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TAKING SIDES IN PEACEKEEPING

Impartiality and the Future of the United Nations

EMILY PADDON RHOADS



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Emily Paddon Rhoads

List of Acronyms

ADF–NALU	Allied Democratic Forces—National Army for the Liberation of Uganda
AFDL	<i>Alliance des Forces Démocratiques pour la Libération du Congo-Zaire</i>
AG	Armed Group
ALiR	<i>Armée pour la Libération du Rwanda</i>
APCLS	<i>Alliance Patriotique pour un Congo Libre et Souverain</i>
AU	African Union
BDK	<i>Bundu dia Kongo</i>
CIAT	<i>Comité International d'Accompagnement de la Transition</i>
CLA	Community Liaison Advisor
CLI	Community Liaison Interpreter
CNDP	<i>Congrès National pour la Défense du Peuple</i>
COBS	Company Operating Bases
DDR	Demobilization, Disarmament, and Reintegration
DDRRR	Disarmament, Demobilization, Repatriation, Resettlement, and Reintegration
DFS	Department of Field Support, United Nations
DPA	Department of Political Affairs, United Nations
DPKO	Department of Peacekeeping Operations, United Nations
DRC	Democratic Republic of the Congo
DSRSG	Deputy Special Representative of the Secretary-General, United Nations
DSRSG/RC/HC	Deputy Special Representative of the Secretary-General/ Resident Coordinator/Humanitarian Coordinator, United Nations
FAG	Foreign Armed Group
FAPC	<i>Forces Armées du Peuple Congolais</i>
FAR	<i>Forces Armées Rwandaises</i>
FARDC	<i>Forces Armées de la République Démocratique du Congo</i>
FPDC	<i>Front Populaire pour la Démocratie du Congo</i>
FDLR	<i>Forces Démocratiques de Libération du Rwanda</i>
FIB	Force Intervention Brigade
FNI	<i>Front des Nationalistes et Intégrationnistes</i>

FRPI	<i>Force de Résistance Patriotique en Ituri</i>
GA	General Assembly
HQ	Headquarters
ICC	International Criminal Court
ICGLR	International Conference on the Great Lakes Region
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDP	Internally Displaced Person
IEMF	Interim Emergency Multinational Force
IHL	International Humanitarian Law
IMF	International Monetary Fund
IPI	International Peace Institute
IR	International Relations
ISAF	International Security Assistance Force
ISSS	International Security and Stabilization Support Strategy
JMAC	Joint Mission Analysis Centre
JMC	Joint Military Commission
JOC	Joint Operations Centre
JPT	Joint Protection Team
LRA	Lord's Resistance Army
MINURCAT	<i>Mission des Nations Unies en République Centrafricaine et au Tchad</i>
M23	<i>Mouvement du 23-Mars</i>
MINUSCA	<i>Mission Multidimensionnelle Intégrée des Nations Unies pour la Stabilisation en Centrafrique</i>
MINUSMA	<i>Mission Multidimensionnelle Intégrée des Nations Unies pour la Stabilisation au Mali</i>
MINUSTAH	<i>Mission des Nations Unies pour la Stabilisation en Haïti</i>
MLC	<i>Mouvement de Libération du Congo</i>
MONUC	<i>Mission de l'Organisation des Nations Unies en République Démocratique du Congo</i>
MONUSCO	<i>Mission de l'Organisation des Nations Unies pour la Stabilisation en République Démocratique du Congo</i>
MoU	Memoranda of Understanding
NAM	Non-Aligned Movement

NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
OAU	Organization of African Unity
OCHA	Office for the Coordination of Humanitarian Affairs, United Nations
OHCHR	Office of the High Commissioner for Human Rights, United Nations
OIOS	Office of Internal Oversight Services, United Nations
OLA	Office of Legal Affairs, United Nations
ONUB	<i>Opération des Nations Unies au Burundi</i>
ONUC	<i>Opération des Nations Unies au Congo</i>
ONUCI	<i>Opération des Nations Unies en Côte d'Ivoire</i>
PARECO	<i>Patriotes Résistants Congolais</i>
PCC	Police-Contributing Country
PoC	Protection of Civilians
PSCF	Peace, Security, and Cooperation Framework
PUSIC	<i>Parti pour l'Unité et la Sauvegarde de l'Intégrité du Congo</i>
RBA	Rights-Based Approach
RCD	<i>Rassemblement Congolais pour la Démocratie</i>
RCD-G	<i>Rassemblement Congolais pour la Démocratie-Goma</i>
RPA	Rwandan Patriotic Army
RPF	Rwandan Patriotic Front
RoE	Rules of Engagement
RtoP	Responsibility to Protect
RUF	Revolutionary United Front
SADC	Southern African Development Community
SEA	Sexual Exploitation and Abuse
SNA	Somali National Alliance
SoFA	Status of Forces Agreement
SRSG	Special Representative of the Secretary-General
SSR	Security Sector Reform
TCC	Troop-Contributing Country
TG	Transitional Government
UN	United Nations
UNAMID	United Nations African Union/United Nations Hybrid Operation in Darfur
UNAMIR	United Nations Assistance Mission for Rwanda
UNAMSIL	United Nations Mission in Sierra Leone

UNDOF	United Nations Disengagement Observer Force
UNDP	United Nations Development Programme
UNSS	United Nations Department for Safety and Security
UNEF	United Nations Emergency Force
UNFICYP	United Nations Peacekeeping Force in Cyprus
UNHCR	United Nations High Commissioner for Refugees
UNIFIL	United Nations Interim Force in Lebanon
UNIPOM	United Nations India Pakistan Observation Mission
UNJHRO	United Nations Joint Human Rights Office
UNMIK	United Nations Interim Administration Mission in Kosovo
UNMISS	United Nations Mission in the Republic of South Sudan
UNOSOM	United Nations Operation in Somalia
UNPROFOR	United Nations Protection Force
UNSC	United Nations Security Council
UNSSSS	United Nations Security and Stabilization Support Strategy
UNTAET	United Nations Transitional Administration in East Timor
UPC	<i>Union des Patriotes Congolais</i>
UPDF	Uganda People's Defence Force

Contents

<i>List of Acronyms</i>	ix
<i>Fig. 1. Map of the Democratic Republic of the Congo</i>	xiii
Introduction	1
1. The Composite Norm of Impartiality	25
2. From Passive to Assertive Impartiality	46
3. Institutionalization and the Global Politics of Peacekeeping	92
4. Implementation and the Local Politics of Peacekeeping in the Congo	120
5. The Effects of Assertive Impartiality in the Congo	172
6. The Politics of Taking Sides	198
<i>References</i>	215
<i>Index</i>	243

Introduction

On 1 March 2005, United Nations (UN) peacekeeping forces launched an offensive in the northeast of the Democratic Republic of the Congo in order to suppress a rebellion.¹ At 08:00, commanders deployed twelve armoured personnel carriers. Ground forces cordoned off the area and asked for air support. At 11:00, the target was located and engaged. Mi-25 attack helicopters swooped in, firing sixteen rockets in eight passes. The militia camp was successfully ‘neutralized’ and UN troops were withdrawn from the area by 16:00. An estimated fifty rebels were killed. ‘It may look like war’, explained Lieutenant-General Babacar Gaye, Force Commander of the mission, ‘but it is peacekeeping.’² ‘We were impartial.’³

The assault, part of the UN’s *Operation Djugu III*, was no aberration. Since 1999, blue helmets in places such as Sierra Leone, Haiti, Ivory Coast, and Mali have conducted military offensives to ‘keep’ and ‘make’ peace. Once limited in scope and based firmly on the consent of all parties, peacekeeping operations are now regularly authorized under Chapter VII of the UN Charter, charged with penalizing spoilers of the peace and protecting civilians from peril. Anything less amounts to what the *Report of the Panel on United Nations Peace Operations* (2000) condemned as ‘complicity with evil’.⁴ Peacekeepers are now expected to search for, and then side with, the victims.

Despite this more aggressive posture, UN officials such as Lt. Gen. Gaye as well as academics continue to affirm the vital importance of impartiality—a norm traditionally regarded as the ‘oxygen’⁵ and ‘lifeblood’⁶ of peacekeeping—while stating that it no longer means what it once did. They characterize the new impartiality as ‘active’ impartiality,⁷ ‘unrestrained’ impartiality,⁸ even ‘imperial’ impartiality⁹—implying that peacekeepers are, or should be, robust and assertive in carrying out their increasingly lofty and ambitious mandates.

IMPARTIAL PEACEKEEPING AND ASSERTIVE
LIBERAL INTERNATIONALISM

This book is the first scholarly attempt to analyse this transformation and its implications. It argues that the change in the understanding and practices of impartiality is significant. Because impartiality refers not only to the position of peacekeepers as an unbiased and informed third party but also to the values and norms the UN itself seeks to project, this change, which is manifest in discourse and institutionalized in doctrine and rules of engagement (RoE), signifies a radical transformation in the very nature and substance of peacekeeping, and in the UN's role as guarantor of international peace and security. Claims to impartial authority are no longer based exclusively on terms to which all parties consent. Instead, they are premised on a more ambitious and expansive set of human-rights-related norms, around which consensus is presumed but not always secured. While traditional peacekeeping mandates treated parties with moral equivalence and eschewed notions of blame and punishment, instigators of violence are often now seen as criminals—their crime a form of moral collapse to be judged and righted by peacekeepers, rather than as a symptom of a political conflict to be mediated.

What is more, this change is not limited to peacekeeping. It is an integral part of the turn towards what I refer to as a more assertive liberal internationalism, one that is transforming existing international institutions and practices, particularly the UN. The realization, promotion, and protection of human rights is at the core of this broader shift and has translated into forms of international engagement that are less consensual and more compulsory and coercive, justified by upholding human rights and constellating a new class of international crimes.¹⁰

Here, too, claims to impartial authority figure prominently, but they have taken on new meaning. For example, through the principle of universal jurisdiction, the International Criminal Court (ICC) is unprecedented in its claim to impartially investigate and try alleged perpetrators of international crimes independently of whether their states have given consent to the organization by ratifying the Rome Statute.¹¹ In the field of humanitarian assistance, many of today's aid workers no longer impartially provide emergency relief to individuals based exclusively on need. Decisions about who should receive assistance are now often influenced by whether they help or hinder the realization of rights. While claiming to be impartial, humanitarian actors frequently advocate for human-rights protections and actively seek to reform political and social structures that impinge on those rights. Similarly, the UN's *Human Rights Up Front* policy, developed in 2013, puts the imperative to protect people from serious violations of human rights and international humanitarian law at the core of the organization's strategy and operational

activities, and obliges staff to speak out on an 'impartial basis' about abuses and looming crises.¹²

The legitimacy of this more assertive liberal internationalism, and associated claims by peacekeepers, judges, and aid workers that their more coercive and intrusive actions *are* impartial, rests largely on what is extolled as a newfound unity of purpose. What is the base for such a claim? Academics and practitioners alike contend that the 'internationalization of human rights' over several decades has allowed for an acceptable transformation in the foundation of certain norms that now have authority not because they are based on the consent of individual states, but rather because they are seen to reflect a collective international consensus—what scholar Ruti Teitel describes as the 'new law of humanity'.¹³ At the core of this transformation is the idea that human rights and the protection of those rights, particularly for those most vulnerable in armed conflict, are no longer tied to a particular political or partisan agenda. 'Protecting civilians transcends politics', as one diplomat recently proclaimed in the Security Council.¹⁴

This notion has become a powerful piety, described by some as the 'new ideology', even a 'secular religion'.¹⁵ The unassailably worthy conviction that human rights and peacekeeping in the service of those rights are above politics, and that above all, individual civilians should be protected, is potent. It allows for simple and easily comprehensible accounts of right and wrong, in what are often contexts of extreme human suffering. It differentiates victim from perpetrator, assigns innocence and guilt, and it furnishes apparently straightforward answers to questions about what must be done to bring about good, to stop the suffering. In other words, it provides something to believe in. All of which makes it very difficult indeed to argue with. Contestation, from this perspective, would appear to be a thing of the past.

This book examines this shift towards assertive liberal internationalism in the context of UN peacekeeping. This focus is important because, despite the significance of this change and the long lineage of impartiality in peacekeeping, the norm has been the subject of surprisingly little sustained analysis.¹⁶ Whereas consent of the host state and non-use of force—the two other norms traditionally associated with peacekeeping—have been the focus of several comprehensive academic studies,¹⁷ impartiality has received little more than passing references to its vital importance¹⁸ and its application in specific historical cases.¹⁹ Given that the dominant meaning of impartiality has radically changed, this omission is a glaring oversight, not least because of its implications *for* the other two norms.

Rather, in an apparent case of 'taking sides', scholars of peacekeeping have done more actively to advocate for the new more assertive conception of impartiality and applaud its institutionalization in the new millennium than they have critically to interrogate the norm and its implications from political and operational perspectives.²⁰ In their reflections on the peacekeeping

failures of the 1990s, many academics excoriated the UN and its 'institutional ideology of impartiality' as entirely inappropriate for the post-Cold War operational environment of catastrophic mass violence.²¹ They contended that 'impartiality had to be reconceived', called for clarification in both the conceptual and operational domains, and advanced their own interpretations of the norm.²² Others imposed a distinction where none had previously existed; they redefined Cold War peacekeeping, *ex post facto*, as 'neutral' to denote its passive character whereas it was hoped that post-Cold War activity would, in a more dynamic sense, be 'impartial'.²³ These texts do not engage in rigorous conceptual analysis or with what one author describes as the 'broader political-strategic issues surrounding new impartiality'.²⁴ Lacking this wider view, our understanding of the politics and practices of contemporary peacekeeping, as well as the normative framework that underpins and is used to justify the authority of peacekeepers and the UN, is incomplete and partial.

Meanwhile, peacekeeping has descended into a state of renewed crisis. In many mission contexts, which have experienced repeated crises in recent years, peace and stability have become a mirage. In places like Darfur, South Sudan, Burundi, and Congo where the UN's political space has been restricted, mandate implementation has been thwarted by intransigent host governments, freedom of movement has been curtailed, officials have been made *persona non grata* and missions have, at various junctures, been threatened with expulsion. What is more, an increase in attacks on and kidnappings of UN personnel has prompted troop-contributing countries (TCCs) to withdraw contingents from missions that are already notoriously under-resourced and plagued by technical difficulties.

THE POLITICS OF PEACEKEEPING

It is in this context that a closer and more critical examination of the dominant conception of impartiality as a norm of UN peacekeeping becomes essential. This book starts from the premise that claims to impartiality must be considered as only that—claims. Rather than accept that consensus exists over the meaning and appropriateness of the new more assertive conception of impartiality, and that the decisions and actions of peacekeepers *are* impartial, I take these as assertions that require empirical investigation. History is rife with instances of closeted sectarianism and abuses of authority under the guise of impartiality. Without social validation there is a danger that impartialism becomes, as John Rawls cautioned, 'just another sectarian doctrine', except that, whereas others are up front about their sectarianism, impartialists conceal their predilections.²⁵ Indeed, it is precisely because, as Thomas Franck put

it, impartiality's 'yoke is so eminently wearable', that a closer look at the norm in contemporary peacekeeping is vital.²⁶

Two central and closely connected questions provide the overarching focus for this inquiry. First, how is impartiality understood as a norm of UN peacekeeping and, second, what are the effects of this understanding? To answer these questions, I conceptualize impartiality as a 'composite' norm, one that is not free-standing but is in fact an aggregate of other principles—each of which can change and is open to contestation, singly or in combination. Drawing on political and legal theory, I elucidate the core components of impartiality and provide much needed conceptual clarity.

The composite norm is then used to conduct a multi-level analysis. I trace the evolution of impartiality in peacekeeping and examine the macro-level politics surrounding institutionalization of the new, more assertive conception of the norm at the UN, as well as the micro-level politics surrounding its implementation in the Democratic Republic of the Congo, site of the largest and costliest peacekeeping mission in UN history (1999–2015).²⁷ I identify the various sites and sources of contestation over assertive impartiality at both levels and explicate their linkages. Multi-level analysis is crucial because impartiality is a peripatetic norm, relevant from the hallowed halls of UN headquarters in New York to the remote villages where blue helmets deploy. To understand how, amidst contestation, certain conceptions of impartiality have become dominant both in policy and practice, I analyse different institutional decision-making pathways and their power dynamics. In doing so, this book illuminates how certain actors wield greater influence than others in determining the policies and practices of UN peacekeeping, and the meaning of impartiality itself.

The Congo case is particularly salient in examining the effects of impartiality on peacekeeping practice as well as broader institutional dynamics. The *Mission de l'Organisation des Nations Unies en République Démocratique du Congo* (known by its French acronym, MONUC) was first deployed in late 1999, three years before the formal end of Congo's epic war and just as the new conception of impartiality began to take hold at the UN. It was a testament to the prevailing thinking in the Security Council. During deliberations on the creation of the mission, lessons learned from previous peacekeeping failures were recounted, and the need for robust peacekeeping affirmed by various member states.²⁸ Indeed, MONUC became the standard-bearer for a new era of blue-helmet intervention and represented, as South African ambassador Dumisani Kumalo opined, a 'litmus test' for the Council's commitment to peacekeeping in Africa.²⁹

MONUC's decade-long deployment saw the institutionalization of the more assertive conception of impartiality manifest in Council resolutions that steadily increased the reputed robustness of the mission. Its Chapter VII mandate expanded to encompass the entire country, naming and shaming of

spoilers became a recurrent feature of resolutions, and protection of civilians was designated MONUC's highest priority. In 2010, the mission was renamed the *Mission de l'Organisation des Nations Unies pour la Stabilisation en République Démocratique du Congo* (MONUSCO), a signal that the UN was willing to use force more proactively, and in 2013, the Council deployed the Force Intervention Brigade (FIB), a specialized unit within MONUSCO, authorized to take offensive military action to 'neutralize' and 'disarm' rebel groups.³⁰ Throughout this period, Congo became a laboratory for more assertive approaches to peacekeeping, and operational mechanisms and guidance developed by MONUC/MONUSCO in turn fed back into policymaking at UN headquarters, leading to more general innovations in doctrine.³¹ In addition, Congo became a focus country for the ICC and, more broadly, the locus of numerous humanitarian reform initiatives associated with assertive liberal internationalism.

And yet, the analysis of impartiality at both macro- and micro-level in Congo reveals that despite a veneer of consensus, 'impartiality' is in fact a highly contested norm. As the collection of principles it refers to has changed and expanded to encompass human rights, contestation has increased, with deep disagreement among key UN member states and local actors in Congo as to what keeping peace impartially means and, consequently, over the purposes of contemporary peacekeeping and the UN's broader approach to conflict resolution. This is not to say that human rights in peacekeeping are irrelevant. Few would disagree that they matter deeply, arguably more so now than ever before. But, as this book demonstrates, human rights cannot be divorced from power and partisan interests, past injustices, and present inequalities. Nor can they be considered separately from the privileges still accorded to states in international relations and particularly those at the UN, given its state-centric constitution.

The contestation over assertive impartiality reveals this plurality of contending perspectives at multiple levels. The objections raised during institutionalization within the UN are varied and diverse as Chapter 3 demonstrates. They reflect fears, frequently emanating from the experiences of some states as colonial subjects, that more coercive forms of peacekeeping chip away at sovereignty and self-determination and may be used to realize more nefarious intentions. They come in the form of charges of hypocrisy, and criticisms of unequal burden-sharing in peacekeeping. They reveal concerns about the viability of and the moral hazards engendered by contemporary practices—hard lessons learned from time on the ground. And they have very real implications for the willingness of traditional troop-contributing countries to sustain these operations as well as for the UN's acceptance on the ground.

These forms of contestation have also been manifest during implementation, a process that, as I show in Chapter 4, generates its own forms of disagreement related to the historical, social, and political dynamics in