The Legitimacy of Peace Operations in Volatile Environments: Between State-Centred and People-Centred Standards

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Abstract: Peace operations are increasingly multi-dimensional and are affecting ever more aspects of life at the grassroots level. While this evolution is necessary, it has created a tension in the field of legitimacy. Indeed, how can the United Nations possibly legitimise its actions in a domain traditionally subject to domestic laws and norms? International and domestic standards of legitimacy are clashing but neither of them is fully adapted to the particular case of peace operations. This article outlines a third approach to legitimacy centred on the UN Charter which incorporates the views of the entire legitimacy constituency of peace operations deployed in volatile environments.

Key words: peacekeeping, legitimacy, peacebuilding, UN Charter, regionalisation

Introduction

The United Nations (UN) was founded as an international organisation whose primary responsibility was to maintain international peace and security. Over the years, the range of its activities has increased to enable the deployment of troops in post-conflict societies. Going beyond its Charter, but not its spirit, the UN supported the establishment of peacekeeping and peacebuilding missions on all continents. However, this evolution has been rather controversial and the organisation has had to defend itself and justify its actions around the world.[1] Over the years, the issue of legitimacy of peace operations has led to a clash between the experts who emphasise the importance of international security and sovereignty and the proponents of a more cosmopolitan approach focused on human rights, emancipation and democracy.[2] Relying on different assumptions, the two parties have come to a deadlock between state-centred and people-centred approaches to the legitimacy of peace operations.

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1   Bellamy and Williams 2010.

2   Buchanan and Keohane 2006.

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Legitimacy is crucial for the success of peace operations and yet both perspectives remain wanting.[3] On the one hand, state-centred approaches are ignoring the importance of popular support for the success of peace operations. And on the other, people-centred approaches remain unconvincing for practical and theoretical reasons. The objective of this article is thus to outline an alternative standard suitable to assess the legitimacy of UN missions deployed in volatile environments. In the first part of the paper, current international trends regarding peace operations and legitimacy are outlined. In the second part, the clash between state-centred and people-centred approaches is reviewed and the inadequacies of both standards are explained. We then move on to develop a UN Charter-centred standard of legitimacy specifically adapted to peace operations. A set of criteria and indicators are provided to facilitate legitimacy assessments in practice.

Legitimacy and the Transformation of Peace Operations

Over the last decades, peacekeeping and UN peace operations have been influenced by two major dynamics. On the one hand, there has been a shift towards the decentralisation of peace and security management as a way 'to imbue regional efforts with a greater degree of legitimacy' in the face of profound global dynamics.[4] On the other hand, peace operations have seen a shift from traditional peacekeeping to multidimensional peacekeeping. The "new wars" and "complex social emergencies" are calling for more comprehensive peace operations and have as a result blurred the border between peacekeeping and peacebuilding. One of the most noticeable outcomes of this shift is that there has been an increase in the number of peace operations with a mandate to ensure the protection of civilians (PoC).[5] As many scholars have explained, the failures of the UN to take decisive action in Rwanda, Srebrenica, Somalia and other countries have reminded the world that if the organisation is to retain its legitimacy it must adapt to protect civilians more effectively.[6]

When we consider the convergence of these two trends, serious implications arise. One central concern is the lack of international, regional and national capacities pooled together in collective efforts to keep up with global transformations.[7] With limited financial, political and logistical resources, the UN and its regional partners are unable to meet heads on the current shifts towards decentralisation and peacebuilding. This dilemma is very significant because the inability of peacekeepers to fulfil their role in the international peace and security architecture has direct consequences for the legitimacy of the UN as the main conflict management actor with a global reach and multilateral endorsement. Legitimacy is a *sine qua non* for access to resources, state support, security in the field and

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3   Bellamy and Williams 2010, 171.

4   Annan 2006; Bellamy and Williams 2010, 305.

5   Bellamy and Williams 2010.

6   Gelot 2012.

7   Bellamy and Williams 2010.

the 'long-term survival' of the organisation.[8] Ultimately, this means that the UN's attempt to bolster its legitimacy through regionalisation and multidimensional operations is not straightforward but double-edged and possibly counter-productive.[9]

In this context, scholars have increasingly paid attention to the legitimacy of the United Nations and its partners at the regional and national levels. This development is very welcome and highlights the necessity of going beyond material, legal and political factors when assessing peace operations. However, the focus of almost all studies dealing with the legitimacy of the global-regional security partnership has remained at the UN, regional and state levels, at the expense of people-centred perspectives.[10] Yet, two different trends are challenging this state of affairs and calling for an extension of the study of legitimacy to include the view from below. First of all, as the UN extends the scope of its operations from traditional peacekeeping to complex operations, it increasingly impinges upon the domestic realm which is traditionally regulated by national laws and legal procedures. Yet, the UN has not developed mechanisms to satisfy the demands for legitimacy commonly required within states; thereby creating a legitimacy deficit.[11] Second, in light of its mixed track record and the limited ability of its top-down and externally-imposed solutions to build sustainable peace, the United Nations has become increasingly aware of the need for operations to be successful, that they be legitimate in the eyes of the people on the ground.[12]

These two trends have important consequences both at the practical and theoretical levels. If (1) the United Nations is extending the scope of its peace operations towards peacebuilding in order to fulfil its mission and retain its legitimacy, if (2) peacebuilding activities increasingly impinge upon the domestic realm which is regulated by national laws and forms of legitimacy, and if (3) legitimacy in the eyes of the local population is a factor required for the success of the operation, would it not be logical to include the perceptions of local populations into the assessment of the legitimacy of peace operations? If the perceptions of local populations are to be included in the equation, it is necessary to develop a framework adequate to study popular legitimacy judgments within the context of UN missions. As we will see, there exists a tension between international and domestic standards of legitimacy and neither of them provides a fully adequate framework for peace operations. To advance the debate, it is essential to neither presume that democratic consent for peace operations is normatively necessary nor that it is inescapably dwarfed by practical considerations.

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8   Deephouse and Suchman 2008, 51.

9   Boutros-Ghali 1992, 60.

10   Gelot and Söderbaum 2011.

11   Pouligny 2006; Bellamy and Williams 2010; Richmond 2011.

12   DPKO 2008, 36; Richmond 2011; Roberts 2013.

Tensions Between International and Domestic Legitimacy Standards

There exists a multitude of approaches to legitimacy ranging along a continuum that extends from state-centred to people-centred conceptions. We mentioned above that studies of UN legitimacy have focused on the international and regional levels and this is mainly due to a set of theoretical assumptions upheld by practitioners and researchers, especially scholars from the field of International Relations (IR). During the past two decades, IR scholars have developed the most comprehensive conceptions of international legitimacy. Katharina Coleman defines legitimacy as 'a social status that can adhere to an actor or an action' and which is 'recognised as good, proper, or commendable by a group of others'.[13] According to Ian Clark, the foremost authority on the subject, legitimacy is the result of a political brokerage and contest, where some sort of common ground is established temporarily despite the "pull" of all actors in normatively incompatible directions.[14] Clark outlines three dimensions of legitimacy. First of all, legitimacy is connected to normative principles widely accepted by members of the international society of states and enshrined in international law – international morality. Second, legitimacy is connected to legality and depends on adherence to established rules and respect of international law. And thirdly, legitimacy is linked to constitutionality, whereby legitimacy claims are held against the norms and practices that make up the "constitution of international society." For most IR scholars, states are the members of the international society and thus form the audience or constituency to which legitimacy claims are directed. As Charles Beitz explains, 'international society is understood as domestic society writ large, with states playing the roles occupied by persons in domestic society. States, not persons, are the subjects of international morality, and the rules that regulate their behaviour are supposed to preserve a peaceful order of sovereign states.'[15] While these standards to assess legitimacy make sense in a society of states, it is less obvious that they should apply to peace operations, especially those with a POC, a peacebuilding or a state-building mandate.

Indeed, peace operations are not any type of action that affects the members of the international society. They do not simply deal with relations between states but impact the lives of people on the ground in a direct manner, thereby affecting their chances to pursue the "good life" in whatever way they see fit.[16] If the purpose of these operations is no longer traditional peacekeeping but multi-dimensional and more akin to peacebuilding (to organise elections, assist economic recovery, protect civilians, build institutions and rule of law capacity and facilitate the reconstruction of society writ large), it becomes increasingly difficult to assume that international norms and rules should apply – and for that matter that domestic forms of legitimacy should be ignored. To what extent is it justified to assess the legitimacy of peace operations according to criteria of morality, legality and constitutionality which are designed by states and for states when the legitimacy constitu-

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13   Coleman 2007, 20.

14   Clark 2005.

15   Beitz 1979, 408.

16   Bernstein 2004, 5.

ency is no longer made of states alone but also of individuals? By expanding its activities beyond the original agreements contained in international treaties to the surrounding 'grey zone' which was traditionally regulated by national laws and domestic legitimacy standards, the UN has exposed its lack of legitimacy in certain realms.

Since international organisations are increasingly broadening their scope to affect private persons and companies in the domestic sphere, Sato explains that 'we must also necessarily demand that international organizations and international law satisfy the same requirements for legitimacy, such as transparency and accountability' as domestic governing bodies.[17] In the specific case of UN peace operations, issues of legitimacy have already been brought to the fore. Indeed, in the 1990s the UN rejected the idea that international humanitarian law should apply to its military activities since treaties such as the Geneva Conventions are only ratified by states and assume the existence of a competent justice system to prosecute personnel engaged in activities illegal in the eyes of international law. Of course the UN has taken steps to remedy the issue, but the special status of the organisation and its activities beg for a reconsideration of the standards used to assess its legitimacy.

The above dilemma has potentially profound consequences. Indeed, if David Held is right to argue that '[d]emocracy bestows an aura of legitimacy on modern political life: laws, rules, and policies appear justified when they are democratic'[18] and if there is an emerging right to democratic governance,[19] on what ground is it legitimate to exclude democratic standards from the assessment of peace operations? For example, it is hard to understand how state consent or accepted legal procedures on their own could render the UN sanctions imposed on Iraq in the 1990s fully legitimate. Perhaps peace operations should not be assessed according to international standards of legitimacy but rather according to domestic standards. This would seem especially suitable since many operations are now deployed within single states to end civil wars and therefore their legitimacy not only engages the perspective of states but also of civil society actors and civilians.

Contrary to IR scholars, political scientists have tended to approach issues of legitimacy differently. While they usually retain the concepts of legality, constitutionality and consent, these are applied to individuals rather than states. There exists a plurality of theories of legitimacy based on consent, proceduralism and utility amongst others. The theory of popular consent is central to much Western political philosophy and thinkers such as Hobbes, Grotius and Locke have argued that the consent of the governed is fundamental to guarantee the legitimate status of political authority. In recent years, some like Buchanan have gone further to assume the necessity of democratic legitimacy for all entities that 'attempt to exercise a monopoly, within a jurisdiction, in the making, application,

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17   Sato 2009, 16.

18   Held 1995, 1.

19   Franck 1992.

and enforcement of laws' – even the occupying military forces.[20] Other scholars such as Fabienne Peter defend a purely proceduralist conception of legitimacy whereby a decision is deemed legitimate if it is the outcome of a political process which fulfils certain conditions.[21] Christiano mixes both democratic standards and proceduralist insights to argue that 'democratic discussion, deliberation, and decision making under certain conditions are what make the outcomes legitimate for each person… [W]hatever the results of discussions, deliberation, and decision making … they are legitimate. The results are made legitimate by being the results of the procedure.'[22] Hence, in some cases legitimacy may be fostered because people 'have been given the right to take part in free and fair elections.'[23] To these conceptions must be added an oft ignored view of legitimacy in terms of beneficial consequences. In a utilitarian fashion, some theorists have argued that the legitimacy of an authority flows from the benefits and overall utility it possesses in the eyes of those impacted by it. For Bo Rothstein, legitimacy can be achieved when a government 'serves some notion of the common interest in coordinating citizens' activities in a socially beneficial way…legitimacy is created, maintained and destroyed not by the input but by the output side of the political system.'[24] Finally, critical scholars such as Oliver Richmond have called for new forms of hybrid legitimacy derived from local and indigenous agency as well as international liberal norms that would also rest upon the 'provision of social, cultural, economic and political resources sufficient to meet the demands [of] its local, everyday constituencies.'[25] The maintenance of public order, the delivery of services (welfare and entitlements) and meeting people's everyday needs become sources of legitimacy.[26]

The opposition between domestic views of legitimacy which are mostly people-centred and international conceptions which are mostly state-centred has been discussed for many years, especially when it comes to issues of international justice. The aim here is not to solve this dilemma but to highlight two different sets of assumptions which have shaped the study of peace operations without always being critically questioned beforehand. It is true that the adoption of cosmopolitan democratic standards, let alone hybrid standards, for peace operations is far-fetched, especially in volatile environments such as Iraq, Afghanistan or Mali. But if multi-dimensional operations are to work in the long-term, local support and ownership remain nonetheless critical. While the moral and practical necessity of peace operations today warrants the rejection of perfect cosmopolitan democratic legitimacy standards, this does not mean that legality as legitimacy remains the only option. Instead, it seems justified to question the standards of legitimacy that are used to assess peace operations. This calls for the development of a new legitimacy framework

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20   Buchanan 2002, 689–690.

21   Peter 2008.

22   Christiano 1996, 35.

23   Lindberg 2006, 1.

24   Rothstein 2009, 313.

25   Richmond 2011, 11.

26   Papagianni 2008, 50; Miliken and Krause 2002, 758.

adapted to twenty-first century peace operations which would not dismiss the perceptions of civilians in the name of raison d'état, a threat to international peace and security or theoretical convenience. Between the extremes of legitimacy as legality and legitimacy as democracy, a more consensual yet pragmatic view of legitimacy must be developed, a view that would reflect current shifts 'in the normative structure of international society' which have led to the development of multidimensional operations in the first place.[27]

International legitimacy is not the exclusive property of the international society of states since legitimacy contests also involve non-state actors from regional organisations down to NGOs and the grassroots level. During peace operations, norms, rules and principles are drawn from and applied to a constituency that differs from the society of states and unfortunately the adoption of a state-centric view of legitimacy automatically excludes this important process of "normative transference".[28] As Clark explains, '[w]orld society represents one *source* of the norms that come into play in the stipulation of legitimacy, while it is also increasingly a *target audience* that must in some form be addressed for legitimacy claims to be successfully registered.'[29] Likewise, Finnemore explains that 'we should expect NGOs and public opinion to become more consequential players in generating acceptance or rejection of international legitimacy claims.'[30] Individuals and the world society at large are also part of the legitimacy contests whereby norms and rules are discussed, challenged and refined. They form an important part of the legitimacy constituency and their impact on legitimacy contests can no longer be ignored. The debate regarding the legitimacy of the UN peace operations 'mingles considerations of state and international governance by moving freely between audiences (the community of states and a community of individuals).'[31]

This tension between state-centred and people-centred conceptions of legitimacy is at the heart of peace operations and is perfectly illustrated in the Capstone Doctrine. In the report, the UN claims that the legitimacy of a peacekeeping operation 'is derived from the fact that it is established after obtaining a mandate from the United Nations Security Council.'[32] While this procedural type of legitimacy is important, it is insufficient. Indeed, BéatricePouligny explains that the „degree of immediate acceptance or rejection by the local population" is frequently mentioned [by governments] as a key to the success or failure of a mission.'[33] And in the Capstone Doctrine, after having emphasised a proceduralist approach to legitimacy, the UN concludes that 'in order to succeed, United Nations peacekeeping operations must also be perceived as legitimate and credible, particularly

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27 Hurrell 2007, 162.

28 Clark 2007, 13.

29 *Ibid.*,14.

30 *Ibid.*

31 Milligan in Clark 2007, 18.

32 DPKO 2008, 36.

33 Pouligny 2006, xi.

in the eyes of the local population.'[34] This means that besides international, regional and national legitimacy, peace operations must enjoy some sort of grassroots legitimacy or at least local support to be successful. In the past, such concerns were ignored as a non-issue or dismissed as utopian. Popular support for peacekeeping missions has always been secondary to the "obviously more important" objective of saving civilian lives and protecting international peace and security. The logic was that the security and peace provided by a benign peacekeeping force would be enough to win the hearts and minds. But after years of experience, it has become accepted that local ownership and meaningful popular participation in the restoration of peace are critical to the longer-term sustainability of post-conflict arrangements.[35]

Far from being a top-down flow of legitimation from the United Nations Security Council (UNSC) to the regional organisation, it would seem that legitimacy contests in peace operations also include a bottom-up flow not only from regional organisations to the UNSC but also from the local population upward. This admission challenges the state-centric standards of legitimacy to actually include more substantive issues connected to grassroots legitimacy. After all, peace operations are unique reality-checks regarding the ability of the UN to fulfil its role while retaining legitimacy in the eyes of those affected by violence. It is difficult to argue that a PoC operation can be fully legitimate all the while excluding the perceptions of those that are directly affected by it - and in some cases despite its illegitimacy in the eyes of the local population. The fact that civilians may be part of the legitimacy constituency of peace operations is not to say that local populations should make binding judgments and decisions regarding all aspects of UN operations. It solely suggests that they already make judgments in their day-to-day life and that this influences the support they lend to UN personnel and the sustainability of peace. There is no issue of popular representation or cosmopolitan democratic expectations; only of including popular legitimacy judgments which have affected the success of UN missions in the past and which do so in current missions.

The legitimacy constituency of peace operations is thus made of states but also of non-state actors. While previous studies on the legitimacy of the United Nations have already been conducted at the regional and global levels, they have rarely taken into account the grassroots element of the legitimacy constituency. This gap in the literature has led scholars such as Buchanan and Keohane or Sharon Wiharta to develop middle way legitimacy standards adapted to global governance institutions and peace operations. The recent work of critical scholars also contains useful hints towards some sort of hybrid legitimacy standard, though they tend to remain under-developed and meta-theoretical.[36] In the following section, we explore the strengths and limits of these legitimacy standards and develop an alternative standard centred on the UN Charter which incorporates the perceptions of civilians and civil society organisations (CSOs) affected by peace operations.

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34   DPKO 2008, 36.

35   Papagianni 2008; Miliken and Krause 2002; Richmond 2011.

36   Newman 2009, 45.

A UN Charter-Based Standard of Legitimacy

Sharon Wiharta has attempted to develop legitimacy standards specifically adapted to UN operations. She argues that '[t]he legitimacy of a peace operation could be defined by three interlinked and mutually reinforcing elements: political consensus, legality and moral authority.'[37] These three elements are closely connected to those of Ian Clark and the perception of civilians is given greater importance. Wiharta's first pillar, political consensus, refers to the level of agreement over the peace operation between the international community and the host state. It is a state-centred pillar. The second pillar, legality, refers to established procedures and norms and to the deliverance of a UN mandate under Chapter VI or VII. Here the appropriateness of the mandate (scope, interpretation, implementation, rules of engagement, operational plans, etc.) is taken into account. This second pillar is equally state-centred, but demands that there be coherence between the stated objectives of the mission and its practical implementation. Finally, the third pillar is that of moral authority and it includes the behaviour of troops and their respect of international law. Wiharta claims that 'they [the peacekeepers] should abide by and try to embody the international norms and standards that they seek to diffuse, such as upholding and respecting human rights, while also respecting local customs. The perception that a culture of impunity and unaccountability exists in a peace operation can seriously undermine its local legitimacy.'[38] This last pillar is mostly "negative" since it requires respect of international law by UN personnel but stops short of requiring them to enforce these. In other words, civilians and affected populations have a negative right not to be subjected to abuse from peacekeepers but do not enjoy a positive right to be protected from imminent physical violence.

If we want to analyse the merits of Wiharta legitimacy standard, we must remain aware of the importance of local legitimacy for the effectiveness and success of peace operations. Wiharta has taken a step in the right direction to include local views and to enable 'substantial input from local stakeholders' but ultimately her standard remains inadequate.[39] Wiharta claims that '[o]ne way to keep the goodwill of local populations would be to apply the principle of "do no harm", which informs most development and humanitarian efforts, in peace operations.'[40] While this would be a first step towards a minimal standard of moral acceptability, it falls short from responding to the concerns and needs of people affected by the violence. Indeed, without a requirement for consultation, peacekeepers and civilians are bound to have different perspectives on what 'do no harm' implies. Would an operation be legitimate in the eyes of local populations if its personnel only respected international law but did not manage to enforce it? Would civilians who witnessed first-hand the shortcomings of UNAMID and its failures to protect civilians find the mission legitimate even if – hypothetically - the individual behaviour of peacekeepers might have

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37   Wiharta 2009, 96.

38   *Ibid.*, 106.

39   *Ibid.*, 102.

40   *Ibid.*, 106.

been irreproachable? Civilians demand more complex standards which include a positive norm to at least ensure their own physical protection from imminent violence. We thus need to develop legitimacy standards to include the perceptions and needs of the grass-roots legitimacy constituency. In the remainder of the article, we draw on the work of Buchanan and Keohane to outline a standard which is centred neither on state nor people but on the UN Charter.

Between the international and domestic approaches to legitimacy, Buchanan and Keohane locate a hybrid standard which they claim 'can provide the basis for principled criticism of global governance institutions and guide reform efforts.'[41] Their Complex Standard is not developed specifically for peace operations but rather for global governance institutions. It is based on three pillars and any international organisation is deemed legitimate if (1) it enjoys the consent of democratically elected governments; (2) it satisfies three substantive components which include (a) "minimal moral acceptability" against grave injustices or persistent violation of human rights, (b) "comparative benefit" and advantage of the organisation, (c) "institutional integrity" through the respect of the organisation's rules, norms and procedures; (3) it allows external actors to assess whether it fulfils the above criteria and to participate in reforms - accountability and transparency. The three pillars are closely linked to the notions of morality, legality and constitutionality mentioned above and also incorporates Sato's demand for greater transparency and accountability. Furthermore, it stands out by bringing into the picture notions of justice, civil society participation,comparative advantage for the local population, and coherence between mandate and performance. The Complex Standard of Legitimacy developed by the two authors is not directly adapted to peace operations and while it is a convincing attempt to bridge the legitimacy divide, it must be fine-tuned.

Democratic Consent and Political Consensus

Buchanan and Keohane's first principle to assess the legitimacy of an international organisation is the consent of democratically elected governments. However, they admit that this principle is neither sufficient nor necessary for an organisation to be legitimate. In *Justice, Legitimacy, and Self-Determination*, Buchanan explains that state consent is neither sufficient since states are often the worst offenders regarding human rights, nor necessary since international law and especially customary law impose duties on states without their consent.[42] Therefore, in the case of peace operations, political consent is peripheral and in the eyes of civilians it may not be of direct relevance. After all, most peace operations take place in undemocratic countries. Instead of the consent of democratic states, Wiharta pushes for political consensus. The rationale is that such consensus is likely to increase support for the operation together with resources and political commitment and may be connected to a greater effectiveness. This means that for civilians and

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41   Buchanan and Keohane 2006, 405.

42   Buchanan *2004.*

civil society organisations, the consent of democratic states or the presence of political consensus are important, not in and of themselves, but only because of their potential implications. And, as we will see, these potential benefits are taken into account through three substantive components. It is important to note that democratic or popular consultation is largely impossible in volatile post-conflict societies and can only be conducted once a certain level of security has been achieved and engagement with the population is technically possible.

Moral Acceptability, Comparative Benefits and Institutional Integrity

Buchanan and Keohane's second principle which includes three substantive components requires careful attention. The first component is that of minimal moral acceptability and corresponds to Wiharta's principle of moral authority. The three scholars agree that it must be assessed based on the behaviour of troops and that in case of persistent violations of basic human rights, an institution is deemed illegitimate. But contrary to Wiharta, Buchanan and Keohane explain that this standard 'must take into account the fact that some of these [international] institutions play a more direct and substantial role in securing human rights than others.'[43] The UN Charter gives the UN Security Council the primary responsibility for the maintenance of international peace and security and as such the standard of minimal moral acceptability must be representative of those Charter-based responsibilities. Indeed, troops are deployed with the explicit mission of preventing abuses and often to protect civilians, and therefore they must not only refrain from breaching human rights but they must also actively participate in upholding them as well as the physical security of their legitimacy constituency. This opens the door to a more demanding standard of morality which would not only be negatively-formulated – peacekeepers should not violate international law – but also positively-formulated - peacekeepers should actively enforce the UN Charter.

The second substantive component states that a UN peace operation is legitimate when it is the best way to achieve a specific outcome. International organisations are set up to provide certain benefits to the international community that would otherwise be unavailable, and as such, if they are unable to fulfil their mission, their legitimate status is undermined and their survival is threatened.[44] The UN Charter states that the UNSC has the primary responsibility to maintain international peace and security. The Council was set up to provide this particular benefit to the international community and if it does not deliver, its very raison d'être may be questioned. It follows that if a UN operation fails to fulfil its mission and remains 'instrumentally suboptimal when it could take steps to become significantly more efficient or effective,' its legitimacy may be justifiably challenged.[45] This standard is thus strengthening the necessity of having a positive norm

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43   Buchanan and Keohane 2006, 420.

44   *Ibid.*

45   Buchanan and Keohane 2006, 420.

regarding the behaviour of UN personnel in general, but also regarding the effectiveness of the UNSC to provide the benefits it was set up to provide in the first place. The UNSC must demonstrate a serious commitment to ensure that it fulfils its responsibilities in line with the Charter. Of course this will depend on the support of the member states and of the permanent members of the Security Council. But nevertheless, this should be a substantive element of legitimacy standards for peace operations.

The third substantive component is that of "institutional integrity" and is closely connected to the first two components. It assumes that if there is a sustained gap between the procedures and missions of the organisation and its performance on the ground, its legitimacy may rightly be questioned.[46] This principle of legitimacy is central to the Charter-centred approach to legitimacy as it enables civilian populations to expect that the UN put in place all necessary measures to uphold and defend its Charter. The three substantive components of legitimacy for peace operations bring greater clarity to the debate and emphasise the need to put the principles and responsibilities outlined in the UN Charter at the heart of the legitimacy standard used to assess peace operations. But in practice, it seems very difficult to assess each of the three components in a rigorous manner. It is thus necessary to develop adequate indicators to facilitate the task.

Indicators for the Three Substantive Components

Because all conflicts have different causes, actors and dynamics, all peace operations are different. This means that adequate indicators will have to be developed on a case-by-case basis: political indicators for political reforms, economic indicators for economic recovery, security indicators for DDR, ceasefire monitoring and PoC, etc. However, most UN peace operations have a shared security component and in an increasing number of cases incorporate provisions to protect civilians. We can thus develop a preliminary and non-exhaustive list of indicators to cover the three substantive components of minimal moral acceptability, comparative advantage and institutional integrity. It is inspired by the works of Wiharta, Buchanan and Keohane but also on *Evaluating Peace Operations* by Paul Diehl and Daniel Druckman. The latter two scholars have developed a series of possible indicators that can be used to evaluate UN missions and while their study is not focused on legitimacy *per se,* it still provides elements to develop adapted indicators. The criteria draw as much as possible on transparent, quantifiable and available data.

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46   *Ibid.*

Table 1: *List of Indicators for the Three Substantive Components*

Peacekeepers as a source of insecurity
Indicators:
• Number of rapes, rape allegations, sexual violence and abuse, increase in prostitution;
• Statistics on corruption and perceived corruption;
• Perception of a culture of impunity by civilians;
• Trafficking and non-respect of human rights;
• Increase in economic poverty or social insecurity due to presence of foreign troops;
• Change of behaviour of civilians to adapt to the perceived insecurity.

Freedom of movement for local civilians
Indicators:
• Percentage of roads open to traffic;
• Ratio of checkpoints removed relative to checkpoints set up;
• Percentage of primary roads exper iencing violence;
• Number of land mines or roadside bombs;
• Civilians perception of insecurity when travelling to work, school, market, farm lands, etc.

Continuing violence post-deployment
Indicators:
• Number of International forces responsible for security (per capita);
• Popular perception regarding the security situation and troop effectiveness;
• Designated areas are protected with no reported attacks on civilians;
• Number of human rights abuse and violations;
• Political violence;
• Death & homicide rate, number of murders, assassinations or kidnappings;
• Number of civilian casualties due to crime/violent activities;
• Percentage of civilian victims of crimes, threats, intimidation, etc;
• Average length of imposed curfews;
• Changes in day-to-day activities of civilians in a positive direction;
• Proliferation of small arms or disarmament;
• Perception of the security situation by civilians.

Civilian support for the peace operation
Indicators:
• Popular knowledge about the operation and its mandate;
• Popular support for the operation or for its mandate;
• Perception that social, economic and environmental problems are created or exacerbated by peace operation personnel;
• Change in patterns of popular support based on perceptions;

Maintenance of institutional integrity and values
Indicators:
• Number of peacekeepers casualties/hospital admission/sick days;
• Non-discrimination, respect of cultural norms and "do no harm";
• Ratio of financial cost to mission duration, scope and success;
• Financial, political and human cost shared by member states;
• Appropriateness of mandate (scope , interpretation, implementation);
• Rules of engagement, operational plans and resources are adapted;
• Gap between peace operation output and civilian expectations;
• Adequate training of UN personnel;
• Ongoing review of mission and activities.

Accountability and Transparency

Finally, the third and last component of Buchanan and Keohane's Complex Standard of Legitimacy is that of accountability and transparency. The two authors explain that the legitimacy of an international organisation does not only depend upon the three substantive elements outlined above, 'but also upon the epistemic-deliberative relationships between the institution and epistemic actors outside it.'[47] Indeed, if critiques of a UN operation and external actors are unable to make informed evaluations of the moral acceptability, comparative benefit and institutional integrity of the mission, its legitimacy cannot be ascertained. Therefore, it is essential that the legitimacy constituency be able to assess whether a peace operation fulfils the legitimacy standard as well as participate in any reform process. The objective is to avoid a situation where member states and especially the five permanent members would make legitimacy judgments based on confidential information unavailable to external actors and without any implications or sanctions. As such, Buchanan and Keohane argue that accountability and transparency must also be part of any legitimacy standard. Ultimately, the objective is to ensure that external actors such as NGOs and civil society groups may interact with the international organisation to set up what they call the '*transnational civil society channel of accountability.*'[48]

The non-exhaustive list of indicators suggested below is based on Buchanan and Keohane's discussion of the accountability mechanisms and the transparency of international governance organisations.

Table 2: *List of indicators for Accountability and Transparency*

Accountability mechanisms
Indicators: • Standards exist regarding the behaviour of UN personnel; • Information and data available to accountability holders; • Accountability holders must be able to impose sanctions; • Standards and accountability mechanisms are in line with institutional values; • The terms of accountability can be revised and accountability holders can change; • Meaningful participation of affected actors / consideration of their interests.
Transparency
Indicators: • Information and data accessible at a reasonable cost; • Information and data 'properly' interpreted; • Information and data is directed to the legitimacy constituency, accountability holders and critiques in general; • Public justification of policies and decisions.

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47   Buchanan and Keohane 2006, 433.

48   *Ibid.*, 432.

Two indicators deserve particular attention, namely, that (1) accountability holders must be able to impose sanctions and that there must be (2) meaningful participation by those affected. These two elements have potentially profound implications depending on the interpretation of the words "accountability holders," "sanctions" and "meaningful participation." Buchanan and Keohane retain a mostly state-centred view of legitimacy and hence the accountability holders remain the member states of the organisation. However, in the case of peace operations, the legitimacy constituency is also made of civil society groups and civilians, and they should somehow be included in the accountability mechanisms.

DPKO has an extensive track record of engagement with civil society actors in the field. The agency recognises the importance of working with these partners which share similar objectives and at times overlapping missions. This enables a synergy to develop to the benefit of all. In the past, collaboration has been effective in the field of disarmament, election monitoring, human rights, legal reforms, etc. International and local civil society actors have acted as sub-contractors in the Democratic Republic of Congo to run camps for ex-combatants and as providers of medical assistance to prisoners in Liberia and the Ivory Coast. CSOs have also been part of the policy-making process regarding the activities mandated in Sudan or the national strategy to prevent violence against women in Haiti. In the case of Sudan, a UN Special Representative consulted civil society organisations regarding the implementation of the mandate. However, despite these various examples, this type of collaboration takes place on an *ad hoc* basis and is not institutionalised. Moreover, it may not be collaboration with the 'local-local' actors favoured by critical scholars.[49] While there might be a synergy between the Department of Peacekeeping Operations (DPKO) and CSOs, it falls short from corresponding to an institutionalised channel of accountability or 'meaningful participation.' Besides, this accountability channel is indirect and diffuse. Indeed, when DPKO recognises that legitimacy in the eyes of the local population is necessary for a mission's success, it is implicitly stating that civilians are able to impose sanctions by withdrawing their support, which will in turn affect the ability of the UN to fulfil its mission (i.e., sabotage, demonstrations, non-cooperation, supporting armed groups and rebels…). While this may not be an optimal mechanism for accountability since it corresponds more to resistance than the exercise of any positive powers, it is nonetheless an informal lever available to CSOs and civilians.

Regarding the specific issue of meaningful participation, various UN operations have developed initiatives such as outreach programmes towards civilians, setting up radio stations, publicising the mandate, contracting consultancy surveys on popular perceptions, setting up direct phone lines to military bases to ensure effective security, establishing civil-military centres, etc. However, many of these initiatives tend to be top-down and often insensitive to context, and it is unclear to what extent they allow for meaningful participation. Nonetheless, all these examples demonstrate two important facts. On the one hand, they show that participation by grassroots actors is possible, that it has been successfully implemented on many occasions and that it has not jeopardised UN activi-

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49   Richmond 2011.

ties. On the other, it points to the limited meaningfulness of existing interaction and to the significance of the task ahead. This requirement of meaningful participation is directly relevant to peace operations and in the spirit of institutional integrity, the participation of CSOs and other actors such as religious leaders, business entrepreneurs and community leaders should be encouraged with a view to making their participation more and more meaningful. In particular, they could be consulted during the four stages of mandate planning including advance planning, foundation planning, operational planning and implementation planning.

Conclusion

In the 21st century peace operations are increasingly multi-dimensional and are affecting ever more aspects of life at the grassroots level. From institution-building to legal reforms and economic development, peace operations are nowadays affecting the spheres of life that were traditionally subjected to domestic laws and legitimacy standards. While this evolution was necessary to adapt to the processes of regionalisation and changing international norms, it has created a tension in the field of legitimacy. Indeed, how can the United Nations possibly legitimise its actions beyond its Charter in the neighbouring grey zone of peacebuilding based on international standards of legitimacy? Is it sufficient for the UN to follow established procedures for its actions to be deemed legitimate?

Broadly speaking, two views of legitimacy are clashing when it comes to peace operations. On the one hand, scholars pushing for a state-centred standard are ignoring the view from below and narrow down legitimacy to legality, constitutionality and compliance with minimum standards of morality. On the other, some commentators are demanding that actions taking place within the social, economic and political realms of a state and affecting the citizen's ability to live the "good life" be subjected to legitimacy standards based on democratic principles. This tension between polar opposites is played out in a context whereby the UN acknowledges the importance of legitimacy in the eyes of local populations for the success of its operations.

In this paper, we outlined an alternative standard of legitimacy centred on the UN Charter which incorporates the perceptions of the entire legitimacy constituency of peace operations, including CSOs and civilians. Four main criteria were outlined:

1. A positive moral standard demanding the respect and enforcement of international law by UN personnel in line with the principles and responsibilities outlined in the UN Charter;

2. A comparative benefit standard to ensure that UN peace operations are efficiently and effectively providing the benefits for which the United nations was set up in the first place;

3. An institutional integrity standard to assess the extent to which performance on the ground matches with the mandate of the peace operation and the values, norms and rules embedded in the UN Charter;

4. Demanding standards of accountability and transparency allowing for the meaningful participation of all stakeholders making up the legitimacy constituency.

For each of these four components, adapted indicators were suggested to facilitate the assessment.

The proposed standard of legitimacy offers a middle ground between international and domestic standards of legitimacy. On the one hand it recognises the prevalence and importance of international norms and rules which make peace operations possible in the first place. On the other, it recognises the importance of bottom-up legitimacy and reclaims the normative commitment of the "We the Peoples" contained in the Preamble of the Charter; reaffirming its applicability to multi-dimensional peace operations.

Critical scholars rightly point to the importance of anchoring legitimacy in the 'everyday' at the grassroots or 'local-local' level in order to ensure that the needs of individuals are sustainably met beyond the declaration of political rights and the organisation of elections.[50] Working within the liberal framework of the Charter and putting the principles therein contained to the forefront, the proposed standard ensures that many of the everyday needs of local communities will be considered and that any intervention will effectively maintain a realistic level of public order and physical security of the legitimacy constituency.

However, not all 'everyday' needs are met, including in the realms of education, health or welfare. In a vast number of cases, including those of Kosovo, Cambodia and Timor-Leste, a standard of legitimacy that would consider the provision of waste collection and street lighting may be relevant.[51] However, such a standard becomes difficult to endorse in the parts of Mali or Iraq that witness high levels of violence. A possible solution would be to fine-tune the proposed standard and to adapt it in time, limiting the demands for the provision of needs during the peacekeeping and peace enforcement activities of the mission but expending them drastically during the peacebuilding phase once violence has receded. While this adaptive process would need to be discussed, contested and defended, it could be a temporary measure to increase accountability in a gradual manner. After all, the reconstruction efforts are the elements of peace operations which are most in need of legitimacy.

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50   *Ibid.*
51   Roberts 2013, 70.

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