Inclusive Neutrality and Justice as Evenhandedness:
Rethinking Legitimacy and Impartiality in UN Peace Support Operations

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Introduction

The concepts of neutrality and impartiality have long played a role in legitimating international peace support operations. The mandate for the first United Nations peacekeeping mission, the United Nations Emergency Force (UNEF), prohibited any action that would tip the military scales of the Suez conflict, or sway the delicate political balance around the crisis.[1] In a world of sovereign states where norms of non-interference are deeply entrenched, support for traditional peacekeeping missions depended largely on assurances that outsiders would act as disinterested intermediaries. Traditionally, UN personnel had to abstain from passing judgment on the opposing claims of belligerents. A mission's legitimacy was thought to depend on an impartial, "hands-off" approach that precluded any action to advance or restrict competing conceptions of the good. This is consistent with what some scholars call "exclusive neutrality," and it draws heavily on strands of liberal political theory that see "hands-off" neutrality as the best means of guaranteeing fair treatment for groups and individuals.[2] However, this is just one view of neutrality, and evidence suggests that it is not always an appropriate guiding principle for United Nations peace support missions.

In the decades following the end of the Cold War, the nature and scope of UN peacekeeping changed drastically. There was a move toward more robust, and more comprehensive, peace support operations. These missions were meant to end hostilities, sometimes by using force, but also to prevent the recurrence of conflict by addressing its underlying causes. Suddenly, UN personnel were doing much more than monitoring ceasefires. They were actively involved in complex efforts to create self-sustaining peace by building liberal democratic states.[3] These new roles make it much more difficult to adopt a "hands-off" approach. UN personnel often find themselves torn between substantive mandate objectives, like protecting civilians from violence, and the procedural constraints of exclusive neutrality. Outcomes matter as much as procedure. Failures to meet mandated responsibilities can damage a mission's legitimacy as much as a lack of neutrality. This paper will explore whether an alternative conception of neutrality might alleviate some of these tensions. It will draw on examples from UN missions deployed after the end of the Cold War, with particular attention to the United Nations Operation in Côte d'Ivoire (UNOCI). I will argue that an "inclusive" conception of neutrality could help overcome some of the challenges currently facing UNOCI and other peace support operations. By adopting an "evenhanded" approach to justice, it may be possible to preserve the legitimacy of UN missions without sacrificing objectives that require forceful normative action on the part of UN personnel.

Respecting Sovereignty and Preserving Legitimacy: the Role of Neutrality in UN Peace Support Operations

Before moving to a discussion of why neutrality and impartiality have been central to the legitimacy of UN peace support operations, definitions of both terms are in order. In conflict situations, neutrality is conventionally defined as "a principle of abstention" according to which third parties refrain from

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[1] "Middle East – UNEF I: Background," United Nations, http://www.un.org/en/peacekeeping/missions/past/unef1backgr2.html (accessed 14 December 2011)
[2] Wibren van der Burg and Roland Pierik, "What is Neutrality? Inclusive and Exclusive Approaches to State, Religion and Culture," Paper presented at the Centre for Ethics, University of Toronto (14 March 2011), 1-2.
[3] Roland Paris, *At War's End: Building Peace After Civil Conflict* (Cambridge: Cambridge University Press, 2004), 13-14.

actions to assist or obstruct any party to the conflict.[4]   In this view, non-involvement is a way of treating all belligerents equally. Impartiality is often called "a principle of action," meaning that any actions undertaken in a conflict setting must adhere to objective standards that are applied equally to all parties.[5]   This is similar to what Brian Barry calls "first-order impartiality," which involves applying set rules without regard to one's own personal bias or private considerations, much as the ideal judge would think while conducting a trial.[6]   This is closely connected to second-order impartiality, which refers to the principles and rules on which action is based. To be impartial, principles and rules must be "capable of forming the basis of free agreement among people seeking agreement on reasonable terms."[7]

In order to make sense of how neutrality and impartiality shape UN peace support missions, it is important to understand the origins of sovereign autonomy and nonintervention as guiding principles within with international system of states. Entrenching the sovereign equality of states was a strategy for preventing destructive inter-state wars:

> The principle of sovereignty expressed a determination to restrain the imperatives of individual moral conscience… and to accord priority instead to the requirements of peaceful coexistence within a given political space… It sought to rein back moral and religious imperatives in the international arena in favor of ordered coexistence.[8]

The idea of sovereign equality continues to foster tolerance among states; it allows them to interact in relative peace by restraining efforts to impose particular conceptions of the good on each other. The principle of state autonomy, enshrined in the United Nations Charter, prohibits members from interfering with "the territorial integrity or political independence of any state."[9]   However, peace among states does not guarantee peace within them. States often justify their actions by claiming they defend the "national interest" in order to protect their citizens. Yet states often fail to preserve and promote the wellbeing of their citizens. In many cases they neglect, or actively violate, the rights of their people. Frictions can therefore emerge between the apparent rights of states and the fundamental rights of individuals.

Tensions of this nature play out regularly within the United Nations. The UN Charter contains potential contradictions that help explain why peace support operations are so often caught between pressures to respect state autonomy and orders to protect the rights of individuals. The Charter enshrines the sovereign equality and autonomy of states, but also calls on members to "reaffirm faith in fundamental human rights" and promote "the dignity and worth of the human person."[10]   For the first several decades of the UN's existence, there was profound disagreement among member states about the nature and scope of human rights. These differences of opinion mirrored broader ideological divergences between United States and the Soviet Union, both veto-wielding members of the UN

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[4] Marc Weller, "The Relativity of Humanitarian Neutrality and Impartiality," *Journal of Humanitarian Assistance* (28 February 1998) http://jha.ac/1998/02/28/the-relativity-of-humanitarian-neutrality-and-impartiality/ (accessed 26 March 2011)

[5] Ibid.

[6] Brian Barry, *Justice as Impartiality* (Oxford: Clarendon Press, 1995), 11.

[7] Ibid.

[8] Murray Forsyth, "The Tradition of International Law," in *Traditions of International Ethics*, eds. Terry Nardin and David R. Mapel, 23-41 (Cambridge: Cambridge University Press, 1992), 25.

[9] United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, Chapter 1, Article 2, http://www.un.org/en/documents/charter/index.shtml (accessed 26 March 2011)

[10] United Nations, *Charter of the United Nations*, op. cit., Preamble.

Security Council. The United States was most concerned with civil and political rights, and promoted liberal, market-oriented democracy as the best model for their realization. Meanwhile, the Soviet Union emphasized the importance of social and economic rights, identifying "people's democracy" and state ownership of the means of production as the best modes of political and economic organization. These superpower rivalries placed serious constraints on UN activities. According to Roland Paris, "Cold War ideological differences made it impossible for the United Nations to promote any particular model of domestic governance within the borders of individual states."[11] These disagreements also created strong incentives for UN personnel to use impartiality as proof of their commitment to state autonomy and noninterference.

Chiyuki Aoi argues that the success of peace support operations depends on their legitimacy, that is whether their actions and authority are considered right and proper. In this view, host governments, the people of a host nation, political elites, states in the international community, and the general public worldwide must believe missions are legitimate.[12] During the Cold War, the legitimacy of UN military action depended on the organization's "impartiality on matters of ideology and domestic governance."[13] From a practical point of view, the physical safety of UN personnel also depended on the legitimacy of UN missions among local parties. Traditional peacekeepers were lightly armed and were generally charged with monitoring negotiated ceasefires or patrolling "neutral buffer zones" between combatants. The mandate for the first UN peacekeeping mission, the United Nations Emergency Force (UNEF), prohibited any action that might influence "the military balance in the current conflict" or "the political balance affecting efforts to settle the conflict."[14]

Subsequent peacekeeping missions were also designed to minimize UN involvement in the domestic affairs of host states. These mandates reflected a "hands-off" or "exclusive" approach to neutrality that is in line with classical liberal theory.[15] When applied to a domestic political context, exclusive neutrality means the state should not reward or penalize particular conceptions of what is right or good, but instead provide a neutral framework within which different or conflicting conceptions can be freely pursued.[16] In *Justice as Fairness*, John Rawls argues that basic institutions and public policy should be neutral toward all comprehensive doctrines and their associated conceptions of the good. A liberal democratic state should not do anything to favour a particular conception of the good. This means that competing comprehensive doctrines must fend for themselves in the domestic marketplace of ideas. If they fail to attract enough adherents, they may die out, or barely survive, an outcome that Rawls justifies by observing that "there is no social world without loss."[17] The parallels with traditional UN peacekeeping operations are striking. The United Nations is evidently not a state, but it attempts to remain neutral by refraining from any action that might favour one party to a conflict. Legitimacy is ostensibly preserved by adopting a "hands-off" approach, and by withholding judgment on the relative merits of combatants' conceptions of the good. In this account, fairness depends less on outcomes and more on treating groups with equal indifference.[18]

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[11] Paris, *At War's End,* op. cit., 15.

[12] Chiyuki Aoi, *Legitimacy and the Use of Armed Force: Stability missions in the post-Cold War era* (London: Routledge, 2011), 1.

[13] Paris, *At War's End*, op. cit., 16.

[14] Middle East – UNEF I: Background," op. cit.

[15] Van der Burg and Pierik, op. cit., 1-2.

[16] Will Kymlicka, "Liberal Individualism and Liberal Neutrality," *Ethics*, vol. 99, no. 4 (1989): 883.

[17] John Rawls, *Justice as Fairness: A Restatement* (Cambridge: Harvard University Press, 2001), 153-154.

[18] Joseph Carens, *Culture, Citizenship, and Community: A Contextual Exploration of Justice as Evenhandedness* (New York: Oxford University Press, 2000), 12-13.

From Political to Comprehensive Liberalism: Exploring the Limits of Exclusive Neutrality

The end of the Cold War brought a rise in the number of civil conflicts around the world. Many were complex intra-state wars with an ethnic or communal dimension. These conflicts were often vicious and intractable, taking a terrible toll on civilians. At the beginning of the twentieth century, soldiers represented 90 percent of wartime casualties. In the 1990s, most of the people killed in armed conflicts were civilians. Crimes against civilians, including systematic rape, ethnic cleansing, and forced displacement were also widespread.[19] These developments led members of the international community to reconsider conventional assumptions about states as guarantors of human security, and to re-evaluate the potential contributions of peacekeeping. The erosion of Cold War disagreements about human rights created space for the UN to play a more active role in conflict resolution. There was also a growing impulse to intervene without the consent of host states, and to build lasting peace by addressing the underlying causes of conflict.

New norms around state sovereignty and nonintervention took their most concrete form in the report of the International Commission on Intervention and State Sovereignty (ICISS), also known as the *Responsibility to Protect* (R2P). The report examines the question of "when, if ever, it is appropriate for states to take coercive – and in particular military – action, against another state for the purpose of protecting people at risk in that other state."[20] The Commission concludes that states have primary responsibility for protecting their own citizens. However, if a population is suffering serious harm, and their home government is unable or unwilling to take action, the principle of nonintervention yields to the international responsibility to protect. In order to be legitimate, intervention should be authorized by the United Nations Security Council. It must also respect four "precautionary principles;" it must be based on the right intention; it can only be undertaken as a last resort; the means used must be proportional; lastly, intervention must have a reasonable prospect of success.[21] The Commission's report also places many constraints on how and when intervention is acceptable. Nevertheless, by framing sovereignty as a responsibility, not an inviolable right, the *Responsibility to Protect* makes the connection between neutrality, impartiality, and legitimacy more ambiguous. Equal indifference is no longer a straightforward guarantee of fairness. The United Nations General Assembly adopted the *Responsibility to Protect* in 2005.[22]

Approaches to conflict resolution and prevention also changed after the end of the Cold War. In 1992, UN Secretary-General Boutros Boutros-Ghali coined the term "post-conflict peacebuilding," which he defined as "the identification and reinforcement of structures which support and solidify peace."[23] He also noted that peacebuilding was a new activity for the UN because it involved "reaching beyond the immediate issues of conflict resolution and peacekeeping to the construction of institutions that can establish the essential conditions for lasting peace."[24] This represents a clear departure from earlier missions, such as UNEF, which abstained from any domestic political activities that would usually fall

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[19] Paris, *At War's End*, op. cit., 1, 15-16.

[20] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001), vii.

[21] Ibid, xi-xii.

[22] "2005 World Summit Outcome," United Nations General Assembly, 15 September 2005 http://responsibilitytoprotect.org/world%20summit%20outcome%20doc%202005(1).pdf (accessed 27 March 2011)

[23] Boutros Boutros-Ghali, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping*. Report of the Secretary-General Pursuant to the Statement Adopted by the Summit Meeting of the Security Council on 31 January 1992 (United Nations, 1992),468.

[24] Ibid, 469.

within the purview of state governments. The ICISS reinforced this change by positing a responsibility to "address both the root causes and direct causes of internal conflict," as well as a responsibility to provide "full assistance with recovery, reconstruction and reconciliation."[25] Again, these activities go well beyond the tasks associated with traditional peacekeeping. Peacebuilding has evolved into a complex, long-term endeavor that rarely proceeds in a linear fashion:

> Peacebuilding is best perceived as a sequence, beginning with negative peace or the mere absence of armed violence, and then moving into differing layers of positive peace, including the cultivation of political processes and institutions that can manage conflict without resorting to violence; the reconstruction and development of a national economy which addresses the underlying issue of regional inequalities; and the rebuilding of society on the basis of justice and reconciliation.[26]

These are ambitious goals, far removed from the limited mandates on which the legitimacy of early peacekeeping missions depended. This evolution has critical implications for the principles of impartiality and neutrality, which still play an important role in establishing and maintaining the legitimacy of UN peace support operations. Designing political institutions, rebuilding economies, and promoting reconciliation have strong normative elements. By helping with these tasks, the UN takes a position, implicitly or explicitly, on how best to organize social and political life. It chooses between competing conceptions of the good.

Roland Paris describes peacebuilding as "an enormous experiment in social engineering," adding that UN peacebuilding efforts represent "a specific *kind* of social engineering, based on a particular set of assumptions about how best to establish durable domestic peace."[27] He also observes, along with Edward Newman and Oliver Richmond, that peacebuilding activities are not neutral in their normative orientation or impact. In their view, this raises serious ethical questions about efforts to end civil conflict by promoting specific political and economic models.[28] Most UN peace operations since the end of the Cold War have relied on a decidedly liberal approach to peacebuilding. This involves the promotion of electoral democracy, market-based economic reforms and a range of institutions associated with liberal democratic states.[29] According to Newman, liberal peacebuilding is based on "the idea that democracy and a free economy encourage people to resolve and express their differences peacefully," and it assumes that these conditions provide "the best foundation for development and accountable governance."[30] These strategies are not neutral toward different conceptions of the good. By expanding its activities to include peacebuilding and state-building, the United Nations has moved from what John Rawls calls "political liberalism," which is mostly procedural, to embrace "comprehensive liberalism, which involves substantive claims about how society should be organized."[31] Instead of taking a "hands-off" approach toward competing world views, UN peace support operations actively promote liberal policies and institutions.

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[25] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, op. cit., xi.
[26] Taisier M. Ali and Robert O. Matthews, "Conclusion: The Long and Difficult Road to Peace," in *Durable Peace: Challenges for Peacebuilding in Africa*, eds. Taisier M. Ali and Robert O. Matthews, 393-425 (Toronto: University of Toronto Press, 2004), 397.
[27] Paris, *At War's End*, op. cit., 4-6.
[28] Edward Newman, Roland Paris and Oliver P. Richmond, "Introduction," in *New Perspectives on Liberal Peacebuilding*, eds. Edward Newman, Roland Paris and Oliver P. Richmond, 3-25 (Tokyo: United Nations University Press, 2009), 12.
[29] Ibid, 12, 3.
[30] Edward Newman, "'Liberal' peacebuilding debates," in *New Perspectives on Liberal Peacebuilding*, eds. Edward Newman, Roland Paris and Oliver P. Richmond, 26-53 (Tokyo: United Nations University Press, 2009), 39.
[31] Rawls, op. cit., 153.

In practice, this strong normative position makes adherence to exclusive neutrality very difficult. UN personnel are frequently obliged to make trade-offs between the requirements of exclusive neutrality and the effective pursuit of other objectives, like protecting civilians. Here Rawls' distinction between neutrality of aim, neutrality of outcome, and procedural neutrality are instructive.[32] For the UN, exclusive neutrality is supposed to ensure that all parties are treated with equal care and concern. However, in conflict situations it can have the opposite effect. An example from Bosnia provides a helpful illustration. In an effort to limit the intensity and the duration of conflict, an international arms embargo was imposed on the former Yugoslavia in September 1991. The embargo's aim was neutral in that it applied to all parties and was supposed to have a similar impact on all belligerents. However, in Bosnia the outcome on the ground was not neutral. The embargo effectively locked a military advantage for the Bosnian Serbs, who were backed by the Yugoslav People's Army (JNA) and had already secured access to arms and supplies. By contrast, the government in Sarajevo was "woefully underprepared for war," having "naively counted on international military support if war broke out."[33] In the end, the arms embargo was deeply counterproductive. According to Peter Andreas, it helped tip the balance of power, emboldening the Bosnian Serbs and leading them to believe their enormous military advantage would allow for a decisive victory.[34] The supposedly impartial actions of the international community precipitated war instead of preventing it. This illustrates the limitations of exclusive neutrality and shows the importance of a contextual approach. It also suggests that alternative conceptions of neutrality might provide better guiding principles for UN peace support operations.

An Alternate Path to Legitimacy? Inclusive Neutrality and Justice as Evenhandedness

In the Bosnian case discussed above, the outcome of an impartially applied arms embargo was not neutral. It entrenched a military advantage for those who had covertly prepared for war. It also had a disproportionate impact on the party most vulnerable to an arms embargo, which may have helped precipitate conflict. In this respect, the effects of impartiality and exclusive neutrality were pathological. Interestingly, there was unofficial recognition among UN personnel that the impact of the embargo was unfair. During the siege of Sarajevo by Serb forces, it became clear that the city would not survive if it relied solely on humanitarian assistance from the UN. As a result, the Sarajevo government worked with local criminals and organized crime to smuggle military equipment and supplies into the city. One of the most important smuggling channels was a tunnel that ran beneath the Sarajevo airport; an average of 4,000 people and 20 tons of material passed through the tunnel every day. The UN controlled the airport from the summer of 1992 onward, but Peter Andreas reports that UN officials "behaved as if the tunnel did not exist, and ignored Serb demands that they try to close it."[35] They recognized that exclusive neutrality would not guarantee fair treatment for residents of Sarajevo. This suggests a willingness to adopt an inclusive version of neutrality that emphasizes fair outcomes, not just procedural neutrality and neutrality of aim.[36] This is an important departure from longstanding UN practice, but domestic precedents from liberal democratic states provide a starting point for developing alternative conceptions of neutrality and impartiality.

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[32] Ibid, 153-154.

[33] Peter Andreas, "The Clandestine Political Economy of War and Peace in Bosnia," *International Studies Quarterly*, vol. 48, no. 1 (2004): 33-34.

[34] Ibid, 39.

[35] Ibid.

[36] Van der Burg and Pierik, op. cit., 2.

For traditional peacekeeping missions, staying neutral meant taking a "hands-off" approach, and not passing judgment on the competing claims of belligerents. Impartiality meant refraining from any action to assist or hinder parties to the conflict. Joseph Carens presents an alternative conception of neutrality that could help address the shortcomings of exclusive neutrality in complex peace support operations. Carens emphasizes the importance of background conditions when making judgments about justice and fairness. He moves beyond "neutrality in the form of equal indifference," by adopting an "evenhanded" approach; "the guiding idea of evenhandedness is that what fairness entails is a sensitive balancing of competing claims for recognition and support."[37] This involves a contextual approach that takes history, numbers, and other considerations into account. He goes on to suggest that fairness as evenhandedness may "correspond more closely to our intuitive sense of what justice requires in a variety of situations."[38] In order to determine what justice requires in particular cases, "one must immerse oneself in the details of the case and make contextually sensitive judgments rather than rely primarily on the application of abstract principles."[39] When compared with exclusive neutrality, this description seems to fit much more closely with the judgments of UN personnel in Sarajevo. Had a contextual, evenhanded approach been adopted before the imposition of the arms embargo, their dilemma might have been avoided and the current government of Bosnia-Herzegovina might have developed fewer lasting ties to organized crime.[40]

Most contemporary peace operations are designed to address the root causes of conflict by transforming fragile states to reflect liberal values. They have moved away from the constraints of exclusive neutrality, and outsiders often wield significant influence over political and economic decision-making in war-affected societies.[41] However, this often occurs with little attention to local priorities and sensitivities. According to Elizabeth Cousens, peacebuilders too often assume that a "standard menu of international assistance" will apply in every setting.[42] This has important implications for the legitimacy of UN missions. Critics of liberal peacebuilding and initiatives like *R2P* lament "the suspension of sovereignty" for particular states, and have doubts about the UN's preferred methods for stabilizing war-torn states.[43] Edward Newman argues that the strong normative elements of peace support operations are often overlooked or obscured:

> The international peacebuilding community – especially the UN – likes to approach peacebuilding as a fundamentally practical challenge. Indeed, it is an application of [Robert] Cox's problem-solving approach in policy terms, focusing on issues of coordination and sequencing. It would appear that the peacebuilding community – again, especially the UN – is attempting to 'de-politicize' peacebuilding and present it as a technical task… The implication is that peacebuilding assistance is essentially value –free and that it does not represent important choices and interests… Efforts to de-politicize peacebuilding are an attempt to suppress unwelcome debate about the implications of these activities and a pretext for marginalizing local voices when they offer resistance to peacebuilding policies.[44]

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[37] Carens, op. cit., 12-13.

[38] Ibid.

[39] Ibid, 14.

[40] Andreas, op. cit., 44-46.

[41] Mark Duffield, *Global Governance and the New Wars: The Merging of Development and Security* (London: Zed Books, 2001), 73, 264.

[42] Elizabeth M. Cousens, "Introduction," in *Peacebuilding as Politics: Cultivating Peace in Fragile Societies*, eds. Elizabeth M. Cousens and Chetan Kumar, with Karin Wermester, 1-20 (Boulder: Lynne Rienner Publishers Inc., 2001), 9.

[43] Newman, op. cit., 35-36.

[44] Ibid, 42-43.

For many critical scholars, peace support operations allow donor states and international organizations to impose a hegemonic version of liberalism on vulnerable societies. According to Oliver Richmond, "the liberal peace often rests on coercion and conditionality in order to instill liberal norms and regimes."[45] He advocates an emancipatory view of peacebuilding. This approach places local values and preferences ahead of conventional wisdom about liberalization that is promoted by institutions like the UN, the World Trade Organization, and the World Bank.[46]

Roland Paris agrees that a particular paradigm, liberal internationalism, has guided most peacebuilding activities in the post-Cold War era. This paradigm assumes that Western models of social, political and economic organization will stabilize war-torn societies. Paris argues that this assumption rarely holds. Political and economic liberalization may create unforeseen problems, and even undermine the peace they are supposed to support.[47] However, he also rejects some of Richmond's conclusions, suggesting that "nothing in the recent critical literature offers a convincing rationale for abandoning liberal peacebuilding, rather than reforming it."[48] He goes on to argue that "liberalism is a broad canvas that can accommodate a wide range of political and economic structures as well as diverse methods for engaging with the inhabitants of war-shattered societies."[49] A compromise is possible. The UN should respect cultural differences and be wary of imposing unwelcome "solutions" on local populations. However, it should not abstain from all value judgments, especially when it comes to issues like human rights. Instead, competing claims should be weighed in a sensitive manner that takes full account of context, and that allows for proportionality and compensation where appropriate.[50]

Carens provides useful advice about when it is appropriate for outsiders to pass judgment on a political community's institutions or practices. This is important for peacebuilders because it helps distinguish reasonable judgments from unreasonable impositions. He proposes a theory of justice with three distinct parts that can be envisioned as concentric circles.[51] The outermost circle contains minimal, universal standards of justice that are applicable to all societies, regardless of their history, culture or political arrangements. Judgments about fundamental human rights fall within this category. The second circle includes standards of justice that are not universal, and that apply only in liberal democratic states. These are shared norms derived from liberal democratic principles, or from cultural and historical commonalities. The innermost concentric circle contains standards of justice that are particular to a given political community, and that are intimately linked to its history and culture. Carens explains that "as one moves outwards, the understanding of justice is thinner in the sense that it settles fewer questions, but more extensive in the sense that it applies to more contexts."[52] This provides helpful guidance for those seeking to reconcile cultural sensitivity with a belief in universal human rights. Peacebuilders should be wary of transplanting standards of justice from the innermost circle to post-conflict settings. However, it may be appropriate for them to adopt a strong normative stance on issues that fall within the outermost circle.

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[45] Oliver Richmond, "Emancipatory forms of human security and liberal peacebuilding," *International Journal*, vol. 62, no. 3 (2007): 474.

[46] Ibid, 461.

[47] Roland Paris, "Peacebuilding and the Limits of Liberal Internationalism," *International Security*, vol. 22, no. 2 (1997): 56.

[48] Roland Paris, "Saving Liberal Peacebuilding," *Review of International Studies*, vol. 36, no. 2 (2010): 362.

[49] Ibid, 339.

[50] Van der Burg and Pierik, op. cit., 2.

[51] Boundaries between these circles are somewhat fluid and are likely to be the subject of debate. Carens, op. cit., p. 33-34.

[52] Carens, op. cit., 33-35.

Kristoffer Lidén grapples with this dilemma, arguing that "the ethical standard of assessment for peacebuilding should include both the value of autonomy and the value of meeting fundamental human needs;" he proposes "social peacebuilding" as an approach that preserves legitimacy without compromising on basic human rights issues.[53] He compares it to "re-liberal" peacebuilding, which promotes a universal model of liberal state-building, and "multicultural peacebuilding," which is communitarian, and focused exclusively on promoting local conceptions of peace and development. For Lidén, the former constitutes an unreasonable imposition on host societies, and the latter can have negative political consequence despite its "apparent normative and political neutrality."[54] Social peacebuilding occupies a middle ground. It involves "the culturally adapted provision of material resources, security, political influence and education without political conditions except for inclusion and non-violence," and it discards universal models in favor of negotiation between local and international actors.[55] Together, Carens' theory of justice and Lidén's theory of social peacebuilding suggest a way out of dilemmas around neutrality, legitimacy and effectiveness in UN peace support operations. The potential contribution of this approach will now be evaluated by reviewing the mandate and activities of the United Nations Operation in Côte d'Ivoire (UNOCI).

Normative Dilemmas in UN Peace Support Operations: the Case of Côte d'Ivoire

Côte d'Ivoire achieved independence in 1960. For several decades afterward, the country experienced economic prosperity and relative political stability under the leadership President Félix Houphouët-Boigny. Between 1965 and 1980, a strong comparative advantage in the production of cocoa, coffee, and timber allowed the country's GDP to grow at an average annual rate of 7.7%.[56] Robust economic growth attracted many immigrants from neighbouring countries, especially Burkina Faso and Mali. They made significant contributions to the Ivorian economy, largely through the cultivation of cocoa. By the 1980s, roughly 40% of the country's labour force was composed of immigrants.[57] Most of these immigrants were Muslim, and many shared ethnic ties with the people of northern Côte d'Ivoire. Some southerners, most of whom were Christian, resented the influx of immigrants and alleged that northerners were not of "native" Ivorian descent.[58] Under conditions of economic prosperity and one-party rule, President Houphouët-Boigny was able to suppress most of these tensions and prevent political mobilization along ethnic and religious lines.[59] However, intense power struggles ensued after his death in 1993. Political tensions were exacerbated by controversies between northern and southern ethnic groups about citizenship laws and voting eligibility. For instance, Houphouët-Boigny's successor, Henri Konan Bédié, changed the country's electoral laws to reflect a doctrine of *Ivoirité*, which measured an individual's degree of nationality based on paternity. This move excluded large numbers of people from Ivorian citizenship even though they had been born in Côte d'Ivoire. It also prevented many northerners, including former Prime Minister Alassane Ouattara, from running in

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[53] Kristoffer Lidén, "Building Peace between Global and Local Politics: The Cosmopolitical Ethics of Liberal Peacebuilding," *International Peacekeeping*, vol. 16, no. 5 (2009): 619.

[54] Ibid, 630.

[55] Ibid, 621, 622-623.

[56] Femi Aribisala, "The Political Economy of Structural Adjustment in Côte d'Ivoire," in *Structural Adjustment in West Africa*, eds. Adebayo O. Olukoshi, R. Omotayo Olaniyan, and Femi Aribisala, 126-141 (Lagos: Nigerian Institute of International Affairs, 1994), 126.

[57] Paul Collier, *Wars, Guns and Votes: Democracy in Dangerous Places* (New York: HarperCollins, 2009), 156-157.

[58] William B. Milam and Jennifer G. Jones, "Ivory Coast: Another Asterisk for Africa's Democratization," *Current History*, vol. 110, no. 736 (2011): 179.

[59] Dwayne Woods, "Elites, Ethnicity, and 'Home Town' Associations in the Côte d'Ivoire: An Historical Analysis of State-Society Links," *Africa: Journal of the International African Institute*, vol. 64, no. 4 (1994): 466.

elections.[60]   In December 1999, these tensions culminated in a successful coup d'état that removed President Bédié from power. The leader of the coup, General Robert Guéï, agreed to hold elections shortly afterward, but results of the 2000 presidential election were disputed. Côte d'Ivoire's Supreme Court declared Laurent Gbagbo the winner over General Guéï. However, Paul Collier argues that Gbagbo came to power through "the mixture of an illegitimate election and a rebel uprising."[61]

Political unrest continued to plague the country, with civil war breaking out in September 2002. General Guéï was killed early in the conflict, but forces loyal to him demanded inclusive national elections, a review of the Constitution, an end to the domination of southerners in national politics, and the resignation of President Gbagbo, who continued to apply the doctrine of *Ivoirité*. According to Paul Collier, there is some evidence that a negotiated settlement was delayed because of the international community's reluctance to endorse any agreement that was not validated by free and fair elections.[62] Belligerents on both sides equated elections with defeat because they feared losing to popular candidates, like Alassane Ouattara, who might return from abroad after being excluded from previous elections.[63] This seems to support the claim that political liberalization does not always foster peace. Despite early setbacks, and following extensive negotiations, the Linas-Marcoussis peace agreement was signed in January 2003 and a government of national reconciliation was established. The agreement envisaged an active role for the United Nations; the UN was supposed to enhance security, promote human rights, provide humanitarian assistance, and deploy civilian and military observers to monitor the implementation of the agreement.[64]   In May 2003, the United Nations Security Council created a political mission known as the United Nations Mission in Côte d'Ivoire (MINUCI).[65]

Implementation of the Linas-Marcoussis Agreement was halting, however, and conflict resumed, largely because of opposition to some of the power sharing arrangements contained in the agreement. In February 2004, at the request of President Gbagbo, the United Nations Security Council established a peace support operation, the United Nations Operation in Côte d'Ivoire (UNOCI), to replace MINUCI.[66]   UNOCI was established under Chapter VII of the UN Charter with Security Council Resolution 1528. It presently includes 9,404 soldiers and 200 military observers, as well as 1,350 police officers, 400 civilian personnel, 758 local staff, and 290 UN volunteers.[67]   Interestingly, resolution 1528 reaffirms the Security Council's "strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire," and recalls the importance of non-interference.[68] At the same time, the resolution outlines a substantial political role for UN personnel and authorizes the mission to "use all necessary means to carry out its mandate."[69]   Under resolution 1528, UNOCI responsibilities mirror the comprehensive stabilization strategies favoured by proponents of liberal peacebuilding. They include protecting civilians who are "under imminent threat of physical violence," and providing "oversight, guidance and technical assistance" to the Government of National

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[60] Milam and Jones, op. cit., 179.

[61] Collier, op. cit., 162.

[62] Ibid, 165.

[63] Ibid, 158-159, 164-165.

[64] "Côte d'Ivoire - MINUCI – Background," United Nations, April 2004
http://www.un.org/en/peacekeeping/missions/past/minuci/background.html (accessed 27 March 2011)

[65] "UNOCI – United Nations Operation in Côte d'Ivoire," 16 December 2010,
http://www.un.org/en/peacekeeping/missions/unoci/ (accessed 27 March 2011)

[66] "UN Security Council Resolution 1528," United Nations Security Council, 27 February 2004,
http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1528%20(2004 (accessed 31 March 2011)

[67] "UNOCI Facts and Figures," United Nations Operation in Côte d'Ivoire, 30 April 2012,
http://www.un.org/en/peacekeeping/missions/unoci/facts.shtml (accessed 30 May 2012)

[68] Ibid.

[69] Ibid.

Reconciliation.[70] UN personnel are also charged with helping to rebuild the judiciary and police presence throughout Côte d'Ivoire, promoting human rights and investigating alleged human rights violations, and assisting with programs to disarm, demobilize, and reintegrate combatants.[71] This list is not exhaustive, but these responsibilities go far beyond traditional peacekeeping mandates that were designed to avoid intrusion in the domestic affairs of states. UNOCI was also charged with preparing for, and assisting with, a transparent electoral process. This included certifying the results of the presidential election that eventually took place in 2010.[72] As with many other peacebuilding missions, international financial assistance has been conditional on political and economic liberalization. The World Bank froze lending and disbursements to the government of Côte d'Ivoire because of concerns about the result of the 2010 election.[73] The International Monetary Fund has also made support conditional on a series of structural economic reforms that are supposed to strengthen public financial management and "improve the business climate" in Côte d'Ivoire.[74]

The UN Operation in Côte d'Ivoire has faced a number of challenges despite, or perhaps because of, its wide-ranging mandate. Due to the nature of their responsibilities, UN personnel easily find themselves torn between pressures to remain neutral and impartial, and the effective fulfillment of mission objectives, like protecting civilians or supervising fair elections. The 2010 presidential election provides an excellent example. President Laurent Gbagbo's original term expired in 2005, but new presidential elections were repeatedly delayed because of ongoing instability. They were eventually held on 28 November 2010. The elections were supervised by the UN, and certified as free and fair by the Ivorian electoral commission and by UNOCI. Alassane Ouattara, the candidate of the Rassemblement des Republicains (RDR) was declared the winner and recognized as President-elect by the UN, the African Union, the Economic Community of West African States (ECOWAS), the United States, France, and many other countries. Laurent Gbagbo refused to concede defeat, however. He succeeded in having Côte d'Ivoire's Constitutional Council, which he controlled, declare him the victor.[75]

After the November elections, more violence broke out. Despite his apparent defeat, Mr. Gbagbo retained control of the army, police and state media in Côte d'Ivoire, using funds from the Ivorian Central Bank to maintain their support.[76] In the immediate aftermath of the elections, Gbagbo is accused of killing unarmed civilians, and of using state broadcasting facilities to propagate hate speech against immigrants and citizens from other ethnic groups.[77] Repeated attempts to resolve the political impasse through mediation failed, and close to 3,000 people were killed in post-election clashes.[78] Roughly one million people were also displaced between December 2010 and March 2011.[79] The UN

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[70] Ibid.

[71] Ibid.

[72] Milam and Jones, op. cit., 180-181.

[73] "World Bank Freezes Ivory Coast Financing," Wall Street Journal, 22 December 2010, http://blogs.wsj.com/corruption-currents/2010/12/22/world-bank-freezes-ivory-coast-financing/ (accessed 30 May 2012)

[74] "Concluding Statement by an IMF Mission to Côte d'Ivoire," International Monetary Fund, 14 March 2012, http://www.imf.org/external/np/sec/pr/2012/pr1283.htm (accessed 30 May 2012)

[75] Milam and Jones, op. cit., 181.

[76] Ibid, 181-182.

[77] "Presidential Elections," United Nations Operation in Côte d'Ivoire, 31 March 2011, http://www.un.org/en/peacekeeping/missions/unoci/elections.shtml (accessed 31 March 2011)

[78] "Election Day is Calm in Ivory Coast," New York Times, 11 December 2011, http://www.nytimes.com/2011/12/12/world/africa/vote-counting-begins-in-ivory-coast-legislative-elections.html?_r=1&ref=laurentgbagbo (accessed 30 May 2012)

[79] "Labour urging Ivory Coast aid push as crisis worsens," British Broadcasting Corporation, 31 March 2011, http://www.bbc.co.uk/news/uk-politics-12924482 (accessed 31 March 2011)

Security Council and the Secretary-General came out in strong support of Mr. Ouattara as President-elect, ordering UN troops to provide security around the hotel where he sought refuge after Mr. Gbagbo's refusal to cede power. The UN High Commissioner for Human Rights found evidence of "massive" human rights abuses, and warned Gbagbo and his advisors that they would be "personally held responsible and accountable for human rights violations resulting from their actions and/or omissions, according to international human rights and humanitarian law."[80] In response to international pressure, Mr. Gbagbo ordered his forces to attack UNOCI troops and prevent them from effectively fulfilling their mandate.[81] He also called for the United Nations to leave Côte d'Ivoire, and encouraged all his supporters to attack UN personnel, who he described as being pro-Ouattara. In particular, he claimed that France and the UN lacked legitimacy because they were imperialist hegemons that sought to rule Côte d'Ivoire by installing Mr. Ouattara as their "agent."[82] Gbagbo and his advisors succeeded in attracting many new army recruits by claiming they need help defending Ivorian sovereignty.[83] The relative success of these tactics shows that the principles of neutrality and sovereign autonomy still exert a powerful influence. It also shows how a UN mission can erode its on-the-ground legitimacy, and place its staff at risk, by taking sides and making substantive judgments about the competing claims of belligerents. The political stalemate continued in Côte d'Ivoire until April 2011 when UN and French helicopters attacked the presidential palace where Mr. Gbagbo was staying.[84] Forces loyal to Mr. Ouattara subsequently arrested Mr. Gbagbo, and the former president now faces charges at with the International Criminal Court in the Hague for his role in the post-election violence.[85]

Chiyuki Aoi argues that building legitimacy for peace support operations is a dynamic process. It depends on the "achievement of purported goals," not just on initial basis for intervention or the methods used.[86] In a 2011 report on the situation in Côte d'Ivoire, the International Crisis Group (ICG) takes a similar position, discussing UNOCI's responsibilities and contrasting them with its performance up until that point. The report finds that limited mobility and a lack of information prevented UN personnel from accurately recording civilian deaths and human rights violations, let alone preventing them. The ICG also argues that UNOCI was initially too timid about fully pursuing its mandate, including the protection of civilians. This in turn had a negative impact on how the mission was perceived. The ICG recommends that UNOCI broaden interpretations of its mandate, and adopt a more forceful stance toward groups that would stymie its efforts, using force against the Ivorian army and police if necessary.[87] In the end, UNOCI did just this. Having promoted and supervised free and fair elections, the UN was willing to use force to make sure the results were respected. This was based on a strong normative commitment to electoral democracy and the protection of civilians. By attacking the presidential palace, UN personnel deliberately and forcibly took sides. However, this abandonment of

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[80] "Côte d'Ivoire: UN human rights chief reminds authorities of their obligation to protect civilians," Office of the High Commissioner for Human Rights – United Nations, 31 December 2010, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10618&LangID=E (accessed 31 March 2011)
[81] "Côte d'Ivoire: Four UN soldiers wounded in another assault by Gbagbo's forces," United Nations News Centre, 2 April 2011, http://www.un.org/apps/news/story.asp?NewsID=37984&Cr=Ivoire&Cr1 (accessed 30 May 2012)
[82] Milam and Jones, op. cit., 182.
[83] "Pro-Ouattara Fighters Capture Ivorian Capital, Gbagbo Delays Address," Voice of America, 29 March 2011, http://www.voanews.com/english/news/Pro-Ouattara-Forces-Enter-Ivory-Coast-Capital-118920514.html (accessed 31 March 2011)
[84] Milam and Jones, op. cit., 177.
[85] "Côte d'Ivoire: Gbagbo's ICC Transfer Advances Justice," Human Rights Watch, 29 November 2011, http://www.hrw.org/news/2011/11/29/c-te-d-ivoire-gbagbo-s-icc-transfer-advances-justice (accessed 30 May 2012)
[86] Aoi, op. cit., 13-14.
[87] International Crisis Group, *Côte d'Ivoire: Faut-il se résoudre à la guerre?,* Africa Report No. 171 (3 March 2011), 19-20.

exclusive neutrality leads many to wonder whether the achievement of liberal peacebuilding goals has become more important than maintaining a broad base of legitimacy for the mission.

According to the UN Secretary-General's March 2012 report on Côte d'Ivoire, UNOCI is engaged in many activities that mirror the core priorities of liberal peacebuilding.[88] Mission personnel are working to enhance security, foster economic recovery, improve governance and strengthen state institutions. For instance, UNOCI is working with President Ouattara's government to reform the country's military and police, and to address shortcomings in the Ivorian judicial system. A strong emphasis is also placed on extending state authority to all part of the country. The report recommends that UNOCI continue supporting the Ivorian authorities in all of these endeavors.[89] However, this means providing support for a particular kind of peace. Many Ivorians do not accept the results of the 2010 election, and do not recognize Alassane Ouattara as president. Moreover, there is credible evidence that the Ivorian military, the Forces Républicaines de Côte d'Ivoire (FRCI), conducts violent reprisals against civilians who are suspected of being Gbagbo supporters. Opposition groups also complain that UNOCI has done too little to protect them from arbitrary arrests and killings at the hands of the FRCI.[90] Despite promises to address these problems and hold all sides accountable for their actions, national prosecutors have not brought charges against any pro-Ouattara forces. Similarly, the International Criminal Court has focused its investigations primarily on Mr. Gbagbo and his supporters. According to Human Rights Watch, this "creates a perception of victor's justice and risks stoking further communal tensions."[91] By providing extensive support to present government, the United Nations erodes its credibility among opposition groups and those who believe the government is illegitimate. Should violence flare up again, this perceived partiality could make it very difficult for the UN to act as intermediary in future negotiations.

UNOCI has therefore been obliged to make trade-offs. Exclusive neutrality allows missions to enjoy a degree of legitimacy among all parties to a conflict, but it can also impede the effective pursuit of mandate objectives. Yet, as soon as UN personnel take forceful action, their involvement appears less legitimate to those who believe they are on the losing end. An inclusive approach to neutrality might alleviate some of these tensions. Thinking in terms of justice as evenhandedness would allow for a contextual approach when evaluating competing claims.[92] In the Ivorian setting, this would mean taking account of historical grievances around immigration, religion, citizenship and political rights. It would also entail a more balanced approach in disputes between the Government and opposition groups. For instance, it makes sense for UNOCI to support government efforts at security sector reform, but mission personnel should be equally responsive to complaints from opposition groups that are harassed by state security personnel. Decisions about how to respond should depend on contextual factors like power disparities and past relationships between claimants. Following Joseph Carens, it is also important to remember that there are issues on which outsiders should not pass judgment.[93] Kristoffer Lidén's criteria for evaluating peacebuilding provide practical guidance in this regard. He argues that peacebuilders should focus on promoting autonomy and meeting fundamental human needs, not on transplanting Western models of social and political organization.[94] This means that international support should be conditional on general requirements like inclusion and non-violence,

[88] Paris, *At War's End*, op. cit., 15.

[89] United Nations Security Council, *Special Report of the Secretary-General on the United Nations Operation in Côte d'Ivoire* (New York: United Nations, 2012), 11-13.

[90] Ibid, 8.

[91] "Côte d'Ivoire: Gbagbo's ICC Transfer Advances Justice," Human Rights Watch, op. cit.

[92] Carens, op. cit., 12-14.

[93] Ibid, 33-35.

[94] Lidén, op. cit., 630.

not on specific criteria like electoral democracy or market-oriented economic reforms. Exclusive neutrality has a long history in UN peace support operations, but the rise of liberal peacebuilding has created tensions around legitimacy that now manifest themselves in missions like UNOCI. Inclusive neutrality, justice as evenhandedness and social peacebuilding provide promising avenues for maintaining the legitimacy of UN peace support operations without abandoning the effective pursuit of substantive normative goals.

Conclusion

For several decades, the legitimacy of UN peacekeeping operations depended on impartiality and a "hands-off" conception of neutrality. These requirements were derived from broader norms about non-interference and the sovereign equality of states.[95] They were particularly important during the Cold War because ideological differences made it virtually impossible for member states to agree on the best modes of domestic political organization, or about concepts like fundamental human rights. However, the 1990s brought a remarkable convergence of opinions on governance, economic development, and human rights. The number of violent civil conflicts also increased dramatically after the Cold War, and the UN assumed a much more prominent role in efforts to end wars and prevent their recurrence. Norms around humanitarian intervention changed, and new ideas emerged about how to resolve conflict and build sustainable peace. Liberal peacebuilding became "an enormous experiment in social engineering" and the United Nations was at the heart of it.[96] This experiment assumed that economic and political liberalization would foster peace in countries emerging from conflict. Many researchers have subsequently outlined the shortcomings of this approach, noting that it entails important value judgments about how vulnerable societies should be organized. United Nations involvement in liberal peacebuilding is often framed as the provision of technical assistance, but it is impossible to help reform a country's security sector, design political institutions, or promote human rights without taking substantive normative positions.[97] These activities make it very difficult to remain neutral if one thinks only in terms of "exclusive" or "hands-off" neutrality. Trade offs between legitimacy and effectiveness inevitably ensue.

These dilemmas play out on the ground in missions like the United Nations Operation in Côte d'Ivoire (UNOCI). After supervising the 2010 election and certifying that it was free and fair, UN personnel took forceful action to make sure those results were respected.[98] In response, former president Laurent Gbagbo drew on an exclusive conception of neutrality to argue that UNOCI was not neutral or impartial, and to convince many Ivorians that the UN presence in Côte d'Ivoire should come to an end.[99] UNOCI has also worked closely with the Alassane Ouattara's new government to reform the country's security sector, foster economic growth, and strengthen state institutions. However, the mission's legitimacy has eroded among some opposition groups because they feel efforts to strengthen state authority are displacing concerns about justice and fairness.[100] An inclusive conception of neutrality draws on Joseph Carens' theory of justice as evenhandedness, and has the potential to alleviate some of these tensions. Inclusive neutrality would allow peace support operations to pursue substantive objectives without abandoning the commitments to neutrality and impartiality on which

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[95] Forsyth, op. cit., 25.
[96] Paris, *At War's End*, op. cit., 6.
[97] Newman, op. cit., 42-43.
[98] Milam and Jones, op. cit., 177.
[99] Ibid, 182.
[100] "Côte d'Ivoire: Gbagbo's ICC Transfer Advances Justice," Human Rights Watch, op. cit.

their legitimacy depends. In practice, this might resemble Kristoffer Lidén's "social peacebuilding," which distinguishes between issues on which outsiders can reasonably pass judgment, and issues that should be left entirely at the discretion of local populations. Social peacebuilding seeks to avoid the coercive aspects of liberal peacebuilding without precluding a normative role for external actors.[101] This proposal might sound radical. Yet, inclusive neutrality and justice as evenhandedness are intuitively appealing because they already correspond to what we see as fair in many situations. Adopting inclusive neutrality as a guiding principle could provide a new, more appropriate way of linking justice and legitimacy in UN peace support operations.

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[101] Lidén, op. cit., 631.

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