COMMENTS

CONSTRUCTING DURABLE PEACE: LESSONS FROM SIERRA LEONE

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> *Most children in Sierra Leone have been involved in the war in many more ways than just carrying a weapon. They have experienced kidnapping, murder, pillaging, fleeing, loss of family, wounding, mutilation, rape—whether passively as victim or witness or actively as perpetrator.[1]*

INTRODUCTION

For nearly a decade, Sierra Leone was wracked by a civil war that transformed children into armed combatants, left thousands of civilians maimed, and deprived its citizens of national peace. While hostilities subsided as a result of foreign military intervention, questions remain as to whether Sierra Leone will stand on its own and proceed into an era of durable peace.[2] If succeeding generations are to see a new Sierra Leone, resilient to conflict, Sierra Leone's national government and the international community alike must learn from Sierra Leone's bloodstained past.

The conflict in Sierra Leone began in 1991.[3] Civil war raged on through 2002,[4] despite the efforts of Sierra Leonean nationals,[5]

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1. TEUN VOETEN, HOW DE BODY? ONE MAN'S TERRIFYING JOURNEY THROUGH AN AFRICAN WAR 229-30 (Roz Vatter-Buck trans., Thomas Dunne Books 2002) (2000).

2.

> [S]ierra Leonean security forces are still highly dependent on foreign assistance: a British officer oversees the police force, and the new national army that was trained by Great Britain is proving unable on its own to offer any resistance to the armed men who cross the border in the district of Kailahun.

Fabrice Weissman, *Sierra Leone: Peace at Any Price, in* IN THE SHADOW OF 'JUST WARS': VIOLENCE, POLITICS AND HUMANITARIAN ACTION 43, 64 (Fabrice Weissman & Fiona Terry eds., Vincent Homolka, Roger Leverdier & Fiona Terry trans., Cornell Univ. Press 2004).

3. PAUL RICHARDS, FIGHTING FOR THE RAINFOREST: WAR, YOUTH & RESOURCES IN SIERRA LEONE 4 (1996).

4. Weissman, *supra* note 2, at 51-52.

5. A national group called the Civil Defense Force tried to limit rebel violence by arming themselves and defending civilians. Sarah Williams, *Amnesties in International Law: The Experience of the Special Court for Sierra Leone*, 5 HUM. RTS. L. REV. 271, 274 (2005). Additionally, the Sierra Leone Parliament formed the National Commission for Democracy and Human Rights in December 1996 to protect civilians against human rights violations. HUMAN RIGHTS WATCH,

regional organizations,[6] and international institutions[7] using diplomatic negotiation,[8] truth and reconciliation commissions,[9] ad hoc human rights tribunals,[10] economic sanctions,[11] and peacekeeping operations.[12] Additionally, three separate peace agreements were promulgated, encompassing many of the aforementioned peacebuilding mechanisms. These three peace agreements are the Abidjan Accord,[13] the Conakry Peace Plan,[14] and the Lomé Peace

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PROTECTORS OR PRETENDERS? GOVERNMENT HUMAN RIGHTS COMMISSIONS IN AFRICA 54 (2001). Unfortunately, this group has been challenged by insufficient funding and interruption by war. *Id.*

6. Some scholars suggest that ECOWAS, the Economic Community of West African States, was responsible for bringing an end to the rule of the military junta in 1998. *See, e.g.*, Williams, *supra* note 5, at 274 (2005) ("International pressure and military intervention by the Economic Community of West African States (ECOWAS) in early 1998 removed the AFRC [Armed Forces Revolutionary Council] and restored President Kabbah and the SLPP [Sierra Leone People's Party] to power.").

7. The U.N. Mission in Sierra Leone, or "UNAMSIL," was charged with keeping the peace in Sierra Leone in 1999. SIMON CHESTERMAN, YOU, THE PEOPLE: THE UNITED NATIONS, TRANSITIONAL ADMINISTRATION, AND STATE-BUILDING 86 (2004). Unfortunately, the commission failed, "nearly collaps[ing] as a result of poor planning, under-equipped and badly trained personnel, inadequate communication, weak to the point of mutinous command and control, and determined local spoilers." *Id.*

8. For example, the U.N. Secretary-General appointed Berhanu Dinka special envoy in 1995 in hopes that he could successfully mediate a peaceful resolution between the RUF and the Sierra Leone government. *See* John Hirsch, *Sierra Leone, in* THE UN SECURITY COUNCIL: FROM THE COLD WAR TO THE 21ST CENTURY 524 (David M. Malone ed., 2004).

9. The Truth and Reconciliation Commission was established "in hopes of bringing peace to a country that has known no such thing for the past decade." Laura R. Hall & Nahal Kazemi, *Prospects for Justice and Reconciliation in Sierra Leone*, 44 HARV. INT'T L.J. 287, 287 (2003).

10. The Special Court of Sierra Leone was established "in hopes of bringing peace" as well. *Id.*

11. DAVID KEEN, CONFLICT & COLLUSION IN SIERRA LEONE 212-13 (2005).

12. Laura Forest, *Sierra Leone and Conflict Diamonds: Establishing a Legal Diamond Trade and Ending Rebel Control Over the Country's Diamond Resources*, 11 IND. INT'L & COMP. L. REV. 633, 644 (2001).

13. The Abidjan Accord was signed in 1996. Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL), Nov. 30, 1996 [hereinafter Abidjan Accord], *available at* http://www.sierra-leone.org/abidjanaccord.html.

Agreement.[15]   Regrettably, none of these agreements succeeded in ending the Sierra Leone conflict.[16]

The Abidjan Accord was the first comprehensive peace agreement between the Revolutionary United Front (RUF) and the Sierra Leone government since the Civil War began in 1991.[17]   Conditions predating the negotiation of the Abidjan Accord made the prospects for immediate peace out of reach from the start.[18] Additionally, ambiguities in the peace agreement concerning third party peacekeeping and RUF reintegration issues rendered the Abidjan Accord a non-starter.[19] The Conakry Peace Plan was an improvement upon the Abidjan Accord, with more specific terms on political integration and peacekeeping.[20] Nonetheless, hostilities resumed soon after the Conakry Peace Plan was adopted as a result of the parties' reciprocal mistrust and misunderstanding.[21] Following the Conakry Peace Plan was the Lomé Peace Agreement, the most comprehensive peace agreement of the three. Despite the improvements, the Lomé Peace Agreement failed to establish durable peace on its own.[22] While peace eventually followed the Lomé Peace Agreement, the cessation of hostilities was a credit to the foreign military intervention and supplemental provisions adopted years after Lomé was signed.[23]

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14.   The Conakry Peace Plan was signed in 1997. ECOWAS Six Month Peace Plan for Sierra Leone S/1997/824, Oct. 23, 1997 [hereinafter Conakry Peace Plan], *available at* http://www.sierra-leone.org/conakryaccord.html.

15.   The Lomé Peace Agreement was signed in 1999. The Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, July 7 1999 [hereinafter Lomé Peace Agreement], *available at* http://www.sierra-leone.org/lomeaccord.html.

16. *See* Daniel J. Macaluso, *Absolute and Free Pardon: The Effect of the Amnesty Provision in the Lomé Peace Agreement on the Jurisdiction of the Special Court for Sierra Leone,* 27 BROOK. J. INT'L L. 347, 348 (2001).

17.   Abidjan Accord, *supra* note 13.

18. *See infra* Part III.A.

19. *Id.*

20. *See infra* Part III.B.

21. *Id.*

22. *See infra* Part III.C.

23.   The Lomé Peace Agreement was broken within a year of being adopted in 1999. CHESTERMAN, *supra* note 7, at 86. Peace was not declared in Sierra Leone until 2002, when U.N. and British troops were successful in halting the fighting. Weissman, *supra* note 2, at 44.

Though peace has been declared in Sierra Leone, current political conditions remain precarious at best.[24]   Yet, there is hope for Sierra Leone.   With violence in remission, both Sierra Leone and the international community have the opportunity to reflect on failed peace efforts with an eye toward preventing similar crises from reoccurring.   The clarity of hindsight, coupled with the relatively peaceful conditions in Sierra Leone today, signify that there is no time like the present to analyze the most and least effective aspects of Sierra Leone's three failed peace agreements.   By studying the historical background of the Sierra Leone Civil War and scrutinizing the Abidjan Accord, the Conakry Peace Plan, and the Lomé Peace Agreement, the Sierra Leone experience reveals the weaknesses of these agreements, which were unsuccessful despite incorporating an arsenal of peacekeeping mechanisms.   The work of Virginia Page Fortna can provide the framework for studying these peace agreements, and illuminate the specific inadequacies in each.

In her book, *Peace Time*, Fortna posits that peace agreements are not merely scraps of paper, but potentially effective institutional mechanisms in preventing post-conflict countries from receding back into a state of war.[25]   The core of Fortna's theory is that belligerents are less likely to resume hostilities when peace agreements make military attacks more costly, promote each party's clear understanding of their adversary's intentions, and decrease the probability of accidents which may ignite future conflict.[26]

Fortna's two-tier schema for durable peace sets forth: (1) the key pre-existing conditions which establish the baseline for prospective peace;   and (2) those peace agreement components which are

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24. While Sierra Leone's President Kabbah has led the country for the past five years without interruption by rebel forces or military coup d'etat, the change in power accompanying the August 2007 Presidential elections may change Sierra Leone's political climate considerably. *See* Peacebuilding Commission Chairman, *Report of the Peacebuilding Commission mission to Sierra Leone,* ¶ 6, *delivered to the Security Council and the General Assembly,* U.N. Doc. S/2007/269, A/61/901 (May 10, 2007).

25. VIRGINIA PAGE FORTNA, PEACE TIME: CEASEFIRE AGREEMENTS AND THE DURABILITY OF PEACE (2004).

26. *Id.* at 24.

indispensable to promoting durable peace.[27] The first-tier "situational" variables which dictate the baselines for peace are:[28]

1. Military outcome of war
2. Cost of war
3. Number of parties involved
4. Historical context and past conflicts
5. Stakes of the parties
6. Territory disputes
7. Geographic contiguity
8. Relative capabilities at the time of ceasefire

The second-tier factors which lend themselves to stronger peace agreements are:[29]

1. Separating troops from the ceasefire line
2. Creating demilitarized zones
3. Imposing arms control measures
4. Peacekeeping and third-party guarantees
5. Drafting ceasefire agreements with specificity
6. Implementing confidence-building measures
7. Establishing dispute resolution procedures
8. Formalizing the agreement

Her hypothesis, confirmed by statistical analysis, is that peace agreements are not merely epiphenomenal; Fortna concludes, to the contrary, that comprehensive peace agreements can foster durable peace, even where it is least likely.[30]

The purpose of this article is twofold. The first objective is to apply Fortna's schema to the crisis in Sierra Leone to uncover what can be done to make peace agreements durable, resilient, and lasting. More broadly, this article also suggests a new framework for durable peace, which draws from the Sierra Leone case study, but can be applied to peacebuilding efforts in *any* post-conflict country. Part I

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27. *Id.* at 25-29, 36, 76-82.
28. *Id.* at 77-82.
29. *Id.* at 25-29.
30. *Id*. at 149-50.

provides the historical background of the conflict in Sierra Leone. Investigating the sociological context and the historical underpinnings of the conflict illustrates the underlying political motivation for the RUF's uprising and the civil war that ensued. This historical foundation helps to explain why each of the three preeminent peace agreements proved insufficient in providing a legal resolution to the conflict.[31] Part II lays out Fortna's two-tier schema for durable peace. The first tier comprises eight situational factors that establish the baselines for peace before a ceasefire agreement is adopted, while the second tier lays out the eight factors which, if included in the peace agreement, help to foster lasting peace. Part III then applies Fortna's schema to analyze the Abidjan Accord, Conakry Peace Plan, and Lomé Peace Agreement. This analysis reveals the various shortcomings in the respective peace agreements. It also identifies different mechanisms that may be employed to achieve durable peace in Sierra Leone. Part IV draws from the findings in Part III, suggesting modifications to Fortna's schema and offering a more comprehensive framework for analyzing peace agreements in Sierra Leone and beyond. The author argues that Fortna's revised framework can provide a new approach to durable peace in Sierra Leone when it is used to identify the gaps in peacebuilding efforts. Additionally, Part IV explains how the revised peace durability schema can be used in any other post-conflict country for two purposes: (1) to identify the weakness(es) in failed peace agreements, and (2) to provide a checklist for parties drafting peace agreements for the first time. Part V offers some final thoughts on the future of Sierra Leone and describes the benefits of the interdisciplinary exchange between International Law and International Relations in promoting durable peace in post-conflict countries.

I. HISTORICAL BACKGROUND

Sierra Leone was an English colony in the nineteenth century and did not gain independence until 1961.[32] At this time, "Sierra Leone

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31. For a discussion on the legalization of peace agreements, see Christine Bell, *Peace Agreements: Their Nature and Legal Status*, 100 AM. J. INT'L L. 373 (2006).

32. VOETEN, *supra* note 1, at 301.

was not a particularly likely candidate for civil war,"[33] possessing sufficient natural resources and a notable education system.[34] Some say that Sierra Leone's easily-accessible alluvial diamonds and shared border with Liberia are to blame for the war which began in 1991.[35]

A. *Events Preceding the Civil War in Sierra Leone*

It is an oversimplification to refer to conflict in Sierra Leone as a national war.[36] The motivation to overthrow the national government,[37] a significant portion of the soldiers,[38] and even RUF military tactics originated from outside Sierra Leone's national borders.[39] Of all the countries influencing the conflict in Sierra

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33. KEEN, *supra* note 11, at 8.

34. *Id. See also* Amanda Bryant Banat, Note, *Solving the Problem of Conflict Diamonds in Sierra Leone: Proposed Market Theories and International Legal Requirements for Certification of Origin*, 19 ARIZ. J. INT'L & COMP. L. 939, 940 (2002) ("Formerly a country with a citizenry of strong academic and artistic achievement, as well as entrepreneurial abilities, this nation has experienced a vast decline in the past twenty years.").

35. KEEN, *supra* note 11, at 8. *See also* Ibrahim Abdullah & Patrick Muana, *The Revolutionary United Front of Sierra Leone: A Revolt of the Lumpenproletariat,* AFRICAN GUERRILLAS 179 (1998) ("A significant portion of the Liberia border region into which the RUF incursion spilled is forested boundary enclave with considerable scope for clandestine smuggling, logging and diamond digging activities. One of the options for young lumpens seeking a job was to drift into this off-limits frontier area and participate in illicit activities. The RUF pincer movement encircled this zone, and found within it considerable numbers of potential recruits sharing the lumpen worldview of the RUF leadership." (citations omitted)).

36. Hirsch describes the Sierra Leone crisis as featuring "cross-border warfare." Hirsch, *supra* note 8, at 522.

37. See discussion of Charles Taylor's political motivation to organize an RUF attack on the Sierra Leonean government in note 41, *infra*.

38. The RUF had African members from outside of Sierra Leone, and many of these were from Liberia. Williams, *supra* note 5, at 274 (indicating that the RUF's March, 1991 attacks comprised soldiers from Sierra Leone "and nationals of other African States"); *see also* RICHARDS, *supra* note 3, at 5 (stating that the pre-invasion RUF ranks comprised "Liberian mercenaries" in addition to Sierra Leonean nationals).

39. Abdullah & Muana, *supra* note 35, at 177.

Leone, Liberia's impact has been the greatest.[40]   Scholars identify former President of Liberia, Charles Taylor, as the principle supporter, organizer and financier of the RUF.[41]   The then-Liberian President had his own political incentives to disrupt the Sierra Leone national government.[42]

The youth comprising the group that came to be known as the RUF proved to be integral in Taylor's plan to disrupt President Kabbah's regime. Rebellious university students in Freetown, Sierra Leone, began protesting in the seventies against the All People's Congress (APC) party which had control of the government at the time.[43]   The APC, which held power of the Sierra Leonean government into the eighties, was infamous for marginalizing ethnic groups, promulgating policies which encouraged unequal distribution of wealth, and institutionalizing corruption.[44]   The number of anti-government student activities swelled in the eighties, when an

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40. Richards argues that "[t]he immediate origins of the insurgency in Sierra Leone are to be found in the events associated with the civil war in neighbouring Liberia." RICHARDS, *supra* note 3, at 2.

41. *See* RICHARDS, *supra* note 3, at 4 ("Encouraged and supplied by Taylor, and supported by Liberian and Burkinabe mercenaries from the NPFL, the RUF leadership waited for its moment to launch an NPFL-style holiday-time incursion from across the Liberian border into Sierra Leone."). *See also* Weissman, *supra* note 2, at 45 ("The Sierra Leonean conflict is generally presented as an off-shoot of the Liberian civil war. It was with the help of Charles Taylor, at that time engaged in a merciless struggle to conquer Liberia by armed force, that Sierra Leonean rebels launched a revolt in eastern Sierra Leone in March 1991."); Hall & Kazemi, *supra* note 9, at 288 ("the Revolutionary United Front, a paramilitary group . . . widely believed to be supported and financed by Charles Taylor . . . .").

42. RICHARDS, *supra* note 3, at 4 ("The Sierra Leonean rebel movement was formed from among political exiles and economic refugees in Liberia . . . . It was in Taylor's interest to support the destabilization of the Sierra Leone government, firm supporters of the international peacekeeping effort in Liberia."); Weissman, *supra* note 2, at 45 ("For Taylor, the RUF was a means of destabilising a country he regarded as hostile due to its participation in the West African intervention force deployed in Liberia for the purpose of preventing his accession to power. The RUF was also an auxiliary force that allowed the future Liberian president to increase security along a border harbouring the rear bases of a rival faction . . .").

43. The protesting students "became the articulate mouthpiece of a disaffected youth cohort attacking APC rule and calling for fundamental change." Abdullah & Muana, *supra* note 35, at 174.

44. Williams, *supra* note 5, at 274.

economic downturn dramatically reduced spending on social services and financial aid for college, giving would-be students the free time required to organize and express their frustrations with the political regime.[45] Sierra Leone's young people were impatient for change, having been "exploited by gem traffickers or denied the opportunity to participate in the urban economy."[46]

The more militant students who protested against school politics and national politics were expelled.[47] A few of the ousted students took up residence in Ghana, where they established a connection between counter-government youths in Sierra Leone and guerilla training camps in Benghazi, Libya.[48] Foday Sankoh, who became the leader of the RUF, found his way to a Libyan training camp through one such intermediary.[49] Indeed, "[a]ll those who went to Libya for military and ideological training in 1987-8 and later, like Sankoh, became involved in the RUF, returned to Sierra Leone before the launching of the armed struggle."[50]

B. Civil War

On March 23, 1991, the RUF invaded eastern Sierra Leone 100 strong from Liberia.[51] Any political goals beyond the rebel group's endeavor to destroy the APC's rule were unclear.[52] The RUF proceeded to make gains in the southern and eastern territories of Sierra Leone by looting villages and conscripting young foot

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45. Abdullah & Muana, *supra* note 35, at 175 ("Dwindling mining revenues, worsened by rampant smuggling, caused a sharp economic downturn, exacerbated by lavish spending on the 1980 Organization of African Unity (OAU) conference. Student scholarships and spending on health and social services declined. The swelling ranks of the young unemployed fuelled subversive discourse in the *pote*").

46. Weissman, *supra* note 2, at 43.

47. Abdullah & Muana, *supra* note 34, at 176.

48. *Id.*

49. *Id.*

50. *Id.* at 177.

51. RICHARDS, *supra* note 3, at 4-5.

52. Richards states that while the "RUF's announced political programme was to overthrow the APC one-party regime," at the time of the 1991 mobilization "[m]ost Sierra Leoneans assumed that the RUF was no more than a Taylor-inspired project to undermine Sierra Leone for its involvement in the Nigerian-led peace-keeping operation in Liberia." *Id.* at 5.

soldiers.[53] Within months, the RUF was pushed back into Liberia by the Sierra Leone Army and the United Liberian Movement for Democracy (ULIMO).[54]

When Sierra Leonean military soldiers staged a mutiny in 1992, then-President Momoh fled for Guinea.[55] The APC-defecting soldiers filled the power vacuum by appointing Captain Valentine Strasser Chairman of the National Provision Ruling Council (NPRC).[56] For the most part, the youth of Sierra Leone embraced the coup as a refreshing change[57] from almost two decades of one-party governance.[58] The NPRC cancelled the elections planned by the predecessor regime and made declarations of institutional reform and infrastructural development.[59] Taking a hint from the RUF, the NPRC sought support for what was portrayed as a new chapter in Sierra Leone governance by conscripting young soldiers in the nation's diamond mining region.[60] The NPRC was successful in defending an APC counter-coup; to secure their position of power, NPRC officials detained and executed APC politicians and members of the Freetown police force.[61] During this time, RUF insurgencies persisted with rebels ambushing civilian villages, taking foreigners hostage, and even disguising themselves as refugees in the process.[62] The RUF had made some significant territorial gains by 1995, prompting the NPRC Chairman, Strasser, to suggest negotiating a cease-fire with the RUF

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53. *Id.*

54. In the summer of 1991, the RUF controlled a substantial portion of Sierra Leone, primarily along the Liberian border. *Id.* Opposition from the Sierra Leone government military and ULIMO succeeded in pushing the RUF back over the Liberian border before the New Year. *Id.* at 5-9.

55. *Id.* at 9.

56. *Id.*

57. *See id.* ("The coup was widely welcomed by the majority of Sierra Leoneans, especially by the youths, as offering the country a new start.").

58. Williams, *supra* note 5, at 274.

59. RICHARDS, *supra* note 3, at 9.

60. *Id.* at 10.

61. *Id.* at 12-13.

62. *Id.* at 14-15. Government soldiers also took advantage of the opportunity to pillage. These "sobels,"—also known as "soldier by day, rebel by night"—looted civilian villages in such a way that it seemed rebels and not government soldiers had done the raiding. *Id.* at 14. *See also* Weissman, *supra* note 2, at 47.

in order to minimize losses.[63]   The RUF responded to this invitation by indicating that there would be no peace talks until all foreign troops withdrew.[64]   The RUF was especially concerned with "Executive Outcomes," a private outfit of questionable legitimacy, being expelled from Sierra Leone.[65]   Unable to reach a meeting of the minds even on the terms of negotiation, the RUF refused to participate in the NPRC-planned forthcoming election.[66]   Instead, the RUF embarked on a brutal series of raids during which they maimed thousands of civilians.[67]   While some commentators describe this limb amputation campaign as either a political response to candidate Kabbah "the future is in your hands" motto[68] or a method designed to physically prevent citizens from voting,[69] other scholars insist the simple

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63.   RICHARDS, *supra* note 3, at 16.

64.   *Id.* at 17.

65.   *See id.* ("Executive Outcomes, a South African security firm with mining interests . . . [had a contract with the Sierra Leone government] offer[ing] a diamond concession in Kono valued at $US30 million. . . . Executive outcomes trains and assists RSMLF soldiers in operations.   The company is reported to have ring-fenced its mineral concessions in Kono with land mines.")   Executive Outcomes was widely regarded as a mercenary outfit.   *See* Kirsti Samuels, *Jus Ad Bellum and Civil Conflicts: A Case Study of the International Community's Approach to Violence in the Conflict in Sierra Leone,* 8 J. CONFLICT & SECURITY L. 315, 323 (2003) (referring to Executive Outcomes as a "mercenary company"); *see also* Weissman, *supra* note 2, at 47-48; LANSANA GBERIE, A DIRTY WAR IN WEST AFRICA: THE RUF AND THE DESTRUCTION OF SIERRA LEONE 93 (2005) (describing Executive Outcomes as "mercenaries").   *But see* GREG CAMPBELL, BLOOD DIAMONDS: TRACING THE DEADLY PATH OF THE WORLD'S MOST PRECIOUS STONES 75 (2002) ("Executive Outcomes [is] a South African security company that is to private armies what De Beers is to diamonds.   Founded in 1989 by Eeben Barlow, a former South African special forces officer, EO is either the embodiment of all the worst things about mercenaries or a source of stability and security in a continent that has been abandoned by Europe and America to fend for itself.   It depends on whom you ask.   EO's operations are not necessarily shady.").

66.   RICHARDS, *supra* note 3, at 17.

67.   *Sierra Leone "War Hero" On Trial,* BBC NEWS, June 10, 2004, http://news.bbc.co.uk/2/hi/ africa/3793727.stm.

68.   Weissman, *supra* note 2, at 47.

69.   RICHARDS, *supra* note 3, at 17.   GBERIE, *supra* note 65, at 94-95.

explanation that the horrific human rights abuses perpetrated by the RUF were merely senseless violence and intimidation.[70]

Between 1995 and 1996, Executive Outcomes managed to gain control or destroy most of the RUF's strategic bases and diamond territories.[71] With relative stability achieved, the NPRC proceeded with the U.N. sponsored two part election in February and March of 1996.[72] Ahmed Tejan Kabbah of the Sierra Leone People's Party was again elected President.[73] The RUF did not participate in the elections.[74]

The RUF soon decided to go to the negotiating tables with President Kabbah. RUF leader Foday Sankoh manifested the RUF's intention to reach an agreement by signing the Abidjan Accord on November 30, 1996.[75] President Kabbah was also a signatory on behalf of the Sierra Leone government.[76]

C. The Abidjan Accord

The Abidjan Accord provided for a ceasefire that would take effect immediately, including complete disarmament "as soon as practicable."[77] Unfortunately, this peace agreement was virtually dead on arrival.[78] The RUF failed to comply with the Abidjan Accord; they

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70. *See* Samuels, *supra* note 65, at 323 ("The rebels engaged in a vicious conflict of intimidation from the first, attacking civilians in what has now become their hallmark fashion, crudely amputating the limbs and ears of women, men, children and babies."). *See also* Hall & Kazemi, *supra* note 9, at 288 ("The RUF concentrated its attacks on the countryside, killing and maiming hundreds of thousand of civilians before reaching a peace agreement with the democratically elected government of Ahmad Tejan Kabbah in November 1996." (citation omitted)).

71. RICHARDS, *supra* note 3, at 17; VOETEN, *supra* note 1, at 302. *See also* Hall & Kazemi, *supra* note 9, at 288.

72. GBERIE, *supra* note 65, at 94-95; Macaluso, *supra* note 16, at 349.

73. GBERIE, *supra* note 65, at 95; Macaluso, *supra* note 16, at 349.

74. VOETEN, *supra* note 1, at 302.

75. *See* GBERIE, *supra* note 65, at 95; *see also* Abidjan Accord, *supra* note 13.

76. GBERIE, *supra* note 65, at 95; *see also* Abidjan Accord, *supra* note 13.

77. *See* Abidjan Accord, *supra* note 13.

78. KEEN, *supra* note 11, at 193 ("The 1996 Abidjan agreement represented an opportunity to defuse the power of the army and the rebels and of the emerging

were apprehensive about being punished under the Accord and tempted by the comparatively higher economic rewards of war vis-à-vis peace.[79] Sankoh in particular was reluctant to fulfill the RUF's Abidjan Accord obligations, wanting fewer U.N. peacekeepers than required by the peace agreement,[80] and "keep[ing] the RUF rank-and-file in the dark about the nature of the Abidjan Accord in order to keep them loyal to him and fighting for him."[81] RUF members grew restless with Sankoh's rigid tactics and lack of international bargaining power, and sought to replace him with Philip Palmer as the new RUF leader.[82] The RUF became divided between pro-Palmer members and Sankoh loyalists.[83] Some scholars argue that the Sierra Leonean government's recognition of the RUF fracture further frustrated implementation of the Abidjan Accord and instigated RUF participation in the 1997 military coup.[84]

The NPRC launched a military coup of the Sierra Leone government on May 25, 1997, by blowing the doors off of the Pademba Road prison in Freetown and freeing 600 convicts.[85] Set free, Major Koroma—imprisoned for his involvement with a December 1996 coup attempt—led the government overthrow and proclaimed himself the Chairman of the Armed Forces Revolutionary

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army-rebel bloc. But it was not long before the agreement was running into difficulties.").

79. *Id.* at 193 ("It soon became clear that Sankoh and other RUF hardliners were reluctant to honour the Abidjan agreement. RUF commanders appear to have feared retaliation or punishment under the peace conditions. Another consideration was the economic benefits of warfare, benefits that were usually far more substantial for commanders than for their often impoverished followers").

80. While the U.N. Secretary-General suggested 720 peacekeepers and sixty military observers, Sankoh preferred sixty observers and no peacekeepers. KEEN, *supra* note 11, at 194.

81. *Id.* at 195.

82. *Id.* Indeed, Sankoh had a reputation for being inflexible since it was well known that he was "perennially suspicious of the UN." *Id.* at 194 n.5.

83. *Id.* at 195.

84. *Id.* ("The loyalty of bush commanders to Sankoh rather than Palmer proved a major obstacle to the implementation of the Abidjan accord. Indeed, many observers saw RUFD participation in the May 1997 coup itself as a response by the Sankoh faction to the Kabbah government's recognition of the breakaway of the Palmer faction.").

85. *Id.* at 208.

Council (AFRC).[86] All Koroma had to do was telephone Sankoh for troops, and soon the military coup forces swelled with an RUF contingency.[87] Ironically, the coup brought peace in its own right: between the once-warring NPRC and RUF contingency, who amicably joined forces to form the military junta government.[88] International media exposure of the Sierra Leonean nationals protesting the new AFRC/RUF regime with public demonstrations was overshadowed by news coverage of ECOWAS's Monitoring Group's ("ECOMOG") violent opposition to the coup.[89] The international community responded to the coup by imposing economic and military sanctions on Sierra Leone.[90]

D. The Conakry Peace Plan

In October 1997, the military junta caved to international pressure and signed the Conakry Peace Plan.[91] The Conakry Peace Plan is a relatively short document which provides a six-month plan for peace, including deadlines for ceasefire, disarmament, humanitarian aid, and restoration of a constitutional government.[92] Rebel forces, still unsatisfied with the fruit of negotiations, failed to obey the provisions of this peace agreement.[93] Thus "[i]n the face of the junta's intransigence, ECOMOG's mandate was changed from sanction-enforcement to actual military intervention, and in February 1998 ECOMOG forded the AFRC/RUF out of Freetown in a fierce, prolonged battle."[94] In March 1998, after nine months of brutal fighting and countless human rights abuses, ECOMOG managed to push the AFRC and RUF to the northeastern border and restore

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86. *Id.*

87. *Id.*

88. *Id.* at 209.

89. *Id.* at 212. ECOMOG is the "Economic Community of West African States Monitoring Group," the military arm of ECOWAS. *Id.* at 213.

90. Great Britain, the European Union, ECOWAS member states, and the United Nations each imposed sanctions on Sierra Leone. *Id.* at 212-13.

91. Samuels, *supra* note 65, at 324.

92. Conakry Peace Plan, *supra* note 14.

93. Instead, the RUF gathered weapons and prepared to attack ECOMOG. *See* KEEN, *supra* note 11, at 216.

94. *Id.* at 216.

President Kabbah to power.[95]   Though significantly weakened, the RUF continued its campaign of diamond territory occupation and civilian limb amputation with complete disregard for the Conakry Peace Plan.[96]   The military junta managed another significant attack on the capitol in January 1999, widening the gap between the RUF and the government of Sierra Leone.[97]   By the summer of 1999, it became clear that the Conakry Peace Plan was not doing enough to pacify RUF-Kabbah administration relations.

E. The Lomé Peace Agreement

At the urging of Congress and the U.S. State Department, President Kabbah acquiesced to negotiations with the RUF once again in Lomé, Togo.[98]   The result was the Lomé Peace Agreement, signed July 7, 1999.[99]   Like those peace agreements that preceded it, Lomé called for an immediate ceasefire.[100]   However, the Lomé Peace Agreement is distinct from the Abidjan Accord and the Conakry Peace Plan in that it is more extensive in length and party obligations.[101] The Lomé Peace Agreement transformed the RUF into a political party, thus integrating rebel forces into the democratic process.[102]   The most controversial aspect of this agreement was the amnesty provision at Article 9.[103]   This article called for pardon of Sankoh and all other combatants for acts committed from the RUF's initial insurgency in

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95. Williams, *supra* note 5, at 274.

96. *Id.* at 275.

97. KEEN, *supra* note 11, at 248.

98. *Id.* at 250-51.

99. Lomé Peace Agreement, *supra* note 15.

100. *Id.* art. 1.

101. *See generally* Lomé Peace Agreement, *supra* note 15.

102. *Id.* arts. 3-5.

103. *Id.* art. 9. The amnesty provision in the Lomé Peace Agreement was equally controversial as the amnesty provision in the Abidjan Accord. Many commentators have criticized the inclusion of article nine in the Lomé Peace Agreement. *See, e.g.,* Macaluso, *supra* note 16, at 357; Chandra Lekha Sriram, *Wrong-Sizing International Justice? The Hybrid Tribunal in Sierra Leone,* 29 FORDHAM INT'L L.J. 472, 485-86 (2006). *But see* HUMAN RIGHTS WATCH, *supra* note 5, at 53; Williams, *supra* note 5; Hall & Kazemi, *supra* note 9.

March 1991 through the date of Lomé's signing.[104] Another key aspect of Lomé was that it provided the documentary basis for the largest U.N. peacekeeping mission to date at the time the blue helmets were deployed.[105]

Despite its distinguishing characteristics, the Lomé Peace Agreement failed just as its predecessors did, most notably in 2000 when RUF forces took 500 U.N. peacekeepers hostage.[106] While this peace agreement has been referenced and supplemented in the years that followed, an answer to the conflict in Sierra Leone cannot be found within the four corners of this document.[107] Peace was finally declared in Sierra Leone in 2002 after British and U.N. forces had stopped the fighting.[108]

II. THEORETICAL FRAMEWORK

Finding the formula for maintaining durable peace in Sierra Leone compels an examination of the antecedents of war so that these catalysts can be avoided or prevented. By examining Sierra Leone's unstable past using the proper theoretical framework, the most crucial elements of war prevention can be uncovered. There are competing theories offered by international relations scholars concerning what

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104. Lomé Peace Agreement, *supra* note 15, art. 9.

105. A major incentive for U.N. military intervention in Sierra Leone was to demonstrate a commitment to Africa in light of the less successful peacekeeping initiatives in Somalia and Rwanda. Hirsch, *supra* note 8, at 521.

106. Williams, *supra* note 5, at 275.

107. For example, the Special Court for Sierra Leone was established in August, 2000, which may suggest that the Lomé Agreement's amnesty provision and creation of the Truth and Reconciliation Commission were not adequate dispute resolution procedures on their own. *See* Lomé Peace Agreement, *supra* note 15, art. 26. Additionally, there are lingering questions on how to reconcile the authority of the Lomé's amnesty provision, the Truth and Reconciliation Commission, and Special Court. Specifically, the fact that the Truth and Reconciliation Commission shares concurrent jurisdiction with the Special Court, but has different evidentiary standards, raises question about the admissibility of evidence. *See* Sriram, *supra* note 103, at 478-80.   *But see* HUMAN RIGHTS WATCH, *supra* note 5, at 53 (suggesting that the Lomé Peace Agreement effectively ended the civil war in July 1999).

108. *Sierra Leone Rebel Leader Dies*, BBC NEWS, July 30, 2003, http://news.bbc.co.uk/2/hi/africa/3109521.stm.

causes violent conflict.[109] Central to the current dialogue is the realist-institutionalist paradigm.[110]

Realists adopt the notion that countries interact in an anarchical international system, taking the position that everything unfolding in the realm of international politics is attributable to states interacting with other states within this system.[111] Accordingly, they posit that the uncertainty inherent to the international state of anarchy makes war inevitable, as every state pursues its own interests.[112] Realists also emphasize relative gains, viewing the anarchical system as a kind of zero-sum game where one state's advantage is another state's

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109. One commentator lists some of these theories as "character and personality models, imbalances in power relationships among states, deterministic world system models, nationalism, naturally aggressive tendencies of human nature, institutionalist models of cooperation, economic theories of imperialism, theories of special commercial advantage, environmental stress, and the misbehavior of non-democratic regimes." James Kraska, *Fear God and Dread Nought: Naval Arms Control and Counterfactual Diplomacy Before the Great War,* 34 GA. J. INT'L & COMP. L. 43, 48-49 (2005). Perhaps the most well known theory is Kenneth Waltz's three-image typology for world order. Waltz sets forth three different theories which explain why countries go to war: (1) the first image posits that bad people are responsible for war—leaders indulge the self-seeking and aggressive impulses which are human nature; (2) the second image posits that bad states instigate conflict—a state's diplomatic relations are determined by the domestic political structure and regime type; and (3) the third image posits that war is the natural result of an international state of anarchy—that states, free from a global enforcement mechanism, inevitably resort to conflict when it serves national interests. Much credence is still given to Waltz' third image today, as reflected in the contemporary debate between realist and institutionalist theories of addressing the so-called international state of anarchy. KENNETH N. WALTZ, MAN THE STATE AND WAR: A THEORETICAL ANALYSIS (1959).

110. Under a section entitled "Two Views of Anarchic Politics," Joseph Nye describes "realism" and "liberalism" (used interchangeably with "institutionalism" in this context) to represent the respective pessimistic and optimistic views of the international anarchical system. JOSEPH S. NYE, JR., UNDERSTANDING INTERNATIONAL CONFLICTS 4 (2d ed. 1997).

111. *Id.* at 4.

112. Indeed, realists believe that "[w]ith many sovereign states, with no system of law enforceable among them, with each state judging its grievances and ambitions according to the dictates of its own reason or desire—conflict, sometimes leading to war, is bound to occur." WALTZ, *supra* note 109, at 159.

disadvantage.[113]   Institutionalists, on the other hand, purport that international institutions as well as sovereign states play a relevant role in international politics.[114]   Institutionalists, unlike realists, believe that cooperation between states is possible because international institutions and international rules are capable of influencing state behavior, discouraging war, and diminishing the unpredictability which creates distrust in international relations.[115] Fortna manages to incorporate the best of both realist and institutionalist theory by creating a two-tier formula for lasting peace.[116]

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113. *See* ROBERT J. BECK ET AL., INTERNATIONAL RULES: APPROACHES FROM INTERNATIONAL LAW AND INTERNATIONAL RELATIONS 148 (1996). *See also* NYE, *supra* note 110, at 4.

114. BECK ET AL., *supra* note 113, at 166.

115. *Id.*

116. Fortna's basic argument—that the contents of peace agreements can affect state behavior—is premised on institutionalism. FORTNA, *supra* note 25, at 7 ("Institutionalist theory rests on the claim that the existence and form of institutions affect international relations by making cooperation easier to achieve. Critics of institutionalism claim, on the contrary, that such arrangements are epiphenomenal— they are created reflecting the interests of major powers, and they fade away when these interests shift, but they exert no independent influence on international outcomes. Cease-fire agreements are not necessarily institutions, but because they perform similar functions—providing information, setting standards of legitimate behavior, and making the gains from cooperation later contingent on cooperation now—scholarship on institutions is relevant to the study of peacemaking. *An empirical analysis of the impact of cease-fire agreements, particularly one that takes seriously the charge of spuriousness, sheds light on whether and how institutions matter in international relations.*" (emphasis added)). On the other hand, Fortna's Baselines for Peace approach (in the first tier of her schema) gives a nod to realist theory in the sense that it recognizes that the relative power of the parties involved in the conflict may determine how these parties interact—that is, whether peace is even likely. *Id.* at 18-19 ("[S]tates worry . . . about the implications of the other side's gains for their future security (relative gains). Relative gains matter because if your partner gains more than you do from cooperation, it might use this advantage against you in the future. This means that states will avoid cooperative arrangements that make both parties better off if the gains will be uneven . . . . Concerns over distribution and relative gains therefore exacerbate the other obstacles to maintaining peace: the incentives to attack, fear of cheating, and the risk of accidents. In sum, with no higher authority to enforce agreements, and with no way of knowing each other's intentions, it is difficult for former belligerents to maintain peace.").

A. *First Tier: Situational Factors*

The first tier of Fortna's schema sets out eight situational factors which can be used to determine the likelihood that two parties will be able to achieve lasting peace. The absence or presence of these eight pre-existing conditions establish the "baseline prospects for peace" before the peace agreement is even drafted.[117]

1. *Military outcome of the war*

Fortna suggests that with respect to military outcome of a given war, those that end in decisive victory rather than narrow defeat have a better shot at resulting in durable peace.[118] The reasoning is that rational leaders will choose not to fight inefficient wars, and thus the party defeated by a large margin is less likely to pay the expenses for war again when the prospective outcome is grim.[119]

2. *Cost of war*

According to Fortna, countries may be less likely to go to war when doing so is costly.[120] The high cost of war creates an incentive for cooperation, since cooperation is a less costly alternative to war.[121]

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117. In a chapter entitled "The Baseline Prospects for Peace," Fortna explains that "not all cease-fires are created equal," and delineates those "situational variables" which hinder or help the successful creation of a peace agreement." *See* FORTNA, *supra* note 25, at 76-113.

118. *Id.* at 77-78. While this is Fortna's hypothesis at the outset, she eventually concludes that "ties" fare no worse than clear wins when it comes to creating lasting peace agreements. *See* FORTNA, *supra* note 25, at 211.

119. *Id.* at 77-78.

120. While Fortna acknowledges that more deadly conflicts may make the resumption of hostilities more likely (high body counts may make a belligerents less amenable to concessions), she concludes that costliness generally discourages war. *Id.* at 79, 92.

121. *Id.* at 92. Kenneth Waltz has also paid credence to the notion that war can be a lose-lose scenario. *See also* WALTZ, *supra* note 107, at 1 ("[Asking] who won a given war, someone has said, is like asking who won the San Francisco earthquake. That in wars there is no victory but only varying degrees of defeat is a proposition that has gained increasing acceptance in the twentieth century.").

3. Number of parties involved

Fortna acknowledges the argument that the number of parties engaged can arguably make the prospect for peace better for either the key players in multilateral conflicts or warring factions in bilateral wars.[122] However, Fortna concludes that the number of parties is not determinative one way or another.[123]

4. Historical context and past conflicts

Fortna hypothesizes that belligerents who have a longer history of fighting one another are less likely to establish peaceful relations.[124] That is, if hostilities have persisted over a long period of time, it may indicate that resolution is impracticable or that each subsequent war created increasingly more problems to solve.[125] Fortna concludes that more often than not, prospects for peace are dimmer for parties with a history of conflict, particularly when the existence of a state is at issue.[126]

Prospective gains for attacking and prospective losses of being attacked influence parties' incentives for peace.[127] When the stakes are very high (when, for example, the very existence of a state is at issue) then conciliation may be off the table.[128]

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122. FORTNA, *supra* note 25, at 79-80.

123. *See id.* at 212 ("Nor does the number of states involved in a war affect the prospects for peace. The multilateral wars in the Middle East have resumed repeatedly, but other multilateral wars have been followed by durable peace.").

124. *Id.* at 80.

125. *Id.*

126. *See id.* at 211 ("Peace is more difficult between enemies with a history of conflict, particularly those whose struggle began at or before independence. It is harder to achieve when one or both sides feel that their existence is threatened."). *But see id.* at 122 ("However, it does appear that in repeated wars between the same states, agreements tend to be stronger . . . [a]s states experience more conflict over time, they strengthen their attempts to avoid it.").

127. *Id.* at 81.

128. *Id.*

5. *Territory disputes*

Citing research from other scholars, Fortna posits that territorial conflicts are more difficult to pacify because they lend themselves to enduring rivalries and escalating hostilities.[129] This same reasoning applies in the geographic contiguity factor.

6. *Geographic contiguity*

Past studies have confirmed that neighboring countries fight each other more often than do distant countries.[130] This is based on the logic that geographic proximity reduces the costs of attacking and increases the likelihood of shared disputes.[131]

7. *Relative capabilities at the time of ceasefire*

Recognizing the two divergent views in the academic community,[132] Fortna initially hypothesizes that *either* relatively comparable or clearly imbalanced capabilities can make the prospect of peace more likely.[133] She concludes that the *change* in relative capabilities over time may influence the success of a peace agreement.[134]

B. *Second Tier: Deliberate Attempts to Enhance Peace Durability*

While the first tier factors predict the likelihood of peace, the second tier factors help to guide belligerents to durable peace even when it is unlikely. The thrust of Fortna's argument is that peace is possible when the agreement makes the cost of attack high,

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129. *Id.*

130. *Id.* at 81-82.

131. *Id.*

132. One school of thought is that when one party has a "preponderance of power," both parties know who has the capacity to win which deters the weaker party from re-engaging. Another school believes that relatively equal capabilities deters both parties from re-engaging. *Id.* (citing INIS CLAUDE, POWER AND INTERNATIONAL RELATIONS (1962); A.F.K. ORGANSKI, WORLD POLITICS (2d ed. 1968)).

133. *Id.*

134. *Id.* at 212.

uncertainty about the opposing party's actions and intentions low, and the likelihood of mistakes or misapprehensions minimal.[135]   Each of the eight factors identified by Fortna implicates one or more of these three categories.

With respect to raising the cost of war, the first four factors increase the cost of attack by physically separating the parties.[136]

1. Separating troops from the ceasefire line

Forcing troops to withdraw from the borders helps quell the passions of territorial gains.[137]   Belligerents who fight to obtain territory are reluctant to turn it over to the opposing party, but mutual withdrawal can help to diminish this concern.[138]

2. Creating demilitarized zones

In addition to reducing the likelihood of unintentional ceasefire line trespasses, creating substantial demilitarized zones (DMZs) is reassuring to post-conflict belligerents.[139]   The ability to see opponents advancing before they arrive reduces anxiety.[140]

3. Imposing arms control measures

Intuitively, restricting access to weapons makes mobilization less probable and makes peace a more likely result.[141]

4. Peacekeeping and third party guarantees

Placing third-party peacekeepers between fighting factions physically constrains belligerents, making war more costly.[142]

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135. *Id.* at 21-24.

136. *Id.* at 21, 24-25.

137. *See id.* at 25.

138. *See id.* Supporting this contention, Fortna describes the U.N.'s attempt to "make withdrawal to the status quo antebellum the norm by generally refusing to recognize territorial gains through war." *Id.* Enforcing this norm diminishes the incentive for a counter-attack to regain territory captured on the battlefield. *See id.*

139. *Id.*

140. *Id.*

141. *Id.*

Whether armed soldiers or unarmed observers, third parties can referee cease-fire compliance of post-conflict belligerents by providing an unbiased presence between opposing parties, diminishing the risk of miscommunication.[143] Additionally, third party bystanders can alert the international media of their observations, threatening bad publicity for parties violating the peace agreement.[144] Moreover, the threat of force by third party peacekeepers gives "teeth" to the monitoring of ceasefire compliance.[145]

The four remaining factors of Fortna's second tier help reduce uncertainty and minimize mistakes and misapprehensions.

5. Drafting ceasefire agreements with specificity

Specificity in the language of the ceasefire, especially with regard to the location of the ceasefire line, is crucial to mutual understanding. A well-written agreement can help to prevent relapse back into a hostile situation. [146]

6. Implementing confidence-building measures

Confidence-building measures are "mechanisms that regulate and increase the transparency of military activities prone to produce friction among adversaries."[147] These mechanisms can relieve anxiety through, for example, requiring parties to notify each other in advance of significant troop mobilization and by creating transparency in parties' respective military facilities through joint inspections.[148] Confidence-building measures thus promote effective communication between would-be belligerents.[149]

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142. *Id.* at 26.

143. *See id.*

144. *See id.* at 26-27.

145. *See id.* at 26. Indeed, some commentators maintain that armed peacekeepers are crucial in civil war scenarios. *Id.* at 27 (citing Barbara F. Walter, *The Critical Barrier to Civil War Settlement*, 51 INT'L ORG. 335 (1997)).

146. *Id.* at 28.

147. *Id.* at 27.

148. *Id.*

149. *Id.*

7. *Establishing dispute resolution procedures*

Particularly effective methods of dispute resolution include negotiation, mediation, and the creation of mixed commissions which allow the parties to work through conflicts that might arise in the implementation of the peace agreement.[150] Using one of these methods also sends the signal, from each party to the other, that peace efforts are sincere.[151]

8. *Formalizing the agreement*

Finally, a peace agreement is more effective when it is formally signed in the international sphere.[152] Similar to the deterrent effect of third party observers who can report peace agreement noncompliance to the international media, publicly signed peace agreements discourage ceasefire violations by putting the post-conflict parties' international reputations on the line.[153]

III. APPLYING THE DURABILITY SCHEMA TO SIERRA LEONE

While each of Sierra Leone's three major peace agreements failed to secure durable peace, they help inform what more is required to achieve this objective. Fortna's schema for durable peace provides the framework for analyzing Sierra Leone's peace agreements.[154] This analysis helps identify the gaps needed to be filled to establish resilient security and identify past causes for failure. Accordingly, Fortna's two-tier schema will be applied to the Abidjan Accord, the Conakry Peace Plan, and the Lomé Peace Agreement.

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150. *Id.* at 27-28.

151. *Id.* at 28.

152. *Id.* at 28-29.

153. *Id.*

154. While the durable peace schema offered by Fortna in *Peace Time* pertains primarily to international conflict, it is also applicable to civil conflicts as evidenced by the fact that more than a dozen references are made to "civil war" in the index. *Id.* at 236. Fortna is authoring a book which focuses on the use of peacekeeping in civil conflicts specifically, which is forthcoming. *See* Columbia University Department of Political Science Faculty Bio, http://www.columbia. edu/cu/polisci/fac-bios/fortna/faculty.html (last visited Sept. 12, 2007).

A. *The Abidjan Accord*

Applying the eight factors in the first tier of Fortna's schema, the baselines for peace were so low in November 1996 that it is no surprise that the Abidjan Accord could not bring lasting peace.

1. *First Tier Analysis*

First, the relative power of the RUF and the Sierra Leone government were skewed at the signing of this peace agreement. This is shown in two ways. As an initial matter, the timing is relevant; the RUF signed the Abidjan Accord one month after it suffered major losses on the battlefield vis-à-vis the privately run Executive Outcomes.[155] The second example of the RUF's post-conflict lack of bargaining power has to do with the RUF withdrawing an ultimatum given to the Sierra Leone government. While the RUF previously refused to negotiate with the Sierra Leone government without Executive Outcomes withdrawing their troops from Sierra Leone first, the RUF did just that by negotiating the terms of the Abidjan Accord.[156] The Sierra Leone government's preponderance of power, per Fortna, may have worked either for or against lasting peace.[157] Whether or not the RUF's comparably weaker status promoted or discouraged the resumption of hostilities in the Sierra Leone conflict, other situational factors did lead the RUF to resume hostilities soon after reaching the settlement in the Abidjan Accord.

Second, the cost of war to the RUF is difficult to ascertain. While Fortna speaks of the "costs of war" in terms of the great expense of human casualties,[158] a skeptic would be hard pressed to agree that the RUF, a group that inflicted atrocious human rights violations upon civilians and forced children to take up arms, had any respect for

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155. The RUF lost its mining strongholds in October 1996, and Sankoh signed the Abidjan Accord in November 1996. VOETEN, *supra* note 1, at 302.

156. *See supra* Part I.

157. There is debate regarding whether a preponderance of power or a balance of power between parties is more conducive to the parties reaching a cease-fire. *See* FORTNA, *supra* note 25, at 82-83.

158. *See id.* at 79 ("[A]voiding the high cost of war, particularly in lives, is the main incentive to cooperate.").

human life or serious problems replenishing their ranks.[159] Indeed, the *economic* costs of peace were greater than continuing with the violent raiding of civilian towns—a practice which generated human and material capital.[160]

Third, at least three parties were involved in the conflict immediately preceding the Abidjan Accord. These were (1) the NPRC, who held control of the government by virtue of their military coup; (2) Executive Outcomes, the hired guns charged with the task of ejecting the RUF; and (3) the RUF.[161] In the years prior to this first RUF peace agreement, the APC (ruling party that was ousted during a military coup), and the ULIMO (the Liberian militia that assisted in pushing the RUF back into Liberia in late 1991) were also involved.[162] While five different parties were embroiled in the conflict leading up to the Abidjan Accord, the only two parties to the peace agreement itself were the Republic of Sierra Leone and the RUF.[163]

Fourth, the history of the military conflict between the Sierra Leonean government and the RUF was five years of fighting at the time the Abidjan Accord was signed.[164] Since five years comes up short of being an "enduring rivalry" and this was the first attempted

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159. *See, e.g.,* GBERIE, *supra* note 65, at 148-51 (2005) (regarding conscription of child soldiers); Weissman, *supra* note 2, at 55 (The RUF was responsible for "looting and burning villages, attacking displaced persons' camps, amputating, raping, and abducting or killing men, women and children.").

160. According to one commentator, one of the primary incentives for the RUF to renege on the Abidjan Accord was "the economic benefits of warfare, benefits that were usually far more substantial for commanders than for their often impoverished followers." KEEN, *supra* note 11, at 193. Additionally, Fortna indicates that "the availability of easily 'lootable' resources"—such as diamonds in the RUF's case—is a critical factor to consider in determining the duration of peace after civil war. Virginia Page Fortna, *Does Peacekeeping Keep Peace? International Intervention and the Duration of Peace After Civil War,* 48 INT'L STUD. Q. 269, 275 (2004) [hereinafter Fortna, *Peacekeeping*].

161. RICHARDS, *supra* note 3, at 17.

162. *Id.* at 12.

163. Other signatories included Henri Konan Bedie (President of the Republic of Cote d'Ivoire), Berhanu Dinka (Special Envoy of the United Nations Secretary-General for Sierra Leone), Adwoa Coleman (Representative of the Organization of African Unity, which is now known as the African Union), and Moses Anafu (Representative of the Commonwealth Organization.) Abidjan Accord, *supra* note 13.

164. *Id.*

peace agreement between the two parties, the Abidjan Accord was not the repeated war-peace agreement scenario that Fortna identifies as encouraging strong agreements. On the other hand, the history of the conflict between the RUF and the government is longer when one considers political activity instead of military activity. While the RUF insurgence did not occur until 1991, the students who would become the RUF's soldiers and leaders had been protesting what they considered to be a corrupt Sierra Leone government since the seventies.[165] RUF members' protracted ideological conflict with the Sierra Leone government policies suggests that the parties should be more willing to draft a strong agreement.

Fifth, both the RUF and the Sierra Leone government had high stakes in the conflict. Some of the RUF's stakes in the conflict were philosophical in nature. Before growing militant under the training of Charles Taylor,[166] the disgruntled students who became RUF members had a salient political message—they were dissatisfied with APC government corruption, the elite's exploitation of Sierra Leone's military wealth, and the inaccessibility of the urban economy.[167] While this message became less clear as the group became more violent into the nineties, the philosophical beliefs remained at the core of the RUF's very existence.[168] There were also economic stakes to the RUF's political and ideological agenda. As stated previously,[169] the RUF had significant economic interests in continued warfare against the government.[170] The illicit diamond trade was crucial to fund the RUF itself.[171] The government of Sierra Leone certainly had stakes in the conflict with the RUF as well. The RUF's ceaseless raids, senseless murders, and attempts to take over the capital taxed

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165.   Abdullah & Muana, *supra* note 35, at 174.

166.   Weissman, *supra* note 2, at 45.

167.   *Id.* at 43-44.

168.   *Id.* at 44.

169.   *See* discussion of costs of war under the "Abidjan Agreement" portion of the analysis section, *supra* Part III.A.1.

170.   KEEN, *supra* note 11, at 193.

171.   One scholar notes that there is symbolic value to the RUF's economic reliance on diamonds, since diamonds are a "[]symbol of the elite that had caused great misery and had instituted the new 'Black Colonialism.'" Ian Martinez, Article, *Sierra Leone's "Conflict Diamonds": The Legacy of Imperial Mining Laws and Policy*, 10 U. MIAMI INT'L & COMP. L. REV. (SPECIAL ISSUE) 217, 239 (2001-2002).

the nation's purse as well as its population. The government's economic stakes in the conflict were also evidenced by the significant expenditure on Executive Outcomes, the private military firm that was hired to help fend off the rebels.[172]

Under Fortna's rationale, peace between Sierra Leone's government and its rebels may not have even been an option because the stakes for both parties were considerably high. Fortna states that when prospective gains or losses associated with attack are extremely high (such as the very existence of a state), stakes may be high enough to make conciliation impossible.[173] The RUF's very existence depended on violent raids and mining territory takeovers for funding; similarly, Sierra Leone's political stability depended on incapacitating the rebels who were always threatening a coup. In essence, the stakes reached the level where the parties' very existence was at risk, which may help to explain why the Abidjan Accord never had a fighting chance.

Sixth, territory dispute was at the heart of the conflict in Sierra Leone. As mentioned under the prior factor, the RUF depended on control of mining territories to use the revenue from diamond sales to fund its rebel army.[174] This hunger for land, as predicted by Fortna, made durable peace difficult because the RUF had every incentive to renege on the Abidjan Accord and attempt to regain their territory. Ironically, losing control of these territories seems to have been the RUF's motivation to go to the bargaining table in the first place, since they agreed to bargain a month after losing the territory.

Seventh, geographic contiguity does not exactly apply to the Sierra Leone conflict since it is, for the most part, a war within and not across borders. However, Fortna's notion that physical proximity lowers the costs of renewed violence seems to hold true nonetheless. Even though, at times, the RUF was pushed out of Sierra Leone and into Liberia, the RUF members and the seat of the Sierra Leone government were precariously close at the time of the ceasefire, weakening an already fragile state of peace.

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172. RICHARDS, *supra* note 3, at 17; Weissman, *supra* note 2, at 47-48.

173. FORTNA, *supra* note 25, at 81.

174. *See* CAMPBELL, *supra* note 65, at 63 ("Because of their diamond wealth, throughout most of the war the RUF was better armed than its adversaries.").

Eighth, the relative capabilities at the time of ceasefire weighed in the capital's favor. Executive Outcomes stripped the RUF of its grasp on key military bases in October 1996;[175] over RUF protests, the private security brigade remained in Sierra Leone in November 1996, at the time of negotiation.[176]   Just prior to drafting the peace agreement, the RUF lacked both resources and bargaining power.[177] Since Fortna concluded that developments in relative capabilities over time dictate the baselines for peace, the sudden shift in power that accompanied the RUF losing its diamond strongholds in October works against the likelihood of durable peace.[178]

2. Second Tier Analysis

Bearing in mind Sierra Leone's baselines for peace as revealed under the first tier of Fortna's schema, it is now time to explore how the Abidjan Accord fares under the second tier of factors.

First, the Abidjan Accord did not require mutual withdrawal of troops. Instead, it featured articles calling for RUF encampment.[179] Abidjan established and charged a Demobilization and Settlement Commission with the responsibility of initiating resettlement of these RUF occupants within one month after the signing of the agreement.[180]   Since government forces still held control of former RUF strongholds, it was as though the Abidjan Accord obligated unilateral (RUF-only) troop withdrawal from the battlefield rather than mutuality. The failure to include a mutual withdrawal provision is a failure to "raise[] the cost of attack and alleviate[] fear."[181] Thus, the lack of mutuality in troop removal from the battlefield, which allowed for government troops to continue to occupy disputed land,

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175. VOETEN, *supra* note 1, at 302.

176. *See id.*

177. *See id.*

178. However, Fortna indicates that the causal relationship between changes in relative capabilities and resumption of war is unclear. That is, Fortna's tests do not demonstrate "whether shifts in capabilities lead to the breakdown of peace, or whether the start of a new war leads to shifts in capabilities." FORTNA, *supra* note 25, at 106, 113.

179. Abidjan Accord, *supra* note 13, arts. 5-8.

180. *Id.* art. 7.

181. FORTNA, *supra* note 25, at 25.

likely increased RUF anxiety and, by extension, the likelihood of future hostilities.

Second, the Abidjan Accord did create demilitarized zones. Under Article 5:

> The disarmament of combatants will be effected upon their entry into the designated assembly zones, and demobilization and reintegration as soon as practicable thereafter. The upkeep and welfare of the encamped combatants shall be the primary responsibility of the Government of Sierra Leone in conjunction with the Commission for the Consolidation of Peace, assisted by the international community.[182]

Thus, if enforced, the creation of specific demilitarized assembly zones could pacify the belligerents by reassuring them that, at a minimum, they would be able to witness an attack before it was upon them.[183]

Third, the Abidjan Accord contained arms control measures.[184] In addition to Article 5, quoted above, Articles 6 through 8 had provisions for disarmament. Article 6 announced a national commitment to disarmament made effective by the Demobilization and Resettlement Committee "in coordination with all the relevant institutions and agencies." Further, Article 7 required identification of the assembly camps where RUF members were to be disarmed. Finally, Article 8 requested international aid to supervise and monitor "the encampment, disarmament, demobilization and reintegration" process.[185] These arms control measures, applied to both parties, further the goal of reducing the possibility of future violence. While it is curious that the encampment procedures apply to the RUF only, insofar as it reduces the threat of violence as a practical matter, RUF encampment advances the peace objective.

Fourth, the Abidjan Accord provided for third party peacekeeping. In addition to Article 8's disarmament requirements, it also called for the Joint Monitoring Group to observe those processes.[186] Pursuant to

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182. Abidjan Accord, *supra* note 13, art. 5.
183. FORTNA, *supra* note 25, at 25.
184. Abidjan Accord, *supra* note 13, arts. 5-8.
185. *Id.* arts. 6-8.
186. *Id.* art. 8.

this article, 720 U.N. peacekeeping troops and sixty observers were anticipated when it came time to implement the agreement.[187] RUF leader Sankoh preferred zero peacekeeping troops and sixty observers.[188] Understandably, this was read as a manifestation of the RUF's intention to violate the Abidjan Accord and disrupt the brief peace that its signing brought.[189]

Fifth, the Abidjan Accord was not drafted with specificity. One critical ambiguity which was touched on in the prior factor relates to the provision of peacekeeping forces. After both parties signed the peace agreement, there was disagreement about the number of peacekeepers that would be used.[190] This misunderstanding could have been resolved by specifying the number of peacekeepers to be deployed. Additionally, Article 8 fails to indicate that the peacekeepers would be U.N. blue helmets.[191] The use of U.N. peacekeepers could likely have been the deal breaker for Sankoh, since he "was perennially suspicious of the UN."[192]

A second crucial ambiguity in the language of the Abidjan Accord concerns the integration of the RUF into Sierra Leone society. Three articles of the agreement and the annex contain vague mentions of how RUF combatants will be "reintegrated" into public society.[193] Exactly how reintegration would be achieved, however, is hard to determine within the four corners of the document. The possibility for misunderstanding that this ambiguity creates is critical; RUF member inclusion (such as opportunities to participate in the urban economy) was of paramount concern for the rebels since the outset of the conflict.[194] The unfulfilled promise of these "reintegration" articles,

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187. KEEN, *supra* note 11, at 194.

188. *Id.*

189. *See id.* ("If Sankoh and the RUF leadership had genuinely desired peace . . . they would surely have asked for more, not fewer, peacekeepers.").

190. *Id.* at 194.

191. Abidjan Accord, *supra* note 13, art. 8.

192. KEEN, *supra* note 11, at 194 n.5.

193. Abidjan Accord, *supra* note 13, arts. 5, 8, 14, annex.

194. Weissman, *supra* note 2, at 43.

from the perspective of the RUF, constituted a breach that destroyed RUF trust in the Abidjan Accord.[195]

Sixth, the Abidjan Accord omits confidence-building measures.[196] If included, according to Fortna, such measures would help to promote mutual understanding and increase confidence between belligerents. Such measures could include notifying the opposing party prior to moving troops and completing joint military facilities inspections.[197]

Seventh, the Abidjan Accord does include dispute resolution procedures.[198]   Such procedures could assist belligerents in communicating to the other party that each is sincere about addressing the problems the conflict created and healing from the conflict's wounds. Accordingly, Article 15 provides:

> The mandate and membership of the existing National Unity and Reconciliation Commission shall be expanded in consultation with the Commission for the Consolidation of Peace to enable it to undertake a sustained and effective campaign of civic education aimed at enhancing national unity and reconciliation, taking into account the imperative need to heal the wounds of the conflict.[199]

As Fortna notes, Truth and Reconciliation Commissions can be particularly effective dispute resolution mechanisms.[200] However, the parties here did not take the opportunity to establish such a tribunal when they could have done so under Article 15.[201] As a result, they passed up an opportunity to heal.[202]

Eighth, the parties formally signed the Abidjan Accord in the international sphere, evidenced by the fact that members of the

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195. The RUF broadcast an "Apology to the Nation" which alleged that Kabbah's Sierra Leone People's Party had divided and ostracized the RUF violating its promises to integrate. KEEN, *supra* note 11, at 197.

196. *See* Abidjan Accord, *supra* note 13.

197. FORTNA, *supra* note 25, at 27.

198. *See* Abidjan Accord, *supra* note 13, art. 15.

199. *Id.*

200. *See* FORTNA, *supra* note 25, at 28.

201. Sierra Leone eventually created a Truth and Reconciliation Commission under the Lomé Peace Agreement pursuant to an Act of Parliament passed on February 10, 2000. *See* The Truth and Reconciliation Commission for Sierra Leone (Apr. 8, 2003), http://www.sierra-leone.org//trc-trcforsierraleone.html.

202. *See* FORTNA, *supra* note 25, at 28.

international community were signatories to the peace agreement itself.[203] Furthermore, the signing of the Abidjan Accord was reported in the international media.[204] This exposure, consequently, provided an added deterrent to the noncompliance with the agreement: the threat of losing face in the international sphere.[205]

3. Findings

In sum, the low baselines for peace dictated by the situational factors created a political climate that would make it difficult for any agreement to survive. The RUF had everything to gain and nothing to lose by breaking the ceasefire.[206] Additionally, the peace agreement itself could have been stronger. When the Abidjan Accord was adopted, the fatal error was the lack of specificity regarding U.N. peacekeepers. Since the leader of the RUF, Sankoh, was so unwilling to work with the United Nations, the peacekeeper aspect of the agreement became the deal-breaker for the RUF leadership and the Abidjan Accord barely lasted a year.[207] Had the parties taken advantage of other opportunities, such as incorporating into the agreement provisions for mutual troop withdrawal from the ceasefire line or confidence-building measures, the agreement might have held the peace for a longer period of time. These two aspects were especially crucial for this particular agreement since territorial disputes arising from the government's recapture of RUF strongholds rendered the topics of land control and troop movement delicate issues

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203. Other signatories included Henri Konan Bedie (President of the Republic of Cote d'Ivoire), Berhanu Dinka (Special Envoy of the United Nations Secretary-General for Sierra Leone), Adwoa Coleman (Representative of the Organization of African Unity, which is now known as the African Union), and Moses Anafu (Representative of the Commonwealth Organization). Abidjan Accord, *supra* note 13.

204. *See, e.g.*, U.N. PRESS RELEASE SG/SM/6612: SECRETARY-GENERAL PLEASED BY AGREEMENT IN SIERRA LEONE, CALLS FOR GOOD FAITH IMPLEMENTATION, *available at* http://www.un.org/News/Press/docs/1996/19961121.sgsm6112.html (last visited Oct. 14, 2007).

205. FORTNA, *supra* note 25, at 26-27.

206. *See* GBERIE, *supra* note 65, at 12.

207. *See supra* Part I.C.

at the time the Abidjan Accord was negotiated.[208] Thus, the low baselines for peace, coupled with a lackluster peace agreement, led to the Abidjan Accord's failure.

B. The Conakry Peace Plan

In analyzing the Conakry Peace Plan under the first tier of Fortna's schema, this subpart examines how the four following factors set the pre-agreement baseline for peace: military outcome of war, number of parties involved, territory disputes, and relative capabilities at the time of ceasefire. The Conakry Peace Plan is not analyzed here under the other four factors in the first tier (costs of war, historical context and past conflicts, the stakes of the parties, and geographic contiguity) since this analysis is identical to the analysis of the Abidjan Accord, *supra*.

1. First Tier Analysis

First, the military outcome of the war preceding the adoption of the Conakry Peace Plan was the decisive victory of the RUF-backed Sierra Leone Army military coup.[209] Kabbah fled the country, and international intervention became necessary to remove the military junta.[210] It was only after the imposition of military and economic sanctions from the United Nations, ECOMOG, the European Union, and Great Britain that the AFRC/RUF agreed to negotiate a peace agreement.[211] And though the AFRC/RUF had less bargaining power at Conakry than ECOWAS (indeed, the full name of the agreement is "ECOWAS Six-Month Peace Plan for Sierra Leone"), the AFRC/RUF were the clear victors vis-à-vis Sierra Leone's Kabbah regime.[212] It

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208. Fortna notes that restoring territory control to the boundaries that existed before the war, rather than recognizing property gained by belligerents in the course of war, is particularly effective in decreasing the likelihood of additional attacks when coupled with mutual troop withdrawal. FORTNA, *supra* note 25, at 25. This is due to the fact these two tactics diminish the parties' uncertainty as to territorial control after the ceasefire. *Id.*

209. GBERIE, *supra* note 63, at 97-117.

210. *See* KEEN, *supra* note 11, at 208-18.

211. *Id.* at 212-15.

212. *See* Conakry Peace Plan, *supra* note 14.

was the international pressure from ECOWAS and other non-Sierra Leone-based entities that put the military junta in the role of the "defeated" party, making the prospect of a ceasefire more desirable.[213]

Second, three parties were involved in the military coup, which was the impetus for the Conakry Peace Plan: the defecting Sierra Leone Army soldiers, the RUF, and the *Kamajors* who defended Kabbah's regime.[214]   Kabbah, who did not trust the government soldiers, replaced Executive Outcomes with *Kamajors* (traditional hunters who Kabbah had organized into militias) in January 1997.[215] Applying Fortna's statistical conclusions on the matter, the fact that the coup was a multilateral conflict rather than a bilateral conflict seems not to affect the likelihood of peace one way or the other.[216]

Third, the only territorial dispute in the conflict between the military junta and Kabbah's administration was which regime had control of the capital. While the military junta occupied the Freetown territory in more of a political rather than physical manner, this dispute added tension to the peace agreement negotiation process.[217]

Fourth, the relative capabilities at the time of the ceasefire are hard to determine. Kabbah's international backing after the military coup makes it hard to separate the relative capabilities of the AFRC/RUF military junta on the one hand and the Kabbah-led SLPP on the other.[218] However, the developing relative capabilities of the RUF seem to be significant here since this was the second peace

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213. Fortna suggests that when there is a clear winner in a conflict, the defeated party, if rational, will opt not to fight the unwinnable war. *See* FORTNA, *supra* note 25, at 77-78.

214. This brigade of *kamajors* is also referred to as the Civil Defense Force. *See* Williams, *supra* note 5, at 274.

215. Weissman, *supra* note 2, at 48.

216. *See* FORTNA, *supra* note 25, at 212; *see also supra* note 121 text.

217. *See* KEEN, *supra* note 11, at 212-18.

218. *Id.* at 212-13. International disapproval of military coup d'etats aligned foreign governments, regional institutions and international organizations with Kabbah and his ousted government. *Id.* This AFRC/RUF disapproval was made manifest in the form of Nigerian soldiers attempting a counter-coup, the United Kingdom suspending foreign aid programs, the European Union suspending development aid programs, and U.N. sanctions. *Id.* Although the AFRC/RUF regime had more power relative to Kabbah's ousted SLPP party, the AFRC/RUF had less power than Kabbah's regime when combined with international support.

agreement within a relatively short period of time.[219] This may be a manifestation of the RUF's sincere willingness to create a strong peace agreement.[220]

2. Second Tier Analysis

As a preliminary matter, the Conakry Peace Plan is a comparatively sparse, eight-point peace plan with a minimal preamble and a functional quality.[221] Analysis of the Conakry Peace Plan's contents under the second tier of factors, comprising Fortna's durable peace schema, reflects its inherent functionality.

First, the Conakry Peace Plan does not have a provision for the mutual withdrawal of troops from the ceasefire line.[222] Similar to the Abidjan Accord before it, this second peace agreement does not provide the buffer that, according to Fortna, can help to resolve the anxieties associated with territorial gains.[223]

Second, the Conakry Peace Plan creates demilitarized zones (DMZs).[224] The second article of the Conakry Peace Plan indicates that "[c]ombatants will be directed to report at designated centres in order to be engaged in the disarmament process."[225] While it does not accomplish this in the way suggested by Fortna—placing DMZs between combatants to act as a buffer and quell anxieties of a

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219. Fortna indicates that developing relative capabilities as evidenced by more than one agreement between the same parties can promote the likelihood of durable peace. *See* FORTNA, *supra* note 25, at 212.

220. *See id.*

221. *See* Conakry Peace Plan, *supra* note 14.

222. *See id.*

223. FORTNA, *supra* note 25, at 25.

224. *See* Conakry Peace Plan, *supra* note 14, art. 2:

It is considered that a minimum of 30 days would be required to conduct an effective disarmament and demobilisation of combatants. This should take place from 1 to 31 December, 1997.   Given the nation-wide dislocation of infrastructures and administration, a simple and uncomplicated procedure is envisaged.   Combatants will be directed to report at designated centres in order to be engaged in the disarmament process. ECOMOG will supervise the entire process of disarmament and demobilisation. Where necessary, incentives may have to be provided to encourage the voluntary participation of combatants in all this process.

225. *Id.*

subsequent attack[226]—that the DMZs were created at all arguably diminishes the belligerents' respective anxieties.

Third, the Conakry Peace Plan employs arms control measures.[227] Article 2, quoted in part above, provides that beginning December 1 and ending December 31, combatants will be disarmed and demobilized at specified locations.[228] Removing violent weapons in this way, per Fortna, is a move in favor of peace.

Fourth, the Conakry Peace Plan features several peacekeeping provisions and third-party guarantees. Examples include Article 1, under which the U.N. and ECOMOG share responsibility for supervising the ceasefire;[229] Article 2, which charges ECOMOG with the responsibility of supervising both disarmament and demobilization;[230] and Article 3, which makes both ECOMOG and U.N. military observers responsible for humanitarian assistance.[231] While U.N. and ECOMOG peacekeeping forces help to increase the cost of war, as identified by Fortna,[232] ECOMOG is neither a "third party" nor unbiased.[233] The fact that the AFRC/RUF military junta was engaged in hostilities with ECOMOG prior to the signing of the Conakry Peace Plan, coupled with the fact that the agreement itself is quintessentially an ECOWAS decree, creates a conflict of interest when ECOMOG is charged with the responsibility of "third party" peacekeeping.[234] That is, it seems neither appropriate nor logical that ECOMOG, an entity that has been a major player in the Sierra Leone conflict, could serve as participant and referee at the same time.[235]

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226. FORTNA, *supra* note 25, at 25.

227. Conakry Peace Plan, *supra* note 14, art. 2.

228. *Id.*

229. *Id.* art. 1.

230. *Id.* art. 2.

231. *Id.* art. 3.

232. *See* FORTNA, *supra* note 25, at 26.

233. An estimated 14,000 ECOMOG soldiers fought alongside civilian *kamajor* forces against the AFRC/RUF military junta. KEEN, *supra* note 11, at 212.

234. *See id.* at 212-13.

235. *See* FORTNA, *supra* note 25, at 26. Peacekeepers cannot effectively mediate a conflict to which they are a party. *Id.* ("[P]eacekeepers also serve a monitoring function . . . to act as a referee, adjudicating 'who started it' when clashes occur. In practice, monitors and armed peacekeepers often serve an

ECOMOG's bias and lack of third party status undercuts the possible effectiveness of having peacekeepers and third party guarantees.[236]

Nor were the U.N. troops a perfectly neutral peacekeeping force.[237] By intervening after public condemnation of the AFRC/RUF military coup, the U.N. sided with the Sierra Leone government.[238] Furthermore, President Kabbah's curriculum vitae speaks for itself. Kabbah served as a U.N. official for more than two decades, working with the U.N. Development Programme in various locations before returning to Sierra Leone in 1992.[239] Given Kabbah's past affiliation with the U.N., it is conceivable that any U.N. involvement in the resolution of the Sierra Leone conflict was suspect of being pro-Kabbah in nature in the eyes of the military junta.[240]

Fifth, the authors of the Conakry Peace Plan drafted the peace agreement with adequate specificity. Seeming to have learned from the mistakes of the Abidjan Accord, the entities providing peacekeepers under the agreement are explicitly named: the U.N. and ECOMOG.[241] This full disclosure eliminates the possibility of quibbling over troops after the fact, a problem with the Abidjan Accord (addressed previously).[242]

The Conakry Peace Plan also seems to take a lesson from Abidjan in the way it provides specific plans to reintegrate the RUF. Under article six, titled "Reintegration of Combatants,"

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important dispute resolution function, mediating small quarrels and clashes on the spot.").

236. *See id.*

237. "Sankoh rebuffed the [U.N. Planning] team's proposal for a 750-strong peacekeeping force, declaring the UN as not being *impartial* . . . ." (emphasis added). Hirsch, *supra* note 8, at 524.

238. Samuels, *supra* note 65, at 330.

239. *Country Profiles, Sierra Leone Leaders*, BBC, Aug. 11, 2007, http://news.bbc.co.uk/2/hi/africa/ country_profiles/1061561.stm. *See also* Weissman, *supra* note 2, at 61-62.

240. The same might be said regarding the partiality of British peacekeeping forces, intervening in their own right in 2000. GBERIE, *supra* note 63, at 173. In addition to having served as a U.N. official, Kabbah also was a political official with the British government. *See Country Profiles, Sierra Leone, supra* note 239. Educated in Britain, Kabbah came to serve as a district commissioner for the British government while Sierra Leone was still under British colonial rule. *Id.*

241. Conakry Peace Plan, *supra* note 14, arts. 1-3.

242. *See supra* Part III.A.

> All those who disarm as a result of the implementation of the peace process, should be provided with either job training to fit them for alternative employment or given scholarships and grants for further education. Access to education at all levels should be made available to all demobilised persons. Ex-combatants should be provided with assistance to facilitate their re-integration into their communities. We strongly appeal to the UN, OAU, ECOWAS and indeed the international community to render appropriate assistance to achieve this objective.[243]

A provision of this nature promotes durable peace. This detailed reintegration clause discourages RUF members from resuming hostilities because they cannot argue integration was inadequately addressed, an RUF complaint with the Abidjan Accord.[244] By drafting the reintegration and peacekeeping provisions with precision, the authors of the Conakry Peace Plan promoted compliance with this second peace agreement.[245]

Sixth, the bare-bones Conakry Peace Plan does not implement confidence-building measures. While there is a provision giving notice to the parties that returning refugees will be assisted, there is no provision giving notice to the parties of troop movement.[246] In this sense, the peace agreement helps to foster mutual understanding between both parties since article four notifies the belligerents that refugees might be crossing the borders back into Sierra Leone.[247]

Seventh, the Conakry Peace Plan does not provide dispute resolution procedures. Instead, it has an amnesty provision granting all combatants immunity from prosecution for the crimes committed on May 25, 1997.[248] Fortna would say that the lack of dispute resolution provisions ignores the value of these procedures, which can assist in building a historical record of atrocities committed in the course of conflict and expresses mutual peaceful intentions.[249] The

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243. Conakry Peace Plan, *supra* note 14, art. 6.

244. KEEN, *supra* note 11, at 197.

245. Fortna suggests that peace agreements which are written with specificity promote durable peace. FORTNA, *supra* note 25, at 28.

246. Conakry Peace Plan, *supra* note 14, art. 4.

247. *Id.*

248. *Id.* art. 8.

249. FORTNA, *supra* note 25, at 28.

establishment of the Truth and Reconciliation Commission under the Lomé Peace Agreement may be viewed as an acknowledgement of this deficiency in the Conakry Peace Plan.[250]

Eighth, the Conakry Peace Plan was a formally signed agreement. Admittedly, the agreement was enacted for ECOWAS, a regional organization in West Africa.[251] However, the Conakry Peace Plan still received publicity beyond the West African region as a result of international media coverage[252] and by virtue of its international signatories: witnesses Professor Ibrahima Fall, Assistant Secretary-General of the U.N., and Ms. Adwoa Coleman, Representative of the Organization of African Unity.[253]

3. Findings

In conclusion, the Conakry Peace Plan was flawed because it employed enforcement mechanisms sparingly and it called for peacekeeping forces that were not neutral.[254] Additionally, the Conakry Peace Plan did not employ useful tactics like mutual troop withdrawal,[255] which would have added reciprocal confidence to the peacebuilding process.[256] The presence of confidence-building terms may have dissuaded the AFRC/RUF junta from attacking the Sierra Leone government, an attack which was planned almost immediately after government power changed hands back to Kabbah.[257]

Additionally, the Conakry Peace Plan's enforcement mechanisms were dictated by ECOWAS. In terms of enforcing the peace agreement, the fact that ECOWAS was a party to the conflict made the entity an undesirable resource for peacekeeping troops from the perspective of the junta. This was detrimental to the peace agreement

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250. *See* Lomé Peace Agreement, *supra* note 15, arts. VI, XXVI.

251. Conakry Peace Plan, *supra* note 14.

252. *See, e.g., Sierra Leone,* CHI. TRIB., Oct. 24, 1997, at 9; *Junta Set to Restore Sierra Leone Leader,* N.Y. TIMES, Oct. 24, 2007, at A14.

253. *Id.*

254. Fortna underscores the importance of neutral peacekeeping forces. *See* FORTNA, *supra* note 25, at 23 ("However, *neutral* referees can play an important role in fostering durable peace.").

255. *See* Conakry Peace Plan, *supra* note 14.

256. *See* FORTNA, *supra* note 25, at 25.

257. KEEN, *supra* note 11, at 216.

because, as Fortna identifies, peacekeepers are the linchpin of promoting peace after civil conflicts.[258]   Another shortcoming of ECOMOG's active role in both the Sierra Leone civil war, and peace efforts to end the civil war, is that the conflict of interest may well have inspired mistrust in the RUF. This works against the goal of promoting trust through the communication of benign intent between the parties, a value that cuts across many of Fortna's recommendations.[259]   Thus, it comes as no surprise that hostilities resumed within a few short months of the adoption of the Conakry Peace Plan.[260]

C. The Lomé Peace Agreement

Similar to the "baselines for peace" analysis of the Conakry Peace Plan, the analysis of the Lomé Peace Agreement will only involve four of eight factors set forth in the Fortna's first tier: the military outcome of war, number of parties involved, territory disputes, and relative capabilities at the time of ceasefire. In the interest of avoiding repetition, please refer to the sub-part analyzing the Abidjan Accord for discussion of costs of war, historical context and past conflicts, the stakes of the parties, and geographic contiguity.[261]

1. First Tier Analysis

First, the military outcome of the AFRC/RUF's 1999 counterattack favored the military junta, who had no qualms about existing conditions, since they held a significant amount of power at

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258. *See* Fortna, *Peacekeeping, supra* note 160, at 288 ("Peacekeeping works, particularly after the Cold War when most of the attempts to keep peace after civil wars have been made. The presence of international personnel is not the silver bullet, of course, it does not guarantee peace in every case, *but it does make peace more likely to last, and to last longer.*") (emphasis added).

259. As Fortna states under a heading titled Reducing Uncertainty About Actions and Intentions, in working towards durable peace, "the involvement of outsiders . . . serve[s] as [an] important signaling device[]. Talk alone may not allay fears and mistrust." FORTNA, *supra* note 25, at 22.

260. VOETEN, *supra* note 1, at 303.

261. *See* discussion *supra* Part III.A.1.

the time Lomé was being negotiated.[262]   While it is true that
ECOMOG managed to remove the military junta from Freetown and
restore power to Kabbah in 1997, the RUF managed to regain control
of different regions in Sierra Leone in the year that followed.[263]   In
subsequent counterattacks, the RUF, accompanied by the AFRC,
regained control of Freetown—if only for a few short days—and some
bygone mining-territory strongholds as well.[264]   This would suggest
that the military junta had little incentive to negotiate a peace
agreement. However, Kabbah, the defeated party, was not rushing to
the negotiating table either.[265]   One scholar suggests that it was the
influence of the U.S. State Department, which did not want to
continue assisting ECOMOG in fighting the rebel/ex-soldier duo, that
made peace talks between Kabbah and Sankoh resume again.[266]
Nonetheless, both parties begrudgingly agreed to meet to negotiate the
Lomé Peace Agreement.

Second, four parties were involved in the conflict preceding the
Lomé Peace Agreement. These included the AFRC and the RUF on
one side, and the Civil Defense Force (or *kamajors,* who had replaced
Executive Outcomes) and ECOMOG on the other.[267]   Since each of
these four parties was paired up with another military entity, the
conflict was quasi-bilateral in the sense that it comprised the military
junta on the one side (AFRC and the RUF), and Kabbah loyalists on
the other (Civil Defense Force and ECOMOG). Since Fortna did not
conclude whether bilateral or multilateral conflicts were more
predisposed to negotiating durable peace agreements, the nature of the
conflict under this factor does not reveal much about the efficacy of
the Lomé Peace Agreement.

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262. Sankoh, on the other hand, had very little bargaining power in his
individual capacity since he had recently been sentenced to death. He was released
from prison to take part in yet another peace negotiation. KEEN, *supra* note 11, at
251. "Despite their ejection from Freetown, RUF/AFRC forces were continuing to
dominate many areas of Sierra Leone, particularly in the north and east, and Liberia
was still providing strong support." *Id.*

263. Williams, *supra* note 5, at 274.

264. *Id.* at 274-75.

265. KEEN, *supra* note 11, at 251.

266. *See id.* at 250-51.

267. *Id.* at 216. The *kamajors* were allied against the RUF. Abdullah &
Muana, *supra* note 35, at 186.

Third, the Sierra Leone conflict involved an issue of disputed territory. Similar to the situation that existed before the Abidjan Accord was executed, strategic mining territories were contested properties. (Accordingly, please refer to the discussion of this factor under the analysis of the Abidjan Accord in this section.) Another disputed territory on July 7, 1999, was Freetown. This is similar to the circumstances preceding the adoption of the Conakry Peace Plan, in that political and physical control of the capital city was being disputed. (Accordingly, please refer to the discussion of this factor under the analysis of the Conakry Peace Plan in this section.)

Fourth, the relative capabilities at the time of ceasefire were fairly equal. Since Sankoh and Kabbah had dealt with each other before, their past peace agreements and subsequent experiences made it clear to both parties how their relative capabilities had fluctuated over time. Per Fortna, these past attempts suggest that both parties were earnest about applying their best efforts to a new peace initiative since they had endeavored in the past to reach settlement.[268] Their earnest attempt to achieve peace is reflected in the Lomé Agreement itself, which is far more comprehensive than any prior Sierra Leone peace agreement.

2. Second Tier Analysis

First, the Lomé Peace Agreement does not obligate all parties to the conflict to withdraw their troops to the ceasefire line. However, unilateral withdrawal of "all mercenaries" is provided for in article 18.[269] This unilateral withdrawal provision likely reduces the anxiety of RUF members concerned about Executive Outcomes.

Second, the Lomé Peace Agreement does not explicitly provide for demilitarized zones.[270] Thus, the Lomé Peace Agreement (under Fortna's analysis) is not as effective as it could be.[271]

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268. One of Fortna's key assumptions is that parties are not fighting for fighting's sake. FORTNA, *supra* note 25, at 10-11. Having attempted to negotiate peace by signing the Abidjan Accord and Conakry Peace Plan rather than blowing off reconciliation efforts, it is likely that the parties "want to settle their disputes without resorting to war if they can" as Fortna assumes. *Id.* at 11.

269. Lomé Peace Agreement, *supra* note 15, art. XVIII.

270. *See* Lomé Peace Agreement, *supra* note 15.

271. FORTNA, *supra* note 25, at 25.

Third, several articles of the Lomé Peace Agreement provide for disarmament reducing the likelihood that violent conflict between the military junta and Kabbah loyalists will resume. These articles pertain to disarmament in the context of maintaining the security of peacekeepers specifically, as well as "encampment, disarmament, demobilization, and reintegration" generally.[272] All these duties are to be the task of UNOMSIL, the United Nations Observer Mission in Sierra Leone.[273]

Fourth, building on the legacy of both the Abidjan Accord and the Conakry Peace Plan, the Lomé Peace Agreement has very specific provisions pertaining to the role and identity of third party peacekeepers at Articles II, III and VI.[274] This suggests that the parties knew what type of peacekeepers they were agreeing to at the outset, which was not the case with respect to the Abidjan Accord.[275]

Fifth, the Lomé Peace Agreement is specific. While this is a positive attribute that Lomé shares with the Conakry Peace Plan, the Lomé Peace Agreement is superior to Conakry in that it is far more extensive, specific, and detailed.[276] It should come as no surprise,

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272. Lomé Peace Agreement, *supra* note 15, arts. XV-XVI.

273. The United Nations Observer Mission in Sierra Leone (UNOMSIL) was in charge of peacekeeping, disarmament, demobilization of combatants, and monitoring from July 1998 until October 1999, when it was replaced by a more substantial peacekeeping operation: the United Nations Mission in Sierra Leone (UNAMSIL). Completed Peacekeeping Operations, Sierra Leone, http://www. un.org/ Depts/DPKO/Missions/unomsil/Unomsil.htm (last visited Nov. 2, 2007).

274. Lomé Peace Agreement, *supra* note 15, arts. II, III, & VI.

275. The article in the Abidjan Accord pertaining to peacekeeping operations did not specify who would be in charge of this operations, and this was a source of dispute between the parties after the agreement was signed. Abidjan Accord, *supra* note 13, art. 8; KEEN, *supra* note 11, at 194.

276. While the Conakry Peace Plan is comprised of only eight brief articles, the Lomé Peace Agreement consists of thirty-seven articles. *Compare* Conakry Peace Plan, *supra* note 14, *with* Lomé Peace Agreement, *supra* note 15. As an illustration of the Lomé Peace Agreement's superior attention to detail in addressing peace prospects, consider the relative extent to which each treaty addresses the RUF reintegration issue. Article 6 of the Conakry agreement ambiguously indicates that RUF members will enjoy "re-integration into their communities," whereas Articles III-V of the Lomé Agreement, describe in detail how RUF members will be recognized as members of a valid RUF political party, eligible for public office, and qualified for cabinet appointment. *Id.*

then, that the Lomé agreement has proven to be the most lasting and effective of all of Sierra Leone's peace agreements.

Sixth, like its earlier counterparts, the Lomé Peace Agreement lacks confidence-building measures. Consequently, it is not as effective as it could be.[277]

Seventh, the Lomé Peace Agreement and the agreements supplementing it establish dispute resolution procedures. For example, Article VI creates a Truth and Reconciliation Commission (TRC).[278] Additionally, Article VIII establishes a Council of Elders and Religious Leaders whose members are appointed by both the RUF and the Sierra Leonean government to resolve conflicts.[279] Conversely, another provision in the Lomé agreement confers amnesty upon all perpetrators of crimes committed in the course of the Sierra Leone civil war.[280] This amnesty undermines other dispute resolution mechanisms provided for in the peace agreement because it signals a desire to forget the crimes that took place rather than address the problems between the parties.[281] The amnesty provision proved even more controversial when subsequently created dispute resolution procedures conflicted with it. For example, the Agreement on the Establishment of the Special Court in Sierra Leone created an ad hoc tribunal charged with punishing the very individuals who were apparently granted amnesty under Lomé.[282] Much has been written regarding the conflict between the Special Court's mission and Lomé's amnesty provision, as well as the international law issues raised by the contradiction of excusing crimes through amnesty in one

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277. Fortna indicates that confidence-building measures are crucial to "increase[ing] the transparency of military activities prone to produce friction among adversaries." FORTNA, *supra* note 25, at 27.

278. Lomé Peace Agreement, *supra* note 15, art. XXVI.

279. Lomé Peace Agreement, *supra* note 15, art. VIII.

280. Lomé Peace Agreement, *supra* note 15, art. IX.

281. Fortna emphasizes that the value in the dispute resolution procedures is that they promote communication and mutual understanding between parties. *See* FORTNA, *supra* note 25, at 28. Amnesty short-circuits the potential opportunity to discuss conflict and learn from past problems, since it forgives past crimes instead of addressing them with adjudication.

282. Williams, *supra* note 5, at 271.

agreement, and punishing these crimes in another agreement.[283] As illustrated by the criticism by legal commentators of the amnesty provision,[284] under Fortna's schema, the amnesty provision is a step away from durable peace as it impairs dispute resolution procedures.[285]

Eighth, the Lomé Peace Agreement was signed in a manner more formalized and publicized than its predecessors. Aside from President Kabbah and Sankoh (representing the Republic of Sierra Leone and the RUF, respectively), ten additional individuals from the international community signed.[286] Additionally, the Lomé Peace Agreement featured two articles devoted to its publication, registration, and entry into force.[287]

3. Findings

In conclusion, the Lomé Peace Agreement is Sierra Leone's most comprehensive peace agreement yet. However, it is not complete. Given the necessity of subsequent agreements to the fill the holes in Lomé, such as the agreement establishing the Special Court,[288] it is clear that the Lomé Peace Agreement simply cannot establish durable

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283. *See, e.g.,* Macaluso, *supra* note 16; Sriram, *supra* note 101; Williams, *supra* note 5; Hall & Kazemi, *supra* note 9.

284. *See, e.g.,* Macaluso, *supra* note 16; Sriram, *supra* note 101; Williams, *supra* note 5; Hall & Kazemi, *supra* note 9.

285. Fortna indicates that the value of dispute resolution procedures is that "they serve as an ongoing signal of the intention to keep peace." FORTNA, *supra* note 25, at 28. An amnesty provision, conversely, might send the message that crimes committed in the course of civil war will be forgiven, thus jeopardizing the maintenance of peace.

286. These signatures came from foreign diplomats, U.N. officials, and regional organization representatives. Lomé Peace Agreement, *supra* note 15.

287. Article XXXVI even delineated the date that the Lomé Peace Agreement would be handed over to parliament, as well as the name of the periodical which would publish the agreement for public dissemination. Lomé Peace Agreement, *supra* note 15, art. XXXVI. Article XXXVII explicitly states that "[t]he present Agreement shall enter into force immediately upon its signing by the parties." *Id.* art. XXXVII.

288. *See Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*, U.N.- Sierra Leone, Jan. 16, 2002, http://www.sierra-leone.org/special courtagreement.html.

peace on its own.[289]   Additionally, serious operational and jurisdictional conflicts remain between the Truth and Reconciliation Commission and the Special Court hybrid tribunal.[290]   If Sierra Leone's precarious state of peace is to withstand the test of time, more measures must be taken to ensure that it will not relapse into a state of conflict.

IV. A NEW APPROACH TO DURABLE PEACE:
SIERRA LEONE AND BEYOND

Two modifications to Fortna's peace schema would create a more comprehensive framework for evaluating a peace agreement's potential.

A. The Identity of Peacekeepers Should be Specified in the Agreement

First, the author recommends that the fourth factor under Fortna's second tier include the caveat that peace durability is more likely when the agreement not only provides for peacekeepers, *but also specifies the entity that is to supply them.*[291]   This is a lesson learned

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289.   Sierra Leone was also dependent upon British troops to finally establish peace in 2002. Hall & Kazemi, *supra* note 9, at 289. Also, British nationals supervised Sierra Leonean police officers as recently as 2004. *See* Weissman, *supra* note 2, at 64. "[T]he Security Council established a new mission—the United Nations Integrated Office for Sierra Leone (UNIOSIL)—to help consolidate peace in the country. Its mandate was to cement UNAMSIL's gains and to help the Government strengthen human rights, realize the Millennium Development Goals, improve transparency and hold free and fair elections in 2007."   United Nations Mission in Sierra Leone, Sierra Leone—UNAMSIL—Background, *available at* http:// www.un.org/Depts/dpko/missions/unamsil/background.html (last visited Nov. 2, 2007).

290.   *See* Sriram, *supra* note 100, at 477-81.

291.   Fortna speaks more generally of the benefits of having peacekeepers and other third-party guarantees, with little discussion as to identifying their source. *See* FORTNA, *supra* note 25, at 26-27. In discussing her fourth factor, she does mention "international peacekeepers" and "[p]eacekeeping or monitoring *by the United Nations or a regional organization,*" but she does not underscore the significance of specifying, in the agreement, who will provide the peacekeepers. *See id.* (emphasis added).   Fortna's fifth factor under the second tier of her schema, that peace agreements are more successful when they are drafted with specificity, goes more towards clarifying the location of the ceasefire lines to eliminate misunderstandings flowing from the ceasefire, rather than to clarifying the identity and number of

from the Abidjan Accord, where peace broke down when the parties could not agree who would supply peacekeepers and in what quantity,[292] a foreseeable result of the parties' failure to address these peacekeeping details in the agreement.[293] Forthright communication between belligerents on key issues like peacekeeping is essential to the peace process, as peacekeepers are indispensable referees in post-conflict situations.[294] The peace agreements that followed the Abidjan Accord improved on the Accord's lack of peacekeeping details; both the Conakry Peace Plan and the Lomé Peace Agreement indicate the identity and responsibilities of peacekeepers with greater precision.[295] Specifying the crucial details concerning peacekeeping would have saved the parties a lot of time and trouble in the Sierra Leone example. While Fortna stresses the importance of drafting an agreement with specificity and using peacekeepers, her framework does not adequately address how crucial specificity is in the peacekeeper context.[296]

At a minimum, peace agreements should specify the supplier of the peacekeepers. If this specification caveat is added to the peacekeeping factor in Fortna's durable peace schema, combatants using this framework will be better informed and will see eye-to-eye with their opponent on the peacekeeping issue before the agreement is

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peacekeepers to eliminate misunderstandings. *See id.* at 28 ("The more the exact terms of an agreement are spelled out explicitly, the less possibility there is for misunderstandings by the parties themselves or by international actors reacting to perceived violations. Specification and demarcation of the cease-fire line's location can help prevent small land grabs or salami tactics that can spark renewed conflict.").

292. *See* KEEN, *supra* note 11, at 194.

293. *See, e.g.*, Abidjan Accord, *supra* note 13, art. 8, 11 (simply stating that "[t]he Parties shall request the international community to help supervise" and "shall request the international community to provide neutral monitors" with little specificity as to source or quantity).

294. *See* FORTNA, *supra* note 25, at 26-27.

295. *See* Conakry Peace Plan, *supra* note 14, arts. 1-3; *see also* Lomé Peace Agreement, *supra* note 15, arts. III, IV, VI.

296. *See* FORTNA, *supra* note 25, at 26-28 (noting that specific agreements make it easier to determine whether a peace agreement has been violated and that peacekeepers promote compliance, but failing to indicate the importance of including peacekeeping specifics in the agreement).

signed.[297]   In addition to reducing the likelihood of disputes between parties to a peace agreement, a more detailed description of the peacekeeper's role better equips that peacekeeping entity to serve its intended purpose.[298]   Well-informed peacekeepers will be more successful in achieving the warring parties' objectives.

B.   The Political Aims of Belligerents Should be Addressed in the Agreement

Second, the author recommends that Fortna's schema include a ninth factor under the "deliberate attempts to enhance the durability of peace" tier stating that peace agreements are more effective when they address the political aims of the belligerents.[299] Peace agreements are stronger when they address political concerns because they acknowledge political issues that sparked the war in the first place, thus promoting mutual understanding between parties.[300]   This has particular force when a party to the conflict is a rebel group, like the RUF.   By acknowledging policy concerns in a formal agreement,

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297. Moreover, clearly identifying peacekeepers is also important from the perspective of the peacekeeping force itself.   *Cf.* DENNIS C. JETT, WHY PEACEKEEPING FAILS   35 (1999) (noting that important elements of U.N. peacekeeping operation planning include decisions about "mandates to peacekeepers" and "who is chosen to lead"). Thus, the peacekeeper's identity is something that should be contemplated by the parties and the prospective peacekeepers before the agreement is signed.

298. *See id.* (Since "[t]he success or failure of a peacekeeping operation can be preordained even before the arrival of the blue helmets on the scene of the conflict," providing a clear mandate for peacekeepers in the peace agreement before they are deployed is crucial.).

299. Fortna does not include political settlement as a "Strength of Agreement." *See* FORTNA, *supra* note 25, at 36, figure 1.1.   While she recognizes that "peace agreements that settle political issues lead to more durable peace," she "do[es] not consider political settlement part of the strength of an agreement, *but rather test[s] its effects separately.*" *Id.* at 30 (emphasis added). That is, because Fortna is "most interested in how adversaries can maintain peace despite deeply conflicting interests," she does not treat political settlement as a measure that can "alter incentives, reduce uncertainty about actions and intentions, and control accidents." *Id.* The author of this Note, on the other hand, purports that political concerns *do* alter incentives and reduce uncertainty—just like the other eight factors under the second tier of her schema.

300. Fortna acknowledges that "a political solution deals with [a conflict's] root causes." *Id.*

opposition groups can be more certain that their voice is being heard. Moreover, an agreement that grants an opposition group access to the political system decreases the incentive to overthrow the sitting government by allowing the opposition to pursue their policy goals in a democratic setting.

The need to acknowledge an aggressor's political standpoint was clear in the Sierra Leone conflict, because the RUF's very motivation to embark on its violent crusade arose from a desire for policy reform.[301] The so-called "lumpen" youth who grew to become RUF soldiers sought to upset the one-party rule of the corrupt APC and were angered by their inability to integrate into Sierra Leone's education system and urban economy.[302] Including the political aims of belligerents in the peace agreement is not intended to conciliate aggressors in hopes that they will be quieted. Rather, the author suggests that by addressing, through the agreement, the political issues which prompted the initial conflict, it is less likely that these issues will prompt a repeat conflict.[303]

The Sierra Leone example illustrates the need to address the political aims of belligerents by examining how the RUF's political aim of reintegration was addressed in the peace agreements.[304] The Abidjan Accord spoke only generally to "RUF reintegration," giving the appearance that the drafters were only paying lip-service to an RUF concern without conferring specific duties on the government to effectuate this integration.[305] When the Sierra Leone government did

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301. Abdullah & Muana, *supra* note 34, at 174.

302. *See id.* at 172-75; Weissman, *supra* note 2, at 43.

303. In support of the contention that acknowledging the political aims of belligerents is essential to establishing durable peace, the U.N. Security Council gives special consideration to "whether a clear political goal exists and whether it can be reflected in the mandate" in deciding whether to send peacekeeping forces. JETT, *supra* note 300, at 37 (quoting U.N. Econ. & Soc. Council, Office of Internal Oversight Svcs., *In-Depth Evaluation of Peace-Keeping Operations: Start-up Phase*, ¶ 12, U.N. Doc. E/AC.51/1995/2 (Mar. 17, 1995)). At least with respect to the fact that including parties' political goals in the peace agreement encourages the sending of peacekeepers, a provision addressing this issue in the peace agreement promotes durable peace.

304. Transforming parties involved in the conflict (like the RUF) into political parties is a way of addressing post-conflict political development often overlooked as a peacebuilding strategy. CHESTERMAN, *supra* note 7, at 221.

305. *See* Abidjan Accord, *supra* note 13, arts. 5, 8, 14.

not make affirmative efforts to integrate the RUF into mainstream Sierra Leonean society, the RUF viewed the inaction as a breach, igniting mistrust and resulting in the eventual breakdown of the peace agreement.[306]   Recognizing this fault in the Abidjan Accord, both subsequent peace agreements addressed RUF integration concerns with greater specificity.[307]   Indeed, the most recent and successful Sierra Leone peace agreement, the Lomé Peace Agreement, incorporates RUF integration aims into three separate articles: Article III transforms the RUF into a political party;[308] Article IV permits members of the RUF to run for political office;[309] and Article V deems RUF members eligible for Cabinet appointments.[310]   While the Lomé Agreement did not independently stabilize Sierra Leone, the progression of increasingly more detailed political integration provisions in subsequent peace agreements suggests that the parties were improving on past peace efforts by incorporating the RUF's political aims.

C. Lessons Learned From Sierra Leone

Other countries need not learn this lesson the hard way.   The Sierra Leone case serves as an example to other countries drafting peace agreements.   Indicating   the   identity   and   mandate   of peacekeepers   in   the   agreement   promotes   clear   communication between parties and increases the chances that peacekeepers will achieve the parties' objectives.[311] If belligerents address each other's political aims in the agreement, then the parties will be far less compelled to pursue these political objectives through violence, and the peace agreement could prevent future outbreaks of war.[312]   This new approach to the study of peace agreements may prove helpful to

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306. The RUF broadcasted an "Apology to the Nation" which suggested that the Sierra Leone People's Party violated its promises to integrate. *See* KEEN, *supra* note 11, at 197.

307. *See* Conakry Peace Plan, *supra* note 14, art. 6; Lomé Peace Agreement, *supra* note 15, arts. III-V.

308. Lomé Peace Agreement, *supra* note 15, art. III.

309. *Id.* art. IV.

310. *Id.* art. V.

311. *See supra* Part IV.A.

312. *See supra* Part IV.B.

post-conflict peace efforts in Sierra Leone and beyond. The revised second tier of Fortna's peace durability schema sets forth the nine key factors for effective peace agreements as follows:[313]

1. Separation of troops from the ceasefire line
2. Creation of demilitarized zones
3. Imposition of arms control measures
4. Peacekeeping and third party guarantees *which specify the identity of the Peacekeepers*
5. Specificity in the agreement's language
6. Implementation of confidence-building measures
7. Establishment of dispute resolution procedures
8. Formalizing the peace agreement
9. *Addressing the political aims of stakeholders*

Fortna's peace durability schema, thus modified, is applicable to contemporary Sierra Leone, identifying aspects of peace maintenance omitted in its most recent peace agreement (the Lomé Peace Agreement). Remedying these omissions may help ensure that Sierra Leone does not regress into civil war. While drafting a new, more comprehensive peace agreement at this time may not be necessary, Sierra Leone and the international community should continue to supplement the Lomé Peace Agreement with additional peace building mechanisms.[314] The newly established U.N. Peacebuilding Commission, with its targeted focus on Sierra Leone, may prove

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313. With the exception of the italicized portions, this framework follows the second tier of Fortna's peace durability schema. FORTNA, *supra* note 25, at 36. Addressing the political aims of stakeholders in the agreement is not something suggested by Fortna; rather, she "do[es] not consider political settlement part of the strength of the agreement . . . ." *Id.* at 30.

314. Establishing the Special Court in Sierra Leone is an example of the benefits supplemental peace mechanisms can bring with respect to adjudicating the wrongs committed during the Sierra Leone civil war. On June 20, 2007, three AFRC soldiers were convicted on various counts of war crimes and crimes against humanity. Michelle Montas, *Highlights of the Noon Briefing*, U.N. NEWS SERVICE, June 20, 2007, http://www.un.org/News/ossg/hilites.htm. Additionally, Charles Taylor is being held in custody in the Hague at the writing of this article, awaiting trial before the Special Court for his involvement in the Sierra Leone conflict. *See* Prosecutor v. Charles Ghankay Taylor, Case No. SCSL-03-01-PT [Sierra Leone] [Spec. Ct.], *available at* http://www.sc-sl.org/Taylor.html.

indispensable to filling the gaps of the Lomé agreement.[315] The U.N. Peacebuilding Commission is the ideal taskforce to implement mechanisms promoting durable peace in Sierra Leone since it is tasked with marshalling the resources of the international community in an effort to provide "integrated strategies for post-conflict peacebuilding and recovery, . . . focus[ing] attention on the reconstruction and institution-building efforts necessary for recovery from conflict . . . in order to lay the foundation for sustainable development."[316]

D. Illustration: The Conflict in Southern Sudan

In addition to using the revised Fortna framework to discover which holes in the Lomé Peace Agreement need filling by the U.N. Peacebuilding Commission, Fortna's modified schema can be utilized to assist peace efforts in other countries as well. An illustrative conflict comes right from the front pages: the situation in Sudan.[317] While the headlines typically focus on genocide in Darfur,[318] a preeminent Sudanese issue receiving increased media attention is the precarious state of the Comprehensive Peace Agreement between the Sudan's Peoples Liberation Movement [SPLM] and the Sudanese government.[319] The Comprehensive Peace Agreement[320] is said to

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315. *See* G.A. Res. 60/180, U.N. Doc. A/RES/60/180 (Dec. 30, 2005); S.C. Res. 1645, U.N. Doc. S/RES/1645 (Dec. 20, 2005); *see also* U.N. Doc. PBC/OC/1/2 (June 21, 2006) (evidencing the U.N. Security Council's need for the U.N. Peacebuilding Commission's updates on political developments in Sierra Leone).

316. G.A. Res. 60/180, ¶ 2, U.N. Doc. A/RES/60/180 (Dec. 30, 2005).

317. *See, e.g.,* Jeffrey Gettleman, *Darfur Rebels Kill 10 in Raid on Peace Force,* N.Y. TIMES, Oct. 1, 2007 at A1 (front page New York Times article on Sudan's struggle for peace in the Darfur region).

318. Jeffrey Gettleman, *Ex-Rebels Quit Unity Government in Sudan,* N.Y. TIMES, Oct. 12, 2007 at A14 ("While much of the recent international attention on Sudan has been focused on Darfur, in the west, tensions over the fragile peace deal in the south have been bubbling for months.").

319. *See, e.g., id.* (identifying that "American officials recently warned that Sudan can plunge back into war"); *U.S. Envoy Laments "Poisonous" Atmosphere Dividing Sudan,* N.Y. TIMES, Oct. 7, 2007 at A21 (quoting U.S. envoy to Sudan as saying "We are deeply concerned about the health of the C.P.A. [Comprehensive Peace Agreement] . . . [t]ensions are rising."); Alisha Ryu, *Sudan Peace Accord at Risk as SPLM Pulls Out of Unity Government,* NEWSVOA.COM, Oct. 12, 2007 http://www.voanews.com/english/2007-10-12-voa30.cfm (reporting that "John

have ended the nearly fifty-year-old civil war in Southern Sudan in 2005,[321] but the SPLM's recent withdrawal from the national unity government invites skepticism as to the continued efficacy of the Comprehensive Peace Agreement.[322]

The Sudanese civil war, fought between the northerners and the southerners, has claimed over two million lives.[323] The Comprehensive Peace Agreement ending the conflict does justice to the modified peace durability schema offered here, comprising many of the features suggested in the first eight factors.[324] The sticking point, however, becomes the ninth factor: addressing the political aims of stakeholders. While the Sudan peace agreement is certainly comprehensive in the sense that it is lengthy, it fails to address political concerns because it only acknowledges the SPLM political party.[325] This is problematic because "[m]any [other] political players . . . had been hesitant to commit to an agreement they were not

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Gachie, a political analyst and magazine editor in Juba, tells VOA that non-implementation of the CPA is also threatening international efforts end the four-year war between Khartoum and rebels in the western Darfur region of Sudan.").

320. The Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army, Sudan-SPLM, Jan. 9, 2005, [hereinafter Comprehensive Peace Agreement], *available at* http://www.unmis.org/English/documents/cpa-en.pdf.

321. *See, e.g.,* M.W. DALY, DARFUR'S SORROW: A HISTORY OF DESTRUCTION AND GENOCIDE xv (2007) (stating that "2005: Comprehensive Peace Agreement ends civil war in Southern Sudan.").

322. *See, e.g.,* Gettleman, *supra* note 318.

323. *Id.*

324. For example, the Comprehensive Peace Agreement, incorporating several protocols, has a dispute resolution procedure. Comprehensive Peace Agreement, *supra* note 325, pmbl. ("[Recording and reconfirming] . . . the Parties duly reached agreement on . . . the Protocol on Power Sharing . . . set out in Chapter II of the CPA . . . ."); Comprehensive Peace Agreement, *supra* note 325, ch. II pt. 1.7 (Under this article "[t]he Parties agree to initiate a comprehensive process of national reconciliation and healing throughout the country as part of the peace building process.").

325. "The CPA is comprehensive in one sense only: it covers the core disputes between Sudan's former national government and the SPLM. It is anything but comprehensive from the perspective of the many groups in Sudan that were excluded from the negotiations, and which now find themselves side-lined in the political processes taking place under the CPA." Christian Murray & Catherine Maywald, *Subnational Constitution-Making in Southern Sudan*, 37 RUTGERS L.J. 1203, 1205 (2006).

party to."[326]   Moreover, SPLM is skeptical of the agreement with respect to political concerns, referring to the national unity government that the National Government Party (the ruling party) agreed to in the C.P.A. as nothing more than a "charade," inciting the party to pull out of the unity government.[327]   Whether or not SPLM's uncertainty about the National Government Party's intentions are well-founded, the fact that political considerations have been the breaking point of this Sudanese peace agreement underscores the importance of including political aims as a factor in the peace durability schema.[328]   By so modifying the framework, it proves a more effective mechanism for peace.

E.   The Modified Framework as a Mechanism for Peace

In post-conflict countries where peace agreements have been ineffective, this revised peace durability framework identifies weaknesses in broken peace agreements, so that stakeholders might be able to fill the gaps (with the help of the U.N. Peacebuilding Commission or otherwise) accordingly.   Moreover, in war-torn countries where a peace agreement has not yet been drafted, the durable peace framework laid out above may prove even more helpful as a preventive measure.   If used as a checklist, the nine factors of peace agreements fostering durable peace can be incorporated into an initial peace agreement, ideally becoming the only agreement the parties to the international or civil war will ever have to draft.

V. CONCLUSION

This article seeks to illustrate that Fortna's schema, supplemented by the recommendations offered above, provides an interdisciplinary approach that international lawyers can use to craft strong peace agreements in an effort to prevent war-torn countries from lapsing

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326.   Sudan – UNMIS – Background, United Nations Mission in the Sudan, http://www.un.org/Depts/dpko/missions/unmis/background.html (last visited Nov. 30, 2007).

327.   Gettleman, supra note 318.

328.   Clearly addressing political aims of stakeholders in a peace agreement encourages durable peace because it reduces uncertainty about the intentions of opponents.   See discussion supra Part IV.B.

back into conflict. While historically there has been much debate between international relations scholars and international lawyers, the growth of interdisciplinary research in this area is mutually beneficial.[329] Applied to the topic at hand, the peace durability framework posited by a scholar of international relations—like Fortna—can assist international lawyers in drafting effective peace agreements by implementing the crucial elements of lasting peace agreements that she identifies.[330] Reciprocally, insight into international law can reveal to international relations academics that the legal status of peace agreements promotes long-lasting compliance.[331] This exchange of expertise will promote the dialogue needed to craft better peace agreements, in turn promoting brighter and more stable futures for post-conflict countries.

The future of post-conflict Sierra Leone is uncertain. As identified by the U.N. Peacebuilding Commission Chairman in her

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329. Much has been written on the movement towards International Relations and International Law interdisciplinary scholarship. *See, e.g.,* Anne-Marie Slaughter et al., *International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship,* 92 AM. J. INT'L L. 367 (1998); William J. Aceves, *The Economic Analysis of International Law: Transaction Cost Economics and the Concept of State Practice,* 17 U. PA. J. INT'L ECON. L. 995, 996-97 (1996) ("Recently, attempts have been made to forge a link between theories of international relations and international law.").

330. *See* FORTNA, *supra* note 25, at 213 ("While some students of international relations might be surprised to learn that states can institute measures to overcome the obstacles of peace, practitioners probably know this already. . . . By breaking agreement strength into its component parts and examining the effects of each measure systemically, we can evaluate what works and what does not work to maintain peace.").

331. Peace agreements flowing from civil conflicts, such as those discussed here, are not legally binding treaties under the Vienna Convention on the Law of Treaties because they are not "between States." Vienna Convention on the Law of Treaties, art. 2, May 23, 1969, 1155 U.N.T.S. 331. Even if peace agreements are not recognized as treaties under international law, peace agreements can still become "legalized" and enforceable. Legal, enforceable peace agreements make compliance more likely. *See* Christine Bell, *Peace Agreements: Their Nature and Legal Status,* 100 AM. J. INT'L L. 373, 380-88 (2006) (arguing that civil war peace agreements, like Sierra Leone's Lomé Peace Agreement legally bind the non-state parties because, first, they are "subjects of international law" that are bound under Article 3 of the 1969 Vienna Convention on the Law of Treaties, and second, non-state parties manifest their intention to be bound on the international legal plane when they sign peace agreements).

report, the situation in Sierra Leone remains precarious, and the 2007 elections may determine the direction the country will take in succeeding decades.[332] Indeed, the new President is Ernest Koroma of the All People's Congress party,[333] the very party the RUF targeted at the inception of the Sierra Leone Civil War.[334] Even more uncertain is how long it will take the thousands of human rights victims living in Sierra Leone to heal from the physical, mental, and emotional wounds of war. Perhaps most uncertain, though, is the likelihood of rehabilitation for those young perpetrators of human rights abuses, conscripted into RUF ranks and forced to advance its gruesome campaign, who are plagued by the wounds that come with wounding another.

Peace for today's generation of Sierra Leonean youths rests on shaky ground. To construct a sturdy foundation for peace, conditions must be stabilized with peace-reinforcing mechanisms that inspire confidence in both Sierra Leone and the international community. The peace agreement framework offered here is one such mechanism. It is only with the deliberate effort to employ peace building tactics that succeeding generations of Sierra Leoneans will be freed from the scourge of war.[335] Indeed, Sierra Leone is not the only nation whose conflict-free future hangs in the balance.[336] The peace durability framework offered in this article could inform peace building solutions in any country attempting to heal from the scourge of war, in hopes that future generations will be born into a more secure world.

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332. Peacebuilding Commission Chairman, *Report of the Peacebuilding Commission Mission to Sierra Leone*, ¶ 7, *delivered to the Security Council and the General Assembly,* U.N. Doc. S/2007/269, A/61/901 (May 10, 2007).

333. Press Release, U.S. State Dept., Ernest Bai Koroma sworn in as President of Sierra Leone (Sept. 18, 2007), *available at* http://freetown.usembassy.gov/pr091907.html.

334. *See supra* discussion Part I.A.

335. The preamble to the U.N. Charter provides: "We the peoples of the United Nations determined to save succeeding generations from the scourge of war . . ." U.N. Charter pmbl.

336. In Burundi, for example, the withdrawal of one of the joint monitoring entities "concerned" the Secretary-General, because the withdrawal might compromise the success of the ceasefire agreement. Marie Okabe, Highlights of the Noon Briefing, U.N., July 27, 2007, http://www.un.org/News/ossg/hilites/hilites_arch_view.asp?HighID=899.

"Peace is precarious, but it is possible."[337]

*Emily E. Bartholomew**