – rather than defeat them.⁴²

One civilian member of MONUC was of the opinion that the mission could not succeed unless some way were found to negotiate and cooperate with members of the FDLR, a militia notoriously led by Rwandans who had participated in the 1994 genocide, and which as a group has been accused of perpetrating many of the most extreme human rights abuses in the DRC. “For myself, I think that the... limitation that we aren't allowed to speak or collaborate with people who are suspected of FDLR collaboration should weigh less heavy than the overall peace process and the overall well-being of the population... I think on theoretical grounds, on principled grounds, it's totally correct. Seeing the situation on the ground, and seeing the whole history of the situation, I think we as MONUC, and myself, or MONUC-Goma, can be, or maybe we should be a bit more flexible. And I know in fact that some officials are being flexible, despite the official policy.”⁴³

Finally, a concept of impartiality that highlights the role of peacekeepers as there to shepherd a local process of negotiation and conflict transformation, rather than to enforce standards and defeat violators, coheres with some peacekeepers' own views of the good they achieve. One former member of UNAMIR – part of the small Ghanaian contingent that remained behind under

41 Interview J.

42 Confidential interview (P) with a Rwandan former member of AMIS, Washington DC, October 2009.

43 Confidential interview (Q) with a member of MONUC's political staff, Goma, DRC, November 2009.

Dallaire's command after most troops had been pulled out by the UN – told us that, “a lot of people said that mission was a failure, but that little force, the presence of that small force, helped to alleviate some of the sufferings of the people, because that was the force that started the negotiations between the two sides.”⁴⁴

I suppose one could accuse such sentiments as “defining success down,” since in an ideal world one might hope that the UNAMIR force would have been willing and able to prevent the genocide. But, we should keep in mind that in the actual world peacekeeping missions are unlikely to be able to defeat insurgencies or abusive government forces on their own, and also that it is easy to have a rosy picture of how a full-scale military engagement against the Rwandan government would have gone. The actual RPF advance was far from bloodless, and international intervention would likely have had its own costs. These costs would almost surely have been preferable to genocide, but far from negligible, and how to balance the costs of an intervention with the firepower and mandate to make war upon “spoilers” with the abuses those spoilers committ may not be as obvious when abuses do not rise to the level of genocide.

One major loose end has to do with the problem I raised earlier about “backup process.” What is the PKO to do if there is no time for discussions, or if discussions stall or are fruitless?

There need not be a single answer to this question. First, the general rationale of this approach would justify potentially harsher dealings with groups that violated the PKO's understanding of the standards, or especially the contact group's understandings, but who refuse to participate in discussions. While every effort should be made to reach out to them, and to address whatever reasons they have for non-participation rather than simply punishing them for it, it would be reasonable to treat those who voluntarily exclude themselves as forfeiting some right to have their interests respected in many cases.

Second, where serious evils are about to happen and peacekeepers can intervene, it does not cut against this approach in all cases to say that they should. So, if (e.g.) police are about to fire on unarmed demonstrators, peacekeepers can interpose themselves. The overriding moral goal is still peace and human flourishing that is easier in peacetime. But in such cases, peacekeeper action should be as narrowly focused on stopping the current problem as possible – not on capturing, pursuing, or punishing the parties at hand. The bulk of rights abuses in peacekeeping areas of operations are *not* sudden rights abuses that happen out of nowhere and for no reason – and the underlying reasons should be addressed through a negotiated process, rather than by peacekeeper fiat.

Is This Impartiality or Neutrality?

One aspect of my proposed understanding of impartiality is that it does *not* empower peacekeepers to do what is right in all circumstances. Being only one voice in a negotiated process for responding to possible violations of the peace process means that sometimes peacekeepers' view of that process may differ from local views, and peacekeepers will not punish or prevent things with which they disagree. This is not as radical a neutrality as the old standard of not taking action against any parties, but it is also not as radically empowering a stance as

44 Interview N.

some of the understandings of impartiality with which I opened the paper.

This is, I think, a feature rather than a bug. We do not need to be moral relativists to embrace a certain humility about moral judgments. Peacekeepers may be acting entirely in good faith, but if there is a reasonably fair mediation process in place, it should give us pause if their views about what is right for the stakeholders differ from the outcome of that process – it is entirely plausible that some complexity of the situation may have been missed. And, in the long run, giving as much control as possible to stakeholders over what “peace” should look like, while providing the resources to back up a vision created in the relatively benign context of a well-managed negotiation rather than war, is the most plausible way to promote a lasting peace.