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Brigade at Ten” Ten Years of the monusco Intervention Brigade  
International Law Concerns on the Future of Peacekeeping and  
the Protection of Civilians**

**Longobardo, M.**

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**Introduction to the Symposium “The MONUSCO Intervention Brigade at Ten”**  
**Ten Years of the MONUSCO Intervention Brigade: International Law Concerns on the  
Future of Peacekeeping and the Protection of Civilians**

The articles in this symposium investigate the impact of ten years of practice of the Force Intervention Brigade (FIB) created by the United Nations (UN) Security Council, within the mission MONUSCO (United Nations Organization Stabilization Mission in the Democratic Republic of the Congo). The articles collected here answer questions about the impact of the FIB on peacekeeping in general as well as on the protection of civilians in the Democratic Republic of the Congo as well, in light of the practice developed between 2013 and 2023.

With Resolution 2098 (2013), the UN Security Council deployed the FIB within MONUSCO, the peacekeeping mission already deployed in the Democratic Republic of the Congo.<sup>1</sup> At the time, atrocities against civilians in the region were commonplace in the context of a complex and long-lasting armed conflict between the government and several armed groups, some of them supported directly or indirectly by neighbouring states.<sup>2</sup> When the Resolution was adopted on 29 March 2023, UN Security Council members states probably suspected that they were doing something at least unusual in the landscape of peacekeeping operations. Indeed, Resolution 2098 (2013) includes the

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<sup>1</sup> UNSC Resolution 2098 (2013).

<sup>2</sup> For an overview of the relevant context, see Ray Murphy, ‘UN Peacekeeping in the Democratic Republic of the Congo and the Protection of Civilians’ (2016) 21 *Journal of Conflict & Security Law* 209.

warning that the FIB was formed ‘on an exceptional basis and without creating a precedent or any prejudice to the agreed principles of peacekeeping’.<sup>3</sup> What were member states cautious about?

As explored in detail in the articles included in this special issue, the FIB is an openly offensive unit tasked with neutralising some armed groups and with supporting the government of the Democratic Republic of the Congo in its fight against them.<sup>4</sup> As such, its mandate raises concerns regarding its compatibility with the agreed principles of peacekeeping, that is, the use of armed force in self-defence, protection of civilians, and fulfilment of the mandate; neutrality (that became impartiality in more recent practice); and consent of the belligerents.<sup>5</sup> Accordingly, the UN Security Council tried to reassure states and other actors in the international community that the FIB was an exceptional tool rather than a turning point in peacekeeping operations, thereby trying to reiterate the relevance of traditional peacekeeping principles in the very resolutions that seemed to get rid of them.

When the FIB was created in 2013, numerous and articulated reactions from scholars about its compatibility with international law soon appeared. Many observers commented upon the difficulties that the FIB would have faced in complying with the principles on peacekeeping.<sup>6</sup> Others focused on

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<sup>3</sup> UNSC Resolution 2098 (2013) para 9.

<sup>4</sup> *ibid* para 12(a).

<sup>5</sup> See generally Nicholas Tsagourias, ‘Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension’ (2006) 11 *Journal of Conflict & Security Law* 465.

<sup>6</sup> See eg Priscila Fett, ‘Tudo de novo no front: MONUSCO, uma nova era nas peacekeeping operations?’ (2013) 10 *Revista de Direito International* 169; Bruce Oswald, ‘The Security Council and the Intervention Brigade: Some Legal Issues’ (2013) 17 *ASIL Insights* 15, available at <http://www.asil.org/insights/volume/17/issue/15/security-council-and-intervention-brigade-some-legal-issues>; Ralph RA Janik, ‘Putting Security Council Resolution 2098 on the Democratic Republic of Congo in Context: The Long Way of Peacekeeping’ (2014) 10 *Human Security Perspectives* 142; Fred Kennedy Nkusi, ‘Legal Implications of Shifting Paradigm: Intervention Brigade – Monusco’s

whether the FIB or MONUSCO in its entirety are parties to the conflict in DRC and, consequently, would have to apply international humanitarian law.<sup>7</sup> Some colleagues questioned the impact of the FIB on international criminal law and the exercise of international criminal justice.<sup>8</sup> Overall, Resolution 2098 (2013) sparked significant interest, both within and without the realm of international law.

The UN Security Council's reassurance that the FIB was an exceptional measure proved to be untrustworthy. Even though the FIB and MONUSCO are finally implementing an exit strategy, the UN Security Council has the mandate of the FIB every year from 2014 to 2023 (at the moment, its deployment is confirmed until 20 December 2024).<sup>9</sup> Similarly, the promise that the FIB would not have had a precedential value has not been fully realised: the mandate of the mission dispatched in Mali, MINUSMA (United Nations Multidimensional Integrated Stabilization Mission in Mali), from

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Enforcement Action in the DRC' (2014) 4 East African Journal of Science and Technology 31; Marco Longobardo and Federica Violi, '*Quo vadis* peace-keeping? La compatibilità dell'*Intervention Brigade* in Congo con i principi regolanti le operazioni di pace alla prova dei fatti' (2015) 70 La Comunità Internazionale 245; Otto Spijkers, 'The Evolution of United Nations Peacekeeping in the Congo from ONUC, to MONUC, to MONUSCO and its Force Intervention Brigade' (2015) 19 Journal of International Peacekeeping 88.

<sup>7</sup> See eg Yutake Arai-Takahashi, 'The Intervention Brigade Within The MONUSCO. The Legal Challenges of Applicability and Application of IHL' (2015) 13 Questions of International Law 5; Devon Whittle, 'Peacekeeping in Conflict: The Intervention Brigade, MONUSCO, and the Application of International Humanitarian Law to United Nations Forces', 46 Georgetown Journal of International Law (2015) 837.

2013 has resembled the mandate of MONUSCO and FIB.<sup>10</sup> In 2016, the UN Security Council created another special unit, called Regional Protection Force, within the mission in South Sudan, UNMISS (United Nations Mission in the Republic of South Sudan), with a mandate that is similar to the of the FIB, although with a focus on the protection of other members of UNMISS.<sup>11</sup>

All in all, it has been ten years that the FIB has operated in the Democratic Republic of the Congo, where civilians are still today subjected to atrocities of various kinds in the context of an armed conflict that both the UN and the government are unable to put to an end.<sup>12</sup> From a scholarly perspective, it is time to check whether the concerns triggered by the creation of the FIB were justified both in relation to peacekeeping in general and to the protection of civilians in the Democratic Republic of the Congo in particular. Indeed, peacekeeping missions should be assessed not only on

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<sup>8</sup> See eg Barbara Sonczyk, 'The Protection of the Intervention Brigade Under Article 8(2)(e)(iii) of the Rome Statute of the International Criminal Court' (2015) 13 *Questions of International Law* 24.

<sup>9</sup> UNSC Resolution 2717 (2023), para 29.

<sup>10</sup> See eg UNSC Resolution 2100 (2013); UNSC Resolution 2164 (2014); UNSC Resolution 2227 (2015); UNSC Resolution 2295 (2016). See the remarks by Karine Bannelier and Theodore Christakis, 'Under the UN Security Council's Watchful Eyes: Military Intervention by Invitation in the Malian Conflict', 26 *LJIL* (2013) 855, at 870-873.

<sup>11</sup> UNSC Resolution 2327 (2016).

<sup>12</sup> See eg Norwegian Refugee Council, *DR Congo: An Unprecedented Crisis Goes Ignored* (23 August 2023), available at <https://www.nrc.no/news/2023/august/drc-an-unprecedented-crisis-goes-ignored/>; Human Rights Watch, *Democratic Republic of Congo: Events of 2023* (2024), available at <https://www.hrw.org/world-report/2024/country-chapters/democratic-republic-congo>; RULAC, *Non-international Armed Conflicts in Democratic Republic of Congo*, available at <https://www.rulac.org/browse/conflicts/non-international-armed-conflict-in-democratic-republic-of-congo>.

the basis of what the UN Security Council decides in New York, but also, in light of the practice on the ground. Ten years of this exceptional experiment, which supposedly should have created no precedent, are worth a granular analysis.

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The articles included in this symposium address, from different perspectives and through different approaches, three issues linked to the creation of the FIB and ten years of its deployment in the Democratic Republic of the Congo. The articles are connected by the premise of taking into consideration both the mandate adopted, and annually adjusted by the UN Security Council, and the ways in which it is implemented on the ground, with the aim of both shedding light on how significant the creation of the FIB is for future directions of peacekeeping missions and its impact on civilians in the Democratic Republic of the Congo.

The first article, authored by Dr Jennifer Giblin, analyses the extraordinary convergence of interests and contingencies that made the creation of the FIB possible in 2013. The article goes on to delineate the content of the three principles of peacekeeping – use of armed force in self-defence, protection of civilians, and fulfilment of the mandate, neutrality (that became impartiality in more recent practice), and consent of the belligerents – in order to demonstrate that the creation of the FIB is a conscious departure from these principles. This conclusion is based on the mandate adopted by the UN Security Council and the way in which it was implemented over ten years of practice. The analysis is supported by interviews with individuals involved in the creation and functioning of the FIB, particularly those professionals working for the UN.

I authored the second article of the symposium, which tries to assess the fairness of the action by the UN Security Council in relation to the creation of the FIB. My article extrapolates from the theory of fairness in international law developed by Thomas Frank<sup>13</sup> to argue that the fairness of peacekeeping missions can be measured on the basis of the respect for the principles of peacekeeping.

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<sup>13</sup> Thomas M Franck, *Fairness in International Law and Institutions* (Clarendon Press 1998).

In line with the conclusions reached by Giblin, it is my opinion that the FIB, both in relation to its mandate and its practice on the ground, contravenes the principle of peacekeeping. Accordingly, it is possible to see the creation and deployment of the FIB as an unfair intervention by the UN Security Council in the non-international armed conflict that is devastating the Democratic Republic of the Congo.

The final article, by Professor Gina Heathcote and Dr Lucia Kula, employs the lens of feminist approaches to international law to analyse how civilian security is employed by the UN Security Council to authorise force in an unprecedented fashion. The practice of the FIB demonstrates the inability of the UN Security Council to enhance the security of civilians, particularly of those women whose protection should be prioritised in armed conflict, especially with respect to sexual violence. The two authors argue that such a purely militarised response to complex issues replicates heteronormative and colonial tropes which damage the legitimacy of the entire peacekeeping system.

The reader will immediately recognise that there are some common threads that link the three articles, particularly a certain scepticism over both the compatibility between the FIB and the principles of peacekeeping and over the possibility to solve complex problems through militarised responses. Visible differences in the approaches of the authors include the methods employed to scrutinise the practice of the FIB, which is assessed through different lenses, including positivism, socio-legal studies, feminism, and other critical perspectives.

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The research at the heart of the three articles in this symposium was originally presented in a roundtable in London that I convened with Ms Marie-France Nguo, PhD researcher at Westminster Law School, on 25 October 2023. The roundtable was entitled ‘The MONUSCO Intervention Brigade at Ten’ and was organised with the support of Westminster Law School in the framework of the activities of the International Law at Westminster (ILaW) research cluster. The success of the roundtable and the excellent feedback on the papers discussed therein triggered the idea of collecting revised versions of the presentations in this symposium.

I want to take this opportunity to thank Marie-France for having co-convened the roundtable with me. Her dedication and enthusiasm were driving forces behind the event and, ultimately, the realisation of this symposium. At the roundtable, two additional papers were presented, one by Marie-France herself and one by Dr Alex Gilder (University of Reading). Even though these papers are not included in this symposium due to concurrent commitments of the authors, I want to thank them for their presentations, which have inspired me both at the roundtable and while writing these lines.