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**Abstract**

The last decade has seen a shift in the practice of intervention to incorporate the authorisation to use force for the purpose of implementing broad multidimensional mandates. This shift has been characterised by the emergence of what can be referred to as ‘evolutionary interventions’ or those comprised of peacekeeping, peacebuilding, and peace-enforcement components. While much scholastic debate has been dedicated to understanding what constitutes legitimate use of force in acute humanitarian intervention, the processes of obtaining and maintaining legitimacy in evolutionary intervention contexts have been largely neglected in discussion thus far. This thesis seeks to contribute to understandings of legitimacy in broader intervention contexts by arguing that intervenors attempting to implement an evolutionary intervention mandate experience an erosion of legitimacy over time that can necessitate the unjustifiable use of force when conflicts re-escalate. Reconstructing the legitimacy narrative of the United Nations Operation in Côte d’Ivoire (UNOCI) from its inception in 2004 to its use of force to end of the post-election crisis in April 2011 exposes a pattern of legitimacy erosion illustrative of the difficulties and potential risks that intervenors face when attempting to maintain legitimacy in long-term interventions. By using a communicative ethics approach, this analysis elucidates the inherent communicative components of legitimacy and exposes communicative means through which intervenors like UNOCI can minimize delegitimizing behaviour in future intervention practice.

## **Terms and Abbreviations**

<b>AU</b>	African Union
<b>DDR</b>	National Programme for the Disarmament, Demobilisation and Reintegration of Combatants
<b>ECOWAS</b>	Economic Community of West African States
<b>FANCI</b>	Forces Armées Nationales de Côte d'Ivoire
<b>FN</b>	Forces Nouvelles
<b>FRCI</b>	Forces Républicaines de Côte d'Ivoire
<b>IEC</b>	Independent Electoral Commission of Côte d'Ivoire
<b>LMA</b>	Linas-Marcoussis Agreement
<b>MINUCI</b>	United Nations Mission in Côte d'Ivoire
<b>OPA</b>	Ouagadougou Political Agreement
<b>PA</b>	Pretoria Agreement on the Peace Process in the Côte d'Ivoire
<b>RDR</b>	Le Rassemblement des Républicains
<b>RtoP</b>	The Responsibility to Protect doctrine
<b>SRSG</b>	Special Representative to the Secretary-General
<b>UN</b>	United Nations
<b>UNOCI</b>	United Nations Operations in Côte d'Ivoire
<b>UNSC</b>	United Nations Security Council

## **Introduction**

Since the end of the Cold War, the United Nations (UN) has relied upon intervention as a means of maintaining relevance in the international community. Particularly, intervention is used as a tool of legitimisation for the organisation through actions resulting in a positive impact on global security (Coicaud 2001: 263; Cronin & Hurd 2008: 10). Failed interventions in Somalia, Rwanda, and the former Yugoslavia during the 1990s ushered in an era of recommitment to collective responsibility for human rights, culminating with the formal introduction of the Responsibility to Protect doctrine (RtoP) at the UN World Summit in 2005 (A/RES/60/1 para. 138-140). Currently, the United Nations Security Council (UNSC) is widely considered to be not only an acceptable intervenor but the preferred choice in international society, with intervention playing a critical role in legitimising the body by solidifying its authority to make judgments on use of force relevant to issues of international peace and security (Cronin & Hurd 2008: 202).

The executive status and authority of the UNSC has primarily been developed through UNSC practice and mandates (Orford 2011: 5). Political pressure to incorporate broader human rights issues in global governance led to a shift in UNSC behaviour and language to accommodate its need to expand its jurisdiction beyond traditional security issues (Andreopoulos 2008: 105). RtoP can be understood as a manifestation of this normative shift towards security for human rights, but the manner in which and to what extent RtoP is implemented as a justification for the use of force has been contested by actors at the UN level (Bellamy 2010: 144). Anne Orford (2011:2) has asserted that the adoption of RtoP can be understood as an attempt by the UN to amalgamate 'dispersed practices of protection into a coherent

account of international authority;’ an interpretation that acknowledges the diversity of intervention practice in the years leading up to the 2005 World Summit.

Previous eras saw the UNSC authorising a variety of intervention activities, namely in the form of what could be recognised as peacekeeping and peace enforcing missions. Where traditional peacekeeping missions were authorised through Chapter VI of the UN Charter, required the consent of the host state, and did not have the authorisation to use force except in self-defence or protection of the mandate; peace-enforcing missions were traditionally undertaken by non-UN actors against the will of the host state but with authorisation of the UNSC under Chapter VII of the Charter (UN Peacekeeping: ‘Principles of UN Peacekeeping’ 2015; Brahimi Report 2000: para. 48-49; 53). These practices have evolved to overlap and include peacebuilding components, or capacity-building measures designed to ‘lay the foundation for sustainable peace and development’ (UN Peacebuilding Fund 2015). The post-RtoP intervention model has emerged as a multidimensional one in which peacekeeping, peacebuilding, and even peace-enforcing activities can be combined under one mission mandate authorised under Chapter VII of the Charter (UN Peacekeeping: ‘Peace and Security’ 2015).

Most often manifesting in long-term interventions, the synthesis of the multiple facets of protection activities coupled with the increasingly common practice of authorising these interventions to use ‘all necessary means’ to complete mandates reflects an attempt by the UNSC to achieve the coherence to which Orford alludes. This intervention model is generally referred to as peacekeeping by the UN, but the implementation of mandates that condone the operative use of force without the consent of the host state preclude such interventions from qualifying as peacekeeping missions by the UN’s own definition, which still references consent as a fundamental

principle (UN Peacekeeping: 'Principles of UN Peacekeeping' 2015). The authorisation to use force allows the mission to operate in a peace-enforcement capacity if needed, a legal and practical reality that fundamentally modifies the operational capabilities of the mission and its relationship with the host state, thereby requiring terminological distinction. For the purposes of this research I will use the term 'evolutionary intervention' to refer to those static multi-dimensional interventions with mandates under Chapter VII of the UN Charter that include peacekeeping, peacebuilding, and explicit peace-enforcing components as expressed through the authorisation to use 'all necessary means' to carry out initiatives.

While interventions are not occurring more frequently than during previous years, since the introduction of RtoP the majority of UN interventions have been established under criteria befitting an evolutionary intervention or have transitioned to meet those criteria through more robust mandates over time<sup>1</sup>. While the criteria for legitimate use of force, especially in humanitarian intervention contexts, has been debated widely (Holzgrefe 2004, Tesón 2004, Pattison 2010, Badescu 2011), the emergence of evolutionary intervention requires reflection upon the impact of this recent shift in practice on the legitimacy of intervenors like the UNSC. This thesis will argue that intervenors attempting to implement an evolutionary intervention mandate experience an erosion of legitimacy over time that can necessitate the unjustifiable use of force when conflicts re-escalate.

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<sup>1</sup> In Africa alone, seven of the nine active UN missions, including UNOCI, qualify as evolutionary interventions (see mandates and history of missions at United Nations Peacekeeping: 'Current Peacekeeping Operations' 2015). The two that do not qualify, the United Nations Mission in Liberia and the United Nations Mission for the Referendum in Western Sahara, were established prior to 2001 and since that time have not been exposed to conflict conditions that predicate Chapter VII mandates. Thusly it can be said, at least at the regional level, that evolutionary interventions are more the norm than the exception.



The analysis that follows will explore the legitimacy narrative of one evolutionary intervention, the United Nations Operation in Côte d'Ivoire (UNOCI), from its establishment in 2004 to its use of force to end of the post-election conflict in April 2011. By incorporating a communicative ethics approach in the form of Naomi Head's (2012) 'communicative imperatives' to assess the extent to which the intervention maintains its legitimacy through David Beetham's (1991) criteria for legitimate power, this research demonstrates an innovative approach to constructing and analysing legitimacy narratives around the use of force in evolutionary intervention contexts. The first chapter will reflect upon current understandings of legitimacy in intervention and set out a framework for assessing UNOCI's legitimacy. This will be followed by analysis of how attempting to implement its evolutionary mandate saw UNOCI experience a significant erosion of legitimacy from 2004-2007. The penultimate chapter will examine how the legitimacy crisis created by chronic erosion impacted the ability of UNOCI to justify itself during the 2010 post-election conflict and the ways in which legitimacy erosion and poor communicative practices resulted in the unjustifiable use of force to end the conflict in April 2011. The final chapter will reflect on what can be learned from the case of UNOCI, particularly the extent to which practical and communicative factors may impact the ability of evolutionary interventions to maintain legitimacy.

## **Rethinking Legitimacy: A Communicative Approach**

### *Conceptions of Legitimacy in Intervention Contexts*

According to Ian Clark (2005: 30), legitimacy is a project of international society: a contested political space in which actors negotiate around perceived absolute values to form consensus on the extent to which they all feel bound to them. The practice of legitimation is thus both communicative and perpetual; consensus, and therefore legitimacy, must be reassessed continuously against ever changing variables of actions and normative inputs. However, the question of what exactly might constitute legitimacy for evolutionary intervenors has not been explored in the literature around the use of force as such. The application of legitimacy theories to the use of force primarily revolves around humanitarian intervention, which J.L. Holzgrefe (2004:18) defines as ‘the threat or use of force across state borders by a state (or group of states) aimed at preventing widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without the permission of the state within whose territory the force is applied.’ Humanitarian intervention and evolutionary intervention are far from interchangeable concepts. However, exploring the application of legitimacy theory in humanitarian intervention is useful for understanding factors that influence the legitimation process in which use of force is proposed as a solution to a conflict, regardless of whether the justifications meet traditional humanitarian criteria or the actor is already established in the host country.

The ongoing debates around legitimacy in intervention practices are founded in the premise that intervention constitutes a violation of the international legal prohibition on the use of force, and thus any legitimacy an intervenor may acquire is dependent upon the ability of the intervenor to publically justify itself to other actors who are

bound by the same legal norm (Head 2012:1). Because intervention is not only a violation of a norm but of international law through UN Charter article 2(4), all justification processes for intervention require application of rules as established through the UN Charter and its interpretation by the UNSC, to whom the Charter allocates authority on matters of international peace and security. The exact rules applied in a justificatory practice of intervention are determined not only by the context of the conflict in which the intervention is to take place, but upon whom the object of justification might be. For justification to be successful, consensus must be reached that the application of rules provided by the intervenor is appropriate and therefore legitimises the claim to action.

This connection between the object of justification and the consensus around international rules applied can be demonstrated in the discourse around legitimacy in humanitarian intervention. For some (Badescu 2011) only those actions that are considered legal, or having obtained a UNSC-authorized mandate, are considered justified and therefore legitimate. Here, the passing of a UNSC resolution is interpreted as formal consensus by the international community around the acceptance of justifications provided. However, many (Buchanan 1999, Wheeler 2000, Tesón 2004) have asserted that the use of force can be permissible and legitimate when the crisis to which the intervenor is responding provides a moral imperative to act, regardless of whether a UNSC mandate is obtained. Thus, consensus in the international community can be achieved through collective action by what Pattison (2010: 28) calls 'coalitions of the willing' and statements of support or ambivalence by non-intervening states. Claims to legitimacy are threatened when some form of consensus is not achieved, as demonstrated through debate in the

literature around interventions in Kosovo and Libya (Head 2012, Kuperman 2013, Bellamy 2011).

This brief overview of legitimacy debates in humanitarian intervention exposes the importance of rules and consensus in its construction. Both the legal and moral concepts of legitimacy in humanitarian intervention acknowledge a reliance on consensus within the international community that the action is permissible in accordance with rules, though they diverge in the ways in which they interpret how that consensus can be achieved and communicated. While the international community is generally the singular object of justification in humanitarian intervention, evolutionary intervenors must engage with both the broad international framework and with a secondary layer of rules established between the intervenor and domestic actors. Through UNSC authorisation, evolutionary interventions have succeeded in achieving consensus through the rules of the international community. However, the ability of an evolutionary intervention to maintain legitimacy is tied to its ability to implement its mandate successfully.<sup>2</sup> In particular, the peacebuilding dimensions of evolutionary interventions require the consent and establishment of a collaborative relationship with domestic actors. This consent requires consensus between domestic actors on the justifiability of an evolutionary intervenor's presence and activities as expressed through public consent to mandates, memorandums of understanding, and other forms of explicitly communicated agreement (Beetham 1991: 95). It follows that any concept of legitimacy applied to evolutionary intervention must prescribe to a framework that allows for assessment against this interior layer of rules between the intervenor and domestic actors.

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<sup>2</sup> This would most closely correlate to the justification of 'effectiveness' referred to in humanitarian intervention discourse (See Pattison 2010: 69) but applied to the more elongated intervention model examined here.

### *Towards a Communicative Reconstruction of Legitimacy*

Clark (2005: 20) asserts that legitimacy cannot be separated from power, a concept David Beetham (1991:43) generally defines as ‘the ability to achieve our purposes.’ Within the context of intervention to be analysed here, power as Beetham defines it can be translated to the effectiveness of the UNSC/UNOCI as an evolutionary intervenor to achieve its aims. Therefore, the legitimation of UNSC-authorized intervention requires a legitimation of its power. Beetham (1991: 16) identifies three criteria for legitimate power: it must be exercised in adherence to established rules; those rules must be justifiable through a common belief framework shared between the actor exercising the power and the actor upon whom the power is exercised; and there must be evidence of consent by the receiving actor. These criteria encapsulate both the legal and moral components highlighted in the legitimacy discourse of humanitarian intervention through establishment of legal validity, or the use of rules created and applied ‘in accordance with the law,’ and the justifiability of the ‘rightness’ of those rules on rational and moral grounds (Beetham 1991: 4). The third criteria, that of consent, seeks to identify the acts that bind the power relationship together. These criteria can be applied to the dynamics of evolutionary intervention through the establishment of precedents and norms around acceptable behaviour between the intervenor and domestic actors (rules); the acknowledgment and relevant application of those rules by intervenors when taking actions (justification); and public communication of support, or at the very least, compliance, with the intervention by domestic actors in the state in which the intervention takes place (consent).

This constructivist conceptualisation of legitimacy is better suited to evolutionary intervention than those presented in humanitarian intervention discourse for a number

of reasons. Most importantly, it acknowledges the multiple normative aspects of power relationships in which legitimacy is rooted. Because the dynamic between the intervenor and domestic actors so profoundly impacts evolutionary intervenors' power, any legitimacy construction applied must be able to ascertain the extent to which that relationship functions and the rules established within it. The presence of consent amongst the criteria addresses an important divergence between evolutionary intervention, which relies heavily on the consent of domestic actors, and those practices like humanitarian intervention that consider action in the absence of host-state consent to be acceptable. Additionally, Beetham's criteria are not constrained by a specific, pre-existing rule framework and the recognition of commonality of beliefs as the basis upon which justifications are made allows for alternative rule sets, such as those established between domestic actors and evolutionary intervenors, to be applied in addition to those present at the international level. This allows for a broader assessment of the potential factors that may influence the ability of an evolutionary intervenor to legitimate.

Each of Beetham's criteria contains an axis of potential debate and decision-making between actors: whether an action is done in adherence with established rules, whether those rules are justifiable on the basis of common beliefs, and whether actors agree to the exercise of the action in question. These axes implicitly acknowledge a significant communicative dimension to the legitimation process in that the use of communicative practices are required to establish consensus around rules to construct a common belief framework upon which rules are justified. This is evidenced more explicitly in Beetham's (1991: 210) assertion that only publically expressed acts of consent can be legitimating. It is in these communicative practices that the conditions in which decisions are taken can be created and influenced. This communicative

orientation is of significance for analysis here because changes in dialogue conditions between intervenors and domestic actors over time can impact the intervenors ability to maintain its legitimacy through both justification and consent.

### ***The Role of the Communicative Imperatives***

Interrogation of dialogue conditions present in the above construction of legitimacy requires a normative orientation for engaging with the communicative practices that underpin legitimation processes for evolutionary intervenors. Naomi Head (2012: 3) identifies communicative ethics as the ‘methodological and conceptual backbone of the critical communicative dimension of legitimacy.’ A communicative ethics approach acknowledges that validity of norms (here to be understood as rules) are established and considered binding between actors when expressed through rational forms of dialogue (Head 2012 105-126). In his seminal work on communicative ethics, Jürgen Habermas imagined speech, the essential component of dialogue, as ‘a form of rationality against which individual and social behaviour may be measured’ (Head 2012: 106). This rational behaviour allows an actor to make validity claims around specific norms it believes to be true; however, the validity of a claim cannot be secured by the actor making the claim, instead the validity of the claim is arrived at through mutual agreement by those actors whom are effected by the asserted truth in question (Habermas 1990: 66). Thus, it is the responsibility of the actor making the claim to justify its validity to those affected by the action in question. In interventionist terms, the responsibility to justify and legitimise itself falls to the intervenor, who then must achieve consensus from all affected actors that the justifications provided are acceptable. For evolutionary intervenors, this practice of justification is conducted at the international level when establishing a mandate, but

primarily is applied on a rolling basis with national actors as the mandate and goals of the intervention shift.

While Beetham's criteria provide a strong multi-dimensional lens through which the construction of legitimacy in evolutionary intervention can be studied, employing a communicative ethics approach acknowledges that it should not be interpreted as a framework which allows for definitive spectator judgment as to whether an evolutionary intervention is legitimate. Because Beetham's concept of legitimacy revolves primarily around that which is constructed in a power relationship, the decision to accept claims to legitimacy is one that exists only between those actors to whom the claim applies, namely the intervenor and the object of its justifications. In the case of UNOCI, this power to accept or reject justifications rested primarily with Ivorian actors. Within this framework those outside of that relationship do not have the power to accept or reject justifications, but can use their objective position to engage in critical analysis of how and why those decisions were arrived at and to what degree these decisions and the conditions around them may have contributed to the broader legitimacy narrative. Such an exercise of critique can uncover new ways of understanding legitimacy and how it is shaped in intervention practice. Therefore, the critical spectator role undertaken here is one that seeks to explore the communicative conditions within which decisions were reached between UNOCI and Ivorian actors regarding UNOCI's justification process so as to better understand the impact of those conditions on the outcome of the legitimation process.

For Habermas, the only form of dialogue in which such a justification process could be conducted successfully was one in which the speech used reflects 'genuine' communication (Head 2012:110). Only speech that satisfies four validity claims: comprehensibility, truth, rightness, and sincerity can be understood as such



(Outhwaite 1994: 40; cited in Head 2012: 110). Speech can be considered to be comprehensible if what's said is understandable; sincere if it is intended to and believed to be honest; true if it is based on a consensus understanding of reality; and right if it considered appropriate or correct under existing norms (Head 2012: 110). Within the construct of legitimacy Beetham has provided, the claim of rightness is of particular importance. For the application of a rule to be considered appropriate and thereby motivate the consent of the actors to whom the justifications are made, consensus must be reached that the rule is 'right', meaning it exists in adherence with a common belief framework.

Naomi Head (2012: 135-143) has set out a communicative ethics approach to examining questions of 'rightness' in speech practices through what she refers to as 'communicative imperatives' (Table 1). While created specifically for exploring the communicative elements present within the justification process for legitimizing the use of force in humanitarian intervention, these seven imperatives have the unique ability to retain a normative orientation allowing for context-specific variations in communicative practices. This versatility makes them employable more broadly to communicative practices present throughout the life cycle of non-acute, evolutionary interventions. Rather than passing judgment, the imperatives are intended to guide the analysis of justification-related speech situations. Further, the imperatives seek to provide a framework for exploration of the conditions that impact communicative practices and can occur to varying degrees depending on types of communicative practices to which they are applied (Head 2012: 134-135).

Table 1: The Communicative Imperatives<sup>3</sup>

<b>Imperative</b>	<b>Interrogative Orientation</b>
Maximising Inclusion	<i>Do intervention dynamics influence actors' access to the dialogue space? Who can participate in a dialogue and to what extent? Are efforts made to seek out the perspectives of affected actors who are absent?</i>
Minimising Coercion	<i>Is it possible to identify instances of cooperative or coercive behaviour amongst actors? To what extent do these practices impact the dialogue space and actors' access to it?</i>
Expanding Dialogue	<i>Do actors make an effort to move dialogue forward even if a decision isn't reached? How and to what extent? Do some actors have more capacity to expand dialogue than others?</i>
Maximising Diversity	<i>Does the intervention dynamic allow some perspectives or outcomes to be privileged or suppressed within the dialogue? If so, what is the impact of this inequity?</i>
Coherence	<i>Is there evidence of coherence or variance in the justification and application of rules between actors? If deviation occurs, how is it presented and responded to?</i>
Reflexivity	<i>Do actors acknowledge their positions within the intervention dynamic? If so, are efforts made to level the playing field for dialogue?</i>
Recognition	<i>Are certain perspectives or positions given more weight than others in discussion? To what extent are actors aware of their own positions and potential biases? Do they demonstrate sensitivity to the perspectives of others in dialogue practices?</i>

The imperatives create a framework for interrogation around speech practices that is particularly valuable for exploring the full range of legitimacy dimensions presented in Beetham's criteria. Other modes of analysis may answer the questions of what the rules are, who presents them, and who consents to their application; however, these questions only tell us *what* a legitimacy narrative looks like and whether the criteria have been in some way met. However, legitimacy can be understood as essentially

<sup>3</sup> Head presents a multitude of guiding questions around the imperatives to inform our understanding of how the use of force is legitimised in the international community. The questions provided here are not to be interpreted as summative or in any way exclusive of that work, but rather to draw upon it to provide broad interrogative axes for the communicative analysis of legitimacy within the unique dynamic that exists between evolutionary intervenors and domestic actors.

‘indeterminate’ in nature and ‘incremental’ in application (Clark 2005: 254; Beetham 1991:20), so the question around which analysis occurs should not be whether legitimacy is or is not attained, but rather, to what extent such attainment is achieved. It is in this modality that the imperatives expose their true interpretive and emancipatory power by enabling exploration of the extent to which legitimacy criteria are achieved through their intrinsic communicative elements while also contributing to an understanding of *how* and *why* that legitimacy takes form (Head 2012: 133). Recognising the value of this critical orientation, I will endeavor to expand the application of the imperatives to the unique communicative dynamic present between UNOCI and Ivorian actors to gain greater insight into the manifestation of different dimensions of legitimacy as they may present in evolutionary intervention contexts.

The following sections will explore the erosion of UNOCI’s legitimacy from its establishment to the onset of the conflict in 2010 and its behaviour during the subsequent legitimacy crisis in the post-election conflict of 2011. Communicative analysis guided by the imperatives allows for explorations of how the interactions between Ivorian actors and the UNSC/UNOCI expose the unique challenges faced by UNOCI as an evolutionary intervenor and where opportunities may have presented to strengthen legitimacy. This analysis will help shape an understanding of how UNOCI’s legitimacy as an evolutionary intervenor was eroded by its failure to meet Beetham’s criteria during the early years of the mission, as well as how UNSC-influenced dialogue conditions during the post-election conflict impacted the eventual decision to use force.

### **Erosion via Implementation: UNOCI 2003-2007**

As highlighted above, much attention in the debate around intervention has been given to how an intervenor can obtain legitimacy. However, far less consideration has been given to how to sustain it, and further, what consequences might be faced if intervenors find themselves unable to do so. When legitimacy cannot be sustained, either because of changes in belief or circumstances (the emergence of ‘legitimacy deficits’), or because actors withdraw or refuse consent (acts of ‘delegitimation’), the intervention can be said to be experiencing an erosion of legitimacy (Beetham 1991:109). However, this erosion does not in itself necessitate the use of force as asserted by UNOCI in April 2011. It is necessary to analyse the conditions under which erosion occurred in this circumstance to understand how it created a crisis from which UNOCI could not recover, thus illuminating not only the root causes for unjustifiable force in this instance but also possible ways in which that violent outcome could have been prevented.

### ***Justifying UNOCI***

Before analysis can be conducted as to how the legitimacy of UNOCI was eroded, we must first assess the extent to which legitimacy existed in the first place. UNOCI was established in February 2004 through UNSC resolution 1528. Prima facie, it would follow that UNOCI enjoyed de facto legitimacy on the basis of its UNSC authorisation. But while the UNSC has the authority to take such action under Chapter VII of the UN Charter, Beetham (1991: 57) cautions that ‘there is an important distinction to be observed...between the legitimacy of an individual power holder, which is a matter of validity according to the rules, and the legitimacy of the power system as such.’ The power system in question here is the one that exists

between the UNSC as power holder and the Ivorian state as subordinates to it, the product of which is UNOCI. The degree of legitimacy UNOCI was afforded at its establishment is important for laying the groundwork for its relationship with legitimating Ivorian actors in the years following. While the establishment of UNOCI through a UNSC resolution indicates that certain rules were adhered to by the UNSC as power holder, analysis of the justification and consent processes around the establishment of the mission is necessary to determine the extent to which the rules applied were justified and therefore capable of legitimating the intervention.

Beetham (1991:60) identifies two dimensions to the justification of a power system: the pursuit of a common interest that unifies the actors; and a 'principle of differentiation' that divides the actors into those who are qualified to wield power and those who are not. The principle of differentiation acknowledges the separate 'spheres of confidence' (Beetham 1991: 35), or areas of responsibility, in which each actor works and establishes the parameters of the power relationship. Taken together, these dimensions can be understood to comprise a common belief framework. For the UNSC and Ivorian actors, this framework and the parameters of the relationship were established prior to S/RES/1528, as evidenced through communication between actors on the subject of UNSC involvement in the resolution of the civil war.

S/RES/1528 was established to assist with the implementation of the January 2003 Linas-Marcoussis Agreement (LMA). The signing of the LMA and the UNSC's endorsement of it through S/RES/1464, which was recalled in the preamble of S/RES/1528, established peace in Côte d'Ivoire as a common interest between the UNSC and Ivorian actors. Paragraph 3(h) of the LMA expressed the intent of signatories to seek the UN's assistance in carrying out initiatives related to the maintenance of a ceasefire, a program for the disarmament of combatants and

reintegration of the military (DDR), and a plan to hold elections. This text, and these three activities in particular, form the foundation for the UNSC's sphere of confidence in Côte d'Ivoire and also allude to the existence of a principle of differentiation between the UNSC and Ivorian actors. By resolving to seek UN assistance to implement activities directed toward the common goal of peace, Ivorian actors acknowledged that they did not view themselves to be sufficiently capable of carrying out the peacebuilding activities they sought to implement and that the UN, particularly the UNSC, was considered adequately equipped to alleviate this deficiency.

The understanding of the UNSC in particular as the actor most capable of assisting on issues of security and peacebuilding was evidenced on multiple occasions between the signing of the LMA in January 2003 and the establishment of the mission one year later. When representatives from Côte d'Ivoire spoke in relevant Security Council meetings, they continuously reiterated the desire to work with the UNSC to achieve the LMA. In April 2003 (S/PV/4746), the Ivorian representative explicitly expressed the need for 'assistance from the Security Council' to handle security in the country and to support the implementation of elections and other components of the LMA. This sentiment was echoed in July (S/PV/4793) when interim Prime Minister Seydou Diarra of the new Government of National Unity stated the intention of his government to 'make a request for support from the United Nations for the holding of fair, transparent, and open elections' while also highlighting the need for humanitarian aid and financial support from the UNSC for the ECOWAS forces already present in support of LMA implementation. The most compelling and solidifying evidence that the UNSC had adequately justified itself to establish UNOCI came in November 2003 when President Laurent Gbagbo wrote a letter to the UNSC

(S/2003/1081) regarding the mandate extension of the UN's political mission (MINUCI) in which he stated that 'for Côte d'Ivoire, the only desirable option is for MINUCI to be turned into a United Nations peacekeeping operation.' Therefore, it can be said that UNSC's establishment of UNOCI was legitimated through Beetham's criteria of adhering to rules (legal validity), and of justifying those rules through a newly established common belief framework.

The above analysis leaves consent, the third criteria for legitimacy, still to be considered. While Gbagbo's letter has been interpreted by legal scholars as consent for UNSC action (Sloan 2011:242), the process of consent to which Beetham ascribes is a normative, communicative one in which the act is performed un-coerced (Beetham 1991:91) and should be evaluated with consideration for 'form and extent of political participation' (Beetham 1991:159). That is to say, when determining a claim to consent it is necessary to consider not only what is expressed but who is speaking and how they came to possess the ability to do so. Thus, employment of the communicative imperatives is required to examine the conditions through which Gbagbo became the consenting representative of Côte d'Ivoire, and what the implications of his positioning may have been for the extent to which consent, and therefore legitimacy, was actually granted to UNOCI.

To begin this task we must critically revisit the LMA negotiations. The peace talks surrounding the LMA sought to negotiate an end to the year long civil war between Gbagbo, with backing from the Ivorian national military (FANCI), and rebel groups from the northern part of the country who were now under the umbrella group Forces Nouvelles (FN) led by Guillaume Soro. Comprised of Gbagbo, Soro, representatives from all major Ivorian political factions and delegations from the Economic Community of West African States (ECOWAS), the African Union (AU), and the

UN, the negotiation and signing of the LMA would seem to have been a well executed conflict mediation. On its face, the participant list appears to be the embodiment of inclusivity, a concept Head (2012:136) identifies as ‘the crux of a communicative ethics framework.’ Questions related to the imperative of maximising inclusion can be connected to Habermasian ideals, particularly the notion that all those that may be affected by a decision should have access to the dialogue space in which it is deliberated (Head 2012:136). The decision to extend invitations and allow the participation of representatives of combatant groups, political parties, regional organisations, and other interested parties reflects positively on the inclusivity of the process. However, awareness of the conditions under which these actors engaged in dialogue is crucial to understanding the outcome of negotiations and how they resulted in a climate of mistrust and the consolidation of Gbagbo’s power that negatively impacted both the peace process and UNOCI’s ability to maintain legitimacy over time.

All parties participating in the negotiations arrived under the invitation of France as the lead facilitator. Facilitators have the ability to influence not only who is and is not invited to negotiations, but how those negotiations will be conducted. In any dialogue practice, minimising coercion helps to ensure that actors don’t inappropriately influence the dynamics within the group by manipulating parameters of dialogue and the ways in which decisions can be taken (Head 2012: 137). This would prove impossible for France, who found itself shouldering the burden of extensive military and economic investment in Côte d’Ivoire and thus feeling domestic pressure to broker a peace deal that gave primary consideration to its regional interests (Yabi & Goodwin 2009:19). France’s management of the negotiations also demonstrated a lack of reflexivity and recognition in that it failed to acknowledge the fallibility of its



communicative practices and its position within the conflict (Head 2012: 142-143). The historic role the former coloniser played in the creation of a climate hospitable to conflict in Côte d'Ivoire and its role in the civil war itself (Yabi & Goodwin 2009:18; Ayangafac 2009:38) should have seen France exclude itself from taking on a facilitating role in the first place.

The preference towards achieving a consensus document over understanding the causes of the conflict or interests of Ivorian parties involved was an unavoidable reality under French facilitation, and reflects a failure to maximise diversity in the negotiations. By creating a dialogue forum in which plurality of opinions is constrained, a dominant discourse will emerge (Head 2012:140)- here in the shape of a peace treaty that while lauded by the international community, largely ignored the interests of Ivorian actors. With these factors in mind, it is no surprise that the outcome of the LMA was a political impasse in which no Ivorian party was satisfied. Gbagbo had no desire to devolve powers from the presidency to the new Prime Minister position, and other parties were mistrustful of Gbagbo's intent to uphold the terms of the deal (Yabi & Goodwin 2009:18). The result was the slow establishment of a dysfunctional Government of National Unity in which parties on all sides created obstacles to its implementation (International Crisis Group 2003: no 72). With Prime Minister Diarra neutralised and other parties withdrawing from the government all together, Gbagbo was left with the majority of political power and was thus well positioned to provide consent to the UNSC for UNOCI's creation. Explicitly acknowledged by the UNSC in S/RES/1528, Gbagbo's letter can be interpreted to have met Beetham's criteria of consent in a limited sense. With legal validity, justification, and adequate consent from domestic actors, we can consider the UNSC to have secured UNOCI some degree of legitimacy at the point of its establishment.

However, this degree of legitimacy, underpinned by poor communicative practices, would prove unsustainable, resulting in a rapid descent into erosion.

### ***Chronic Erosion and the Onset of a Crisis***

While the erosion of legitimacy manifests through both delegitimation and legitimacy deficits, it finds its roots in the process of justification. Beetham (1991:109) identifies two ways in which legitimacy can be eroded: by an actor demonstrating an inability to meet common interests, and by the damaging or elimination of the principle of differentiation or common belief framework. Evolutionary interventions like UNOCI are especially prone to both forms of erosion because the longevity of intervention and changing mandates expose more scenarios in which differentiating principles can be invalidated. Changing mandates mark evolutions in rules and the thematic emphasis of a mission, often using previous mandates as building blocks for modification. In this way, responsibilities prescribed in previous iterations of a mission can carry over across evolutions. This makes evolutionary interventions especially vulnerable to erosion because failure to uphold responsibilities at early phases can generate perceptions of incompetency and diminished confidence by domestic actors. This incoherence between what is said through mandates and what is done in implementation undermines the intervenor's ability to justify themselves in that power relationship at later points. The most acute period of erosion for UNOCI was experienced between 2004 and late 2007, an era in which the intervention experienced significant setbacks and the peace process remained stagnant.

#### ***I. Keeping the Peace***

UNOCI was established on the belief by both itself and Ivorian actors that it was uniquely capable of helping to ensure compliance with the LMA and the creation of sustainable peace. The statements by Ivorian actors to the UNSC in 2003 and the

UNSC responses, culminating with S/RES/1528, demonstrate a coherent foundation in the understanding of a common interest by all actors and a recognised principle of differentiation between them. Coherence and legitimacy can be understood to be mutually dependent, as actors who are unable to apply justifiable rules consistently undermine their own legitimacy (Head 2012: 141). To prevent legitimacy erosion that stems from incoherence, intervenors must be able to justify behaviour through consistent application of norms or established rules whenever a change in the broader rule set or conditions of justification occurs. This circumstance manifests most clearly for evolutionary intervenors when conditions develop in the host country that necessitate a change to the mandate (i.e. rules), which then requires communicative action through resolutions to implement coherent re-justification to achieve 'relegitimation' (Beetham 1991: 221). It is worth noting that no one instance or mandate change can definitively express an erosion of legitimacy in intervention practice. New or modified mandates and structures can be better understood as responsive mechanisms intervenors use to alleviate erosion and improve or regain their legitimacy. Therefore, it is important to look more broadly at the conditions and actions that cause those responses to understand how the erosion itself manifests.

More than 20 resolutions were passed by the UNSC on the situation in Côte d'Ivoire between 2004 and 2007, most regarding changes to UNOCI's mandate or structure. For UNOCI to maintain legitimacy, it would have needed to be able justify the implementation of these new rules through the common belief framework in which they were established. The common belief framework around which Ivorian actors and UNOCI functioned allocated three major spheres of confidence in which UNOCI could conduct its work toward the common interest of peace: assisting in the maintenance of the ceasefire, overseeing the DDR, and assisting in the

implementation of elections. These spheres of confidence reflect the codependent and interrelated components of peacekeeping and peacebuilding that characterise evolutionary intervention. The overlapping areas of responsibility in evolutionary intervention mean that failure or success in one sphere can impact performance in another, thus influencing broader perceptions of legitimacy. If UNOCI were unable to adequately demonstrate competency in those three areas, it could be understood to be failing to work towards the common interest and its principle of differentiation would be damaged. This would not only erode its legitimacy but create a loss of confidence in UNOCI's rightfulness as intervenor. The extent to which this occurred and impacted UNOCI's ability to justify itself is demonstrated through both the behaviour of Ivorian actors and the responses of the UNSC around these areas.

S/RES/1528 charged UNOCI and its French military support with monitoring the ceasefire agreed to under the LMA and working with all combatant groups to promote the 're-establishment of trust' between all involved (S/RES/1528 para. 6(c)). The success of this endeavor was directly tied to that of the DDR in that the ceasefire would be threatened as long as combatants remained armed. The first draft of the DDR programme was presented by the Ivorian representative in a July 2003 Security Council meeting (S/PV.4793) on the situation in Côte d'Ivoire. However, implementation of the program relied not only on logistical support from UNOCI but a degree of trust to exist between the parties involved to actually participate in the programme. The foundation of that trust could have been established in the LMA, but as demonstrated in the brief analysis of those negotiations provided above, those negotiations did not create a foundation or an outcome document around which such trust could be placed. This became increasingly problematic for UNOCI over the

coming years and predicated numerous failures that contributed to the erosion of its legitimacy, particularly around the implementation of the DDR and the ceasefire.

So great was the mistrust between Ivorian actors following the negotiation of the LMA that rather than preparing to disarm, both sides used the transition period in which the Government of National Unity and UNOCI were established as a *détente* to replenish weapons supplies (Yabi & Goodwin 2009:19). Domestic responses to attempts by UNOCI to carry out its mandate in overseeing the DDR ranged between ambivalence and open hostility. In early October 2004, Guillaume Soro stated that the FN would not participate in the DDR until legislative reforms were implemented by Gbagbo's government (S/2004/967 para. 8). Demonstrations against the DDR took place throughout the country. In Abidjan, members of Gbagbo's youth militia, the Young Patriots, carried out protests, and demonstrations became so hostile against UNOCI and French troops in the northern towns of Bouaké, Man, and Bouna that force was required by UNOCI and the French military to disperse the crowds (S/2004/967 para. 7). With both sides still heavily armed and the security situation rapidly deteriorating by the end of the month, a violation of the ceasefire appeared both imminent and logistically impossible for UNOCI to prevent.

The violation of the ceasefire would be a significant blow to UNOCI's legitimacy in that it would be a direct failure in one of its spheres of confidence. However, it is possible that more could have been done in the preceding months to pressure actors to comply with the DDR and even prevent future clashes if more reflective judgment had been exercised by the UNSC when considering the conditions of the LMA. Reflective judgment, which closely ties to the imperative of reflexivity, asks actors to reflect on the impact of their actions and the perspectives of others involved in a dialogue practice (Head 2012: 149). Exercising reflective judgment could have seen

the UNSC acknowledge the power dynamics present at the LMA negotiations and exposed the ways in which the interests of Ivorian actors may have been underrepresented. Of particular interest would have been the other belligerent party in the war: the FN.

The rebel-supporting north was consistently hostile towards UNOCI, and while Gbagbo often ignored his responsibilities under the LMA, the FN both publicly expressed noncompliance through statements by Soro and through withdrawal from the government by most of the opposition in response to Gbagbo's refusal to implement legislative reforms in early 2004 (Yabi & Goodwin 2009:20). The decision to withdraw from the government effectively silenced FN interests at the national level. This resulted in a minimalisation of diverse dialogue and the protection of Gbagbo's dominant discourse in representation to and communication with the international community. Had reflective judgment been practiced by the UNSC, it may have been possible to identify this important exclusion and seek other means of communicating with the FN to enable future dialogue that better engaged their interests, a practice which could have had a positive impact on their participation in the DDR and overall peace process.

Thus, the failure of preliminary attempts at the DDR and imminent violation of the ceasefire were a partial product of a lack of reflexivity by the UNSC. On 4 November 2004, President Gbagbo launched *Opération Dignité*, a military offensive to take back the northern part of the country occupied by the FN (Marmoz 2006; S/2004/967 para 14-20). During the first days of the operation, FANCI forces also bombed a French military base in the northern town of Bouaké (S/2004/967 para. 17). A blatant violation of the ceasefire, this finally garnered a reactionary response from the UNSC in the form of S/RES/1572, which placed an arms embargo on the entire country.

However, the arms embargo could not address the problem of mistrust and noncompliance between actors already armed in the country, and the UNSC missed an opportunity in S/RES/1572 to use sanctions to incentivise actors, Gbagbo in particular, to comply with the LMA. Sanctioning would have linked to the imperative of dialogue expansion through strategic action, or those actions taken to achieve a specific end (Head 2012:138). Though considered by Habermas to be the antithesis of ideal communicative action, which is directed entirely towards understanding (Habermas 1990:134), the occurrence of strategic action, or that which is directed towards a specific goal (Habermas 1990: 133) would demonstrate a coercive ‘distortion’ (Head 2012: 172) of the dialogue space that could have had a positive impact on future dialogue. By sanctioning Gbagbo, the UNSC could have used recognition to help create a sense of accountability and moral responsibility (Head 2012: 143; Beetham 1991: 18) that may have seen Gbagbo become more compliant and the peace process run more smoothly, preventing the need for force later.

Inadequate action by the UNSC in response to belligerence in 2004 meant that by mid 2005 it was clear that UNOCI was incapable of carrying out its mandates to monitor the ceasefire and assist with the DDR, thereby exposing crucial legitimacy deficits in two of its spheres of confidence. This problem was acknowledged in the December 2004 progress report of the Secretary-General on UNOCI (S/2004/962 para. 25), in which he admitted to the UNSC that the mission faced significant challenges in implementing its mandate due to the security situation. A spring 2005 report on the conflict by Human Rights Watch (2005: 30) saw UNOCI officials remarking that the decision of Ivorian actors not to abide by the LMA had drastically impacted the mission’s objectives. A new political agreement (PA) was signed in Pretoria in April

2005, and UNOCI was given a new mandate in accordance with both the LMA and PA through S/RES/1609.

The arrival of a new mandate required a relegitimation and thus an opportunity to reflect on the state of UNOCI's legitimacy at that time. Ineffective action by the UNSC and UNOCI in the first year of the intervention meant that the intervention had demonstrated an inability to work to achieve the common interest of peace through the DDR and ceasefire. Through its incompetence UNOCI demonstrated incoherence between its words (rules or mandated activities), and its actions (the implementation of those activities). This sort of incoherence not only damaged UNOCI's legitimacy vis-à-vis Ivorian actors, but also made it vulnerable to Ivorian actors questioning the 'rightness' of the rules themselves (Head 2012: 141). This sort of incoherence was demonstrated through actions by Ivorian actors that directly violated the LMA and by extension UNOCI's rules and presence related to it. Unfortunately, UNOCI's ability to function within a framework of coherence was directly undermined by the conditions of the LMA, and so the resulting degradation of the principle of differentiation between it and Ivorian actors saw the common belief framework between the two diminishing rapidly.

Inability to justify itself through coherent practices left the UNSC and UNOCI unable to successfully relegitimize and facing a substantial erosion of legitimacy. An act of expressed consent by Ivorian actors to the new mandate would have been a positive contribution to legitimacy, but no such expression was given around S/RES/1609. Notably, the involvement of UNOCI was mentioned in the PA. However, that acknowledgement did not equate to consent to UNOCI's future mandate pursuant to it and there was no indication of consent from Ivorian actors to UNOCI's presence or activities after the arms embargo was put in place in November



2004 (Sloan 2011: 243). This lack of consent is critical when considering the severity of UNOCI's erosion, as it demonstrates a continuous delegitimation through silence around mandate changes over the following years.

## II. Elections

While the erosion of UNOCI legitimacy by spring 2005 was already substantial, UNOCI could have taken action to alleviate and improve its legitimacy going forward. For an evolutionary intervenor like UNOCI, expansive mandates have the potential to help or hurt this cause. Because there are more mandated activities, there are more rules which can be justified for application, and while this can overburden an evolutionary intervenor trying to legitimate itself it can also mean that failure in one area can be offset by success in another. UNOCI attempted to use its expansive peacebuilding mandate to its advantage through focusing on demonstrating competency in another sphere of confidence, elections, when the DDR and ceasefire spheres were creating chronic legitimacy deficits.

The subject of elections had been part of the negotiations around Côte d'Ivoire's post-conflict transition since 2003. The need for a timetable for elections was identified in paragraph three of the LMA, and a target date of 30 October 2005 was committed to in the agreement signed at Pretoria in 2005. Electoral assistance was identified as part of UNOCI's founding mandate through S/RES/1528 paragraph 6(m) when it committed to provide 'oversight, guidance, and technical assistance' to the Government of National Reconciliation for this activity. Efforts towards preparing for elections in 2004 and 2005 were undermined by the unstable security situation, and the UNSC and UNOCI recommitted themselves to assisting national actors with this undertaking in S/RES/1609 in June 2005. That resolution instructed UNOCI to provide technical assistance as needed for the elections in paragraph 2 (q-s).

Between October 2005 and December 2010, elections were delayed five times, primarily due to insecurity and Gbagbo's refusal to relinquish any control of the government. According to the PA, the majority of executive power should have been transferred to the Prime Minister, who would oversee the implementation of the elections and take control of the military. This was acknowledged by the Security Council in S/RES/1609 and reiterated in subsequent resolutions. However, Gbagbo repeatedly obstructed the work of the Prime Minister over the following years (Yabi & Goodwin 2009: 19-21). Once again, the UNSC chose not to pursue strategic actions through sanctions or other measures to encourage Gbagbo's compliance, though the authorisation had been present since S/RES/1572 of November 2004, in which the UNSC committed itself to consider pursuing sanctions against anyone who was deemed to be 'a threat to the peace and national reconciliation process in Côte d'Ivoire' (S/RES/1572 para. 13). The right to sanction was recalled in numerous resolutions throughout 2005 and 2006 but was never invoked against Gbagbo. Instead, the UNSC extended his mandate as interim president twice to buy more time for elections to be held (S/RES/1633 para. 3; S/RES 1721 para. 3), while Gbagbo publically referred to the peace process as a 'failure' (Murphy 2006).

Gbagbo's ability to maintain control of the government and the military left other actors with no means of participating in the peace process through government representation and no incentive to disarm, further undermining UNOCI's work on the DDR and yielding sporadic belligerent activity directed at UNOCI (BBC 2006). Disarmament did not begin until late 2007 following the signing of the Ouagadougou Political Agreement (OPA). The culmination of the international community's failure to mediate the conflict effectively, the OPA was a significant blow to UNSC and UNOCI legitimacy for a number of reasons. Primarily, it highlighted the failure of

UNOCI to achieve the common interest of peace through a ceasefire, effective DDR, and elections. While the role domestic actors played in that failure is significant, UNOCI's legitimacy was based on a perception that these activities were within its sphere of confidence and contributed to its principle of differentiation. By taking back a peace process that had been 'hijacked' (Ayangafac 2009: 42) by the international community, Gbagbo and Soro rejected the differentiation principle upon which UNOCI's legitimacy had been justified. While no acts of consent to UNOCI activities were obtained during the years between UNOCI's establishment and the OPA, the choice of major actors to publically act outside of compliance with the rules established between UNOCI and Ivorian actors through the LMA and PA in the lead up to the OPA can be interpreted as acts that withdraw consent all together (Beetham 1991: 210). Thus the signing of the OPA and further delay of elections marked a significant degree of delegitimation for the UNSC and UNOCI which was compounded by the persistence legitimacy deficit UNOCI was experiencing on the ground.

The attempt to compensate for failures around the DDR and ceasefire by holding timely elections had backfired. Instead of improving UNOCI's legitimacy, focusing on elections only eroded it further by deepening the incoherence around the rules between itself and Ivorian actors. Though the UNSC passed multiple resolutions that addressed the rules by which it would engage with the electoral process, the delays meant that again the UNSC and UNOCI were unable to demonstrate coherence in that sphere of confidence, meaning that the 'rightness' of UNOCI involvement in that area could also now be viably questioned by Ivorian actors. This resulted in chronic instances of delegitimation and the emergence of legitimacy deficits in all three spheres of confidence. Delegitimation had occurred when Ivorian actors consistently

refused to grant consent to UNOCI presence or activities, declined to engage in collaborative communicative action or activities like the DDR, and displayed generally antagonistic behaviour towards UNOCI. Significant legitimacy deficits were exposed when UNOCI was unable to implement the DDR, ensure compliance with the ceasefire, or implement elections in a timely fashion. This created a critical level of legitimacy erosion for UNOCI. Ivorian actors no longer recognising a principle of differentiation between themselves and the intervention indicates that the common belief framework upon which UNOCI justified itself was severely damaged if not destroyed all together. This unfortunate reality saw UNOCI develop what Beetham (1991: 168) refers to as a 'legitimacy crisis,' in which significant threats to its legitimacy and a substantial and chronic erosion of the beliefs upon which it was predicated prevented UNOCI from achieving re-legitimation on multiple occasions. Because of the severity of the erosion and crisis development over time, the stakes were higher than ever for UNOCI when elections were finally called for in October 2010.

### **Crisis Point: UNOCI & the 2010 Post-Election Conflict**

The 2010 elections would prove to be the tipping point for UNOCI's overall legitimacy. Deeply entrenched in crisis, the calling of elections presented UNOCI with an opportunity to regain ground lost through years of erosion by demonstrating competency in one of its spheres of confidence. While UNOCI had failed to complete the implementation of the DDR, if elections were to occur it would mean that UNOCI had somehow contributed to the common goal of peace by helping to create a secure enough environment for voting, thus fulfilling a common interest and helping to re-establish a principle of differentiation between it and the Ivorian actors. However, the 2010 elections were derailed by controversy around the results that saw the country slide back into civil war. Unable to mediate a peaceful solution in the following months, UNOCI carried out an aggressive military operation in April 2011 that effectively ended the conflict. The failure of UNOCI to secure a peaceful transfer of power after the elections marked another blow to the already critical state of its legitimacy. However, ending the conflict efficiently via force could be seen as a demonstration of competency by UNOCI in the peace-enforcing dimension of their intervention, making a positive contribution to UNOCI legitimacy as an evolutionary intervenor. The extent to which this claim can be made is dependent not on the efficiency of that act, but on the extent to which that action was justifiable to the domestic actors affected by it. This justifiability was dependent on two factors: the presence of a common belief framework to justify against, and domestic actors willing to accept those justifications.

***The 2010 Elections: Rebuilding a Common Belief Framework***

UNOCI and the UNSC were aware what was at stake for the intervention's legitimacy going into the elections, as was evidenced through measures taken to maximise UNOCI involvement in the process. Technical assistance had been present in UNOCI mandates since 2004, however, the extent to which UNOCI was relying on elections to re-legitimise itself became most evident in S/RES/1765 of July 2007, which adjusted UNOCI's mandate to be compatible with the OPA timeline for elections through technical support (para. 2) and mandated the Special Representative to the Secretary General (SRSG) to 'certify that all stages of the electoral process provide all the necessary guarantees for the holding of open, free, fair and transparent presidential and legislative elections' (para. 6). This was further solidified in S/RES/1933 of June 2010, UNOCI's final mandate change before the election. Here the UNSC mandated UNOCI to, inter alia, provide extensive technical support to the independent electoral commission of Côte d'Ivoire (IEC) for conducting the elections, help maintain a secure environment for the process, and assist the SRSG as necessary in his efforts to fulfill his mandate (S/RES/1933 para. 16(g)). Through these resolutions in particular, the UNSC created an even stronger link between UNOCI's legitimacy and the elections through a certification process that would be reflective not just on Ivorian actors but on UNOCI's performance as well.

Despite the UNSC and UNOCI demonstrations of willingness to carry out responsibilities related to the elections, using the elections to re-legitimize themselves relied on an ability to justify its participation in the process to Ivorian actors, thus maintaining a now fragile common belief framework. Though the IEC and other relevant government bodies operated in cooperation with UNOCI during the elections (S/2010/600 para. 12-18; S/2011/211 para. 2-6), UNOCI's attempt to justify itself

through the passing of new resolutions was unsuccessful, as the expressed consent lost or withheld during the preceding years was never regained (Sloan 2011: 243). The impact of this loss of consent on UNOCI's ability to secure its common belief framework was very clearly exposed in the confusion around the results of the presidential run-off.

On 2 December, the IEC declared Ouattara the winner of what was largely considered to be a credible process (The Carter Centre 2011, The European Union 2011, Organisation Internationale de la Francophonie 2011). These results were overturned the following day by the Constitutional Council of Côte d'Ivoire, which declared Gbagbo the winner after nullifying results in some northern constituencies. The same day, SRSO Y.G. Choi carried out his mandate and publically certified the process as credible, declaring Ouattara the winner (Choi 2010: para. 14). In his statement of certification, Choi justified his rejection of the decision of the Constitutional Council, the highest court of Côte d'Ivoire, by 'taking into consideration that the Ivorian Government has accepted the SRSO's role of certification' (Choi 2010: para. 13).

In this statement, Choi and the UNSC by extension assumed that by not actively expressing non-consent, Ivorian actors were by default consenting to UNOCI's actions. Choi further elaborated on this in a statement to the UNSC on 7 December (S/PV.6437 p.3), declaring that 'the United Nations did not seek this responsibility. It was requested to play the certification role by the Ivorian leaders themselves by virtue of the 2005 Pretoria Agreement.' The PA was signed by both Gbagbo and Ouattara, however, article ten of the PA concerning the implementation of elections simply stated that 'the parties agree that the United Nations be invited to participate in the work of the IEC' and stressed that the 'intervention has an appropriate mandate and power to fulfill its function.' The exact parameters of that participation, as expressed

by UNOCI's mandate set out in S/RES/1765 and S/RES/1933, were never actively consented to by any of the Ivorian actors involved. Considering the legal arguments against implicit consent through previous peace agreements (see again Sloan 2011: 243) and Beetham's (1991: 91) assertion that 'simply obeying...is not enough [to qualify as consent], since obedience can be obtained by coercion', it can be said that Choi was misguided in his belief that the relationship between UNOCI, the UNSC, and Ivorian actors was a consensual one.

The issue of consent is critical to exposing the true depth of UNOCI's legitimacy crisis. For the implementation and certification of the elections to count towards UNOCI's re-legitimation and common belief framework, Ivorian actors would have had to make public expressions of consent implying acceptance of its justifications—something that had not occurred since 2004. If such a public expression could not be obtained it would deepen the legitimacy crisis and again demonstrate the continuation of incoherence in understanding of the rules between the UNSC and Ivorian actors regarding the role UNOCI and the UNSC should have been playing in the elections. Ouattara's camp made no public statements to that effect during the weeks following, while Gbagbo's confirmed that there was a lack of common understanding and consent around the SRSG's mandate when his spokesperson Jacqueline Oblé took to Ivorian television on 16 December to demand the withdrawal of UNOCI from the country. Oblé announced that the government was 'opposed' to the renewal of UNOCI's mandate because the mission had failed, acting in ways that were 'not consistent with its mandate' (La Voix d'Amérique 2010: author's translation). Though UNOCI spokesperson Michel Bonnardeaux stated that 'Mr. Gbagbo is no longer the Ivorian president and so has no legitimate basis for giving an ultimatum' (La Voix d'Amérique 2010: author's translation), the combination of silence and



public non-consent from the two most important Ivorian actors made no positive contribution to the critical state of UNOCI's legitimacy and left questions of what sort of common belief framework might still exist between them. Publically denounced as a failure by Gbagbo's camp and with no support from Ouattara's, UNOCI again required the support of a UNSC resolution to attempt to establish justifying grounds for re-legitimation. This came in the form of S/RES/1962 on 20 December, which went against Gbagbo's wishes and extended UNOCI's mandate under S/RES/1933 with improved troop numbers, while threatening sanctions against anyone who threatens the peace process, inter alia, 'by seeking to undermine the outcome of the electoral process' (S/RES/1962 para. 16).

While it would seem that a common belief framework was unattainable for UNOCI following the announcement of results, one more opportunity was presented to the mission to re-legitimize itself. In a statement on 24 December, Ouattara (2010) expressed his thanks to the UNSC and UNOCI for their commitment to ensuring that the will of the people was recognised and both he and Soro, who had defected from his post as Prime Minister in Gbagbo's government to take the same position in Ouattara's following the election, urged more aggressive action on the part of UNOCI moving forward (L'Obs 2010). These statements acknowledged a possible sphere of confidence in UNOCI around security that could have helped it begin to recover some of the legitimacy it had lost. Preventing further conflict would have solidified coherent grounds for UNOCI's presence and implementation of rules through the establishment of a principle of differentiation and an achievement that contributed to a common interest. However, UNOCI ultimately failed at this endeavor, bearing witness to the re-emergence of civil war and a humanitarian crisis by March 2011 (Amnesty International 2011), resulting in the subsequent use of force in early April.

This failure can be largely attributed to a prolonged incoherence around the rules between UN actors and their Ivorian counterparts. The lack of coherence between the UNSC, UNOCI, and Ivorian actors about their relationship had been building for years, as demonstrated by ongoing belligerence and the lack of cooperation or consent between Ivorian actors and UNOCI. The depth of this incoherence, as demonstrated by the reaction to the results certification, undermined any potential for UNOCI to capitalise on the opportunity to re-legitimate. The long-established exclusionary and incoherent communicative dynamic between it and Ivorian actors was one in which consensus could never be reached by all Ivorian actors about the rules regarding how UNOCI should contribute to security. Without this consensus, violent conflict was inevitable and re-legitimation for UNOCI impossible. The UNSC passed S/RES/1967 and S/RES/1968 in January and February 2011 to strengthen the military and personnel capacity of UNOCI, both of which were ignored by Ivorian actors. Having been unable to achieve success in its opportunities to re-establish its competency and principle of differentiation after years of erosion, UN actors were no longer able to incentivise Ivorian actors to participate in communicative action. This left UNSC and UNOCI unable to effectively engage in mediation or civilian protection while Ivorian actors resorted to strategic military action to resolve the conflict. Considering these conditions, it is impossible to see how any functional common belief framework could have existed between UNOCI and Ivorian actors by the time force was exerted under S/RES/1975 in April 2011.

### ***Communicating in Conflict: the Minimalisation of Dialogue Space***

Despite the absence of a coherent common belief framework, the passing of a mandate-shifting resolution was still another opportunity for improvement or further degradation of legitimacy for the intervenor, and the passing of S/RES/1975 in late

March 2011 can be read as an attempt to gain recognition and therefore legitimacy from Ivorian actors. At this point in the conflict, recognition from Ouattara and/or the combatants, i.e. Gbagbo and the FN, would be required. However, past mistakes would once again come back to haunt the UNSC and UNOCI when they attempted to re-establish this communicative connection. Brief analysis of the UN actors' relationships with Gbagbo, Ouattara, and the FN demonstrate the ways in which communicative failure during the erosion and crisis periods were key to understanding how the UNSC came to find itself in a position in which its actions could not be justified by Ivorian actors by April 2011.

The diminished communicative relationship between Gbagbo and the UNSC can be traced back to the announcement of results in early December 2010 and the UNSC's response to his criticism of UNOCI. The decision to pass S/RES/1962 and the preceding statement by Bonnardeaux on behalf of UNOCI can be understood as both linguistic and structural forms of coercion (Head 2012: 137) intended to silence Gbagbo, thereby excluding him from future dialogue. From a structural standpoint, coercion is evident through the passing of a resolution that acknowledges Ouattara as president-elect (S/RES/1962 para. 1) and therefore creates a barrier to Gbagbo's access to the dialogue space at the UNSC level that is privileged to the head of state. It is also linguistically evident, through Bonnardeaux's statement that Gbagbo lacked a 'legitimate basis' for his criticisms of UNOCI and the contents of the UNSC resolution, particularly the threat of sanctions against anyone who undermines Ouattara's ascension to power (S/RES/1962 para. 16). While the structural coercion is unavoidable due to international legal norms that give power to the head of state, it makes reflexivity and recognition by the UNSC all the more important. However, the linguistic manifestation of coercion here indicates an intent to suppress Gbagbo's

dissenting discourse, an erroneous choice for the UNSC as it prevented future engagement when violence escalated. If it had acknowledged the ways in which traditional forms of communication between it and state actors, namely in the form of resolutions and attendance at UNSC meetings, maintained barriers to certain actors' access to the conversation, the UNSC could have sought ways to expand dialogue space. Lower barriers to dialogue for marginalised actors could have ensured a communicative space that was diverse, inclusive, and hospitable to development of consensus on how to solve the conflict, not only at the crisis point in 2011 but in years prior as well.

The relationship between the UNSC and Gbagbo by late 2010 illuminates a key tension experienced by evolutionary intervenors working in overlapping spheres of confidence. S/RES/1962 reflects the pressure faced by UNOCI to demonstrate competency in implementing and certifying the elections. It was not possible to maintain public open dialogue with Gbagbo, who was not only considered the loser of the election but contested the validity of it, without risking that action reflecting negatively on UNOCI's legitimacy relative to election implementation. However, while this was a positive contribution to that sphere of confidence, it undermined UNOCI's ability to legitimate in its other spheres of confidence because peace could not be negotiated while Gbagbo was excluded from dialogue. If reflective judgment had been used by the UNSC at this time, it would have become immediately evident that choosing to delegitimize and exclude Gbagbo from dialogue, though justified in the legal sense, would undermine UNOCI's legitimacy further by creating an additional barrier to implementing the peace process. While he may not have won the election, Gbagbo did represent the interests of at least 45.9 percent of the electorate (Lewis & Cocks 2010). By refusing to transfer institutional power, he also continued

to enjoy substantial authority in the country through the control of the national military and state media. As a former and potential combatant who also represented the interests of a substantial portion of the population, it would have been a good practice of communicative inclusivity to work to include him in dialogue. Gbagbo's inclusion would have ensured that any negotiations to achieve peace in the post-election period would have included all belligerent parties who may have had interest in pro-longing the conflict, allowing for diversity of opinions that may have resulted in the achievement of consensus about the way forward.

Sidelining Gbagbo left the UNSC with Ouattara and the FN as possible dialogue participants. The UNSC would have enjoyed communicative access and trust with Ouattara through its support of his claim to the presidency, however, this did not carry over directly to the FN who supported him. Ouattara was first connected to the FN in 2008, when he invited them to join with his party, the *Le Rassemblement des Républicains* (RDR) for the elections when he received the nomination at the Congress of the RDR in 2008 (Agence France-Presse 2008). However, throughout the post-election conflict Ouattara had been careful to publically separate himself from the FN and other supporting belligerents, with an aide saying that this military faction, which by March 2011 called itself the *Forces Républicaines de Côte d'Ivoire* (FRCI), was 'forming naturally' without Ouattara's involvement (Aboa & Cocks 2011). The extent to which Ouattara may have actually been in command of the FRCI, and therefore able to provide an effective channel of communication between it and UNOCI, is unknown based on public information. Therefore, statements of confidence in UNOCI by Ouattara in late December cannot be interpreted as reflecting the beliefs of the FRCI.

This is not to say the relationship between the FRCI and UNOCI was particularly hostile, instead it could be interpreted as one of distant ambivalence. Though not known to incite violence against UNOCI, the FRCI did participate in belligerent activities despite UNSC pleas to all actors to cooperate with UNOCI's aim of securing the country (Amnesty International 2011; S/RES/1962 para. 10). This reflects not only the lack of communication channels between the two actors, but also a probable lack of confidence in the UNSC and UNOCI by the FRCI. While there is evidence that UNOCI collaborated with the FN in the years leading up to the 2010 elections<sup>4</sup>, the failure of the UNSC to assist in conflict mediation that met their interests meant that the working relationship between UNOCI and the FN was never particularly productive. UNOCI's inability to contribute meaningfully to solving the conflict at the ground level played a substantial role in the erosion of its legitimacy, and by extension the lack of confidence and differentiation principle between it and the FN. In addition to the problems faced due to ineffectiveness in engagement with the military dimension of the FN, the failure of mediation efforts meant that the FN's interests were not satisfied on the political front until the signing of the OPA allowed Soro to assume the role of Prime Minister, thereby enabling him to advocate for their interests in the government. Recalling this long history, it follows that the UNSC and UNOCI would struggle to instill confidence in what was now the FRCI that engagement would be beneficial to its military or political interests.

### *Justifying 'All Necessary Means'*

Ambivalence from the FRCI side posed a contrast to the hostile relationship between UNOCI and Gbagbo-supporting forces (BBC January 2011), whose antagonistic

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<sup>4</sup> See Progress Reports of the of the Secretary-General to the UNSC on the United Nations Operation in Côte d'Ivoire 2004-2010 for detailed reports on UNOCI and FN interactions.

relationship in earlier years was exacerbated by the UNSC's coercive silencing of Gbagbo in the public forum. Lacking incentive to participate in UNSC mediation, both the FRCI and Gbagbo supporting forces undertook military operations against the explicit wishes of the UNSC and UNOCI throughout February and March 2011. Through coercive practices and general incompetency, the UNSC and UNOCI quickly found themselves with no Ivorian actors willing to engage with them in meaningful dialogue, creating a scenario in which force was used to end the conflict. This manifested through airstrikes carried out between 4 April and 10 April against Gbagbo-supporting forces in Abidjan under the authorisation of S/RES/1975(Ban 2011).

If a functioning common belief framework had still existed between the UNSC/UNOCI and Ivorian actors at this time, it is possible that S/RES/1975 could have had an impact on the behaviour of Ivorian actors that would not only have served to legitimate UNOCI but to possibly prevent forceful action from having been taken. Parts of the resolution indicate that the UNSC may have learned from past mistakes. For the first time in seven years, the UNSC publically recognised Gbagbo's belligerent behaviour, most notably in paragraph 3 when the UNSC 'condemns the decision of Mr. Laurent Gbagbo to accept the overall political solution...' and then again through the employment of targeted sanctions against him (S/RES/1975 para. 12, Annex I). However, this proved to be too little too late. Such recognition would have been useful if implemented in years before, but by not recognising Gbagbo in this way at previous stages the extent to which he was bound by moral responsibility or accountability for his actions was always minimal, thus allowing for continuous subversion of the peace process and the belief that he was not obligated to respect the outcome of the elections. The lack of consideration for the impact of this recognition

by the UNSC at an earlier stage in the broader conflict, itself an exercise of reflexivity, was a critical error that contributed heavily to the erosion of UNOCI legitimacy over time and the re-emergence of the conflict in the post-election period.

Where S/RES/1975 might have been met with some degree of compliance, or at least recognition in years past, the relationship between the UNSC, UNOCI and Ivorian actors was so distant by 2011 that no such outcome could be attained. The intervention was operating at such a legitimacy deficit that heavy fighting continued despite UNOCI's presence and targeted engagement in the conflict to protect civilians. This left the intervention with the decision to let the conflict continue or finally use force to end it. Despite its many failures, UNOCI had always previously retained enough legitimacy to keep actors engaged, thus enabling it to use communicative and strategic action to manage the conflict. By March 2011, this proved to no longer be the case, leaving the use of force as UNOCI's only option. While all but two previous resolutions on Côte d'Ivoire since 2004 explicitly authorised UNOCI to use 'all necessary means' to carry out its mandate (Sloan 2011: 241), it did not become the most viable option until such debilitating conditions for the intervention necessitated the passing of S/RES/1975. It can be argued that the reiteration of authorisation to use force in S/RES/1975 gave the action pursuant to it an element of legal validity. However, as Beetham (1991: 16) cautions, 'legal validity is insufficient to secure legitimacy, since the rules through which power is acquired and exercised themselves stand in need of justification.' With no common belief framework and no actors willing to consent to it, the decision by UNOCI to use force could not be considered justifiable.



## **Conclusion**

While there has not yet been another case in which an evolutionary intervenor exercised force under the justification of an RtoP resolution as UNOCI did in 2011, the continuation of that intervention and the emergence of others makes it an important case study for exploring the problems that can arise when implementing evolutionary interventions. The conditions under which UNOCI was established indicate that it always faced an uphill battle to maintain coherence and thus legitimacy around the rules of engagement between it and Ivorian actors due to its connection to the ill-conceived LMA. While the specific parameters in which that mission was founded are unique, much of UNOCI's struggle to maintain its legitimacy over time can be attributed to dynamics occurring naturally within evolutionary interventions rather than those defined by the specific context in question.

The erosion of UNOCI's legitimacy demonstrated the pitfalls of implementing multi-dimensional mandates. By definition, evolutionary interventions carry expansive mandates, and therefore multiple spheres of confidence. However, in practice these spheres are neither mutually exclusive nor entirely compatible, resulting in limited potential to contribute positively to legitimacy. For instance, the DDR and ceasefire spheres of confidence were linked to larger security, so when UNOCI was unable to achieve one of these initiatives, it negatively impacted the other, effectively doing double the damage to the intervention's legitimacy. While it is true that evolutionary interventions enjoy more opportunities for success by taking on additional spheres of confidence, when those opportunities are met with failure the impact on the intervention's legitimacy proves even greater.

Erosion did not occur in particularly exceptional circumstances for UNOCI and is to some degree an inherent reality of any evolutionary intervention. The extent to which legitimacy erosion occurs is largely dependent on the intervenor's relationship with actors within its host state over the life cycle of the intervention. UNOCI's progression from peacekeeping to peacebuilding and eventually to peace enforcing under S/RES/1975 is one of the many potential, and possibly repetitive, permutations such an intervention may experience in response to changing conditions in the host country. With each evolution the relationship between spheres of confidence may change, enhancing the likelihood of incoherence around the most current rules to be applied. While activities like implementing elections and maintaining peace seemed compatible, the case of Côte d'Ivoire saw conditions change so that even these two spheres came into conflict. In attempting to demonstrate competence around election implementation after the results controversy, the UNSC chose not to publically engage Gbagbo in dialogue, a decision that could have been perceived positively for its electoral work but had a negative impact on its ability to mediate the peace process. Inability to mediate the peace process in turn meant that the hand over of power through non-violent means was not achieved, making the election implementation a partial failure as well.

The climate of constant belligerence and failure of UNOCI to achieve significant success in any sphere of confidence clearly resulted in a crisis of legitimacy for the intervention before the elections even took place. However, while the behaviour of the UNSC and UNOCI may have indicated that such a crisis makes the use of force inevitable, communicative analysis through the imperatives demonstrated that the conditions under which UNOCI resorted to the use of force were created through the fundamental challenges of an evolutionary intervention dynamic, but also through

poor judgment and ineffective communicative practices throughout the broader intervention. Ineffective communication resulted in missed opportunities for the UNSC and UNOCI to relegitimate and thus contributed to the overall failure of the peace process.

By demonstrating an inability or unwillingness to create accountability for Gbagbo in 2004, the UNSC allowed for the establishment of a communicative relationship that would be defined by exclusion and coercion at the domestic level, ensuring the silencing of other actors and making it impossible to achieve any real consensus around rules that could later be justified. The lack of inclusive dialogue and strategic actions to create accountability for Gbagbo and engage other actors effectively meant that UNOCI was never able to justify itself or facilitate an effective peace process on the basis of common beliefs. Inability to justify itself saw the UNSC and UNOCI's relationship with domestic actors become more and more distant as time went on, and left the UN actors with no ability to persuade or incentivise Ivorian actors to communicate with them when the post-election crisis began. The conditions present by April 2011 were a reflection of the lack of legitimacy held by UNOCI but also of the poor judgment and mismanagement of domestic actors by the UNSC across the life of the intervention.

The capacity of the UNSC and UNOCI to engage effectively with Ivorian actors, particularly Gbagbo and the FRCI, during the 2011 conflict was undermined by its historical failure to engage effectively with them during the preceding years. Ineffective engagement by the UNSC prevented UNOCI from carrying out its mandate and resulted in a prolonged peace process in which conditions required for sustained peace, like the DDR, were never achieved. This not only eroded the legitimacy of the intervention but sustained a poor communicative dynamic between

it and Ivorian actors that carried over into the post-election conflict and prevented effective UNSC conflict mediation. This dynamic contributed to the incoherence and destruction of the common belief framework between actors and ambivalence toward UNSC appeals for peaceful resolution, creating an environment in which the decision to use force was inevitable but also unjustifiable. Better reflective judgment by the UNSC could have seen it and UNOCI avoid a situation in which force had to be considered without the participation of Ivorian actors in the decision-making process. While it is true that the conditions in Côte d'Ivoire by late March 2011 may have necessitated force, the conditions which made that action unjustifiable proved to be partially a creation of the intervention itself. Therefore, it can be said that while the erosion of legitimacy is an inevitable part of evolutionary intervention practice, the unjustifiable use of force is not.

Analysis of UNOCI's involvement over the course of the broader conflict in Côte d'Ivoire shows how attempting to implement evolutionary interventions erodes legitimacy by contributing to hostile and violent environments rather than preventing or alleviating them. Working within multidimensional mandates and expansive spheres of confidence is a practice of diminishing returns for the intervenor due to the practical impossibility of fulfilling all parts of mandates simultaneously. In this sense, evolutionary interventions show themselves to be a legitimacy-eroding practice for intervenors. The authorisation to use force is all the more concerning because it creates additional means of damaging legitimacy if employed when legitimacy crises occur. However, communicative analysis here has shown that it is possible for evolutionary interventions to avoid the unjustifiable use of force that occurred in Côte d'Ivoire. If intervenors engage in inclusive communicative practices and reflective

judgment, it is possible to minimise legitimacy erosion and avoid situations that require unjustifiable force to be exerted.

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## **Appendices**

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