

# Breaking Free: Dag Hammarskjöld, Good Offices and Heads of International Organisations

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## 1. Introduction

Besides being highly influential in establishing the role of heads of international organisations within international law, Dag Hammarskjöld's endeavours significantly altered the office of UN Secretary-General. In contemporary international law heads of international organisations hold important positions. Dag Hammarskjöld's affect on the office of UN Secretary-General and, more particularly, on the good offices role of heads of international organisations is arguably unparalleled. His impact was partly a consequence of the groundwork, at both the UN and League of Nations, of previous holders of the office of Secretary-General. Indeed Tryge Lie can be greatly credited for developing the office of UN Secretary-General. Nonetheless, these officeholders did not instigate the transformation achieved by Dag Hammarskjöld.<sup>1</sup> He went beyond merely carrying out the office of Secretary-General, he understood what the office could conceivably become if developed correctly and, as such, greatly expanded its remit, establishing what is recognised as the contemporary role of heads of international organisations.

Dag Hammarskjöld's impact is so potent that the role now played by heads of international organisations and, particularly the UN Secretary-General, in the contemporary international legal order would have been inconceivable before he entered office.<sup>2</sup> Dag Hammarskjöld advanced the independent voice of heads of international organisations and the key role they play in conflict management and resolution. This article focuses on the UN Secretary-General and more particularly, the role played by Dag Hammarskjöld in developing good offices. The purpose of this article is to consider Dag Hammarskjöld's impact upon the role of UN Secretary-General and good offices. This will be realised through an examination of both his and the Secretaries-General who followed, good offices.

Holding unique positions in international law enables the heads of international organisations to engage with conflict, post-conflict and transitional states differently to other international actors. Strictly, as heads of secretariats, they are first bound by the internal rules of their organisations, second by international institutional law and third by general international law.<sup>3</sup> Yet, these legal parameters stop somewhat short of articulating the full extent of the role which certain heads of international organisations, particularly UN Secretaries-General,

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<sup>1</sup> Under article 6 of the Covenant of The League of Nations the Secretary-General held a role limited to that of a purely administrative officer.

<sup>2</sup> J. L. Kunz 'The Legal Position of the Secretary-General of the United Nations', (1946) 40 AJIL 786, at 786.

<sup>3</sup> P. Sands, P. Klein & D. W. Bowett, *Bowett's law of international institutions* (2009) 303-314

have carved for themselves. Dag Hammarskjöld, in moving beyond the strict limits of the Charter and the role played by his predecessors at the UN and the League of Nations set the tone for future UN Secretaries-General and arguably other heads of international organisations. A UN Secretary-General may now intervene in a conflict on a number of basis; on a UN mandate, on his own initiative independent of a mandate or, alternatively, at the request of parties. In each of these cases, the Secretary-General will either decide the form and structure of the conflict management or will be highly influential in its establishment and design. This is far beyond what was first envisaged for the UN Secretary-General.<sup>4</sup> Dag Hammarskjöld enabled the office of UN Secretary-General to break free from the other organs of the UN and strengthened the independent role of the office.

Despite good offices' rather nebulous legal underpinnings, beginning with the establishment of the UN, contemporary good offices has emerged as one of the foremost forms of pacific settlement. Generally speaking, contemporary good offices consists of the heads of international organisations using their position to undertake a range of dispute management practices. While good offices may be undertaken by states and other international actors, since the establishment of the UN the heads of international organisations have become far more active in this field. This article considers how much this is the result of Dag Hammarskjöld's actions. This examination requires an analysis of the legal structure of good offices and the UN, as well as the practice that Dag Hammarskjöld and other Secretaries-General instituted.

Ultimately, this piece assesses how much Dag Hammarskjöld can claim credit for the present-day operation of good offices and further, what attribution should be given to him in understanding the present roles of heads of international organisations. In asking these questions several other issues are also considered. For example, what were the legal structures for good offices that Dag Hammarskjöld worked within, how these were transformed by practice during his time in office and how much of this change has formed part of contemporary practice. Further, what insights may be garnered from the development of good offices, in relation to contemporary dispute settlement and, more importantly, the role of heads of international organisations as international actors? This article seeks to understand what elements of the changes brought about by Dag Hammarskjöld's remain relevant today.

## **2. What are good offices?**

Good offices possesses no international legal definition. Rather a multitude of various treaty definitions, General Assembly resolutions, and other documents set out its broad parameters. As one of the many methods available for the pacific settlement of disputes, good offices emerges as a practice largely associated with the heads of international organisations, particularly the UN Secretary-General.<sup>5</sup> Indeed, it is the practice of UN Secretaries-General

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<sup>4</sup> Report of the Preparatory Commission of the United Nations (23 December 1945) Chapter VIII, section 2, paras 8-17.

<sup>5</sup> For a excellent overview of international dispute settlement see J. G. Merrills, *International Dispute Settlement* (2011) particularly with regard to good offices, 222-225, as well as L. Gordenker, *Maintenance of Peace* (1989),

which is the best guide to good office's operation in the 21st Century. UN Secretary-General Javier P  rez de Cu  llar argued that good offices is a form of 'quiet diplomacy' and, as such, developing a legal analysis is made more difficult by the lack of documentation and muted terms of its operation.<sup>6</sup> The legal literature and analysis is also somewhat sparse.

Generally, good offices is a form of dispute settlement which maintains numerous techniques for resolution and is capable of evolving alongside a dispute. As such, its exact content is less important than its reliance on the office undertaking the role together with its ability to evolve with the conflict.<sup>7</sup> The importance of the office and personality undertaking good offices is evident in its description. An office holder undertakes "her" good offices, this subjectivity ties the process to the person holding the office, a point which will be returned to in the context of Dag Hammarskj  ld.

Good offices developed from a narrow, state-led form of diplomacy to incorporating a broad range of pacific settlement activities. One of the key features of its evolution has been the transition from state-based to non-state actors being the prime drivers of its operation.<sup>8</sup> Good offices includes; facilitating talks or other procedural obligations, active participation in negotiating, implementing, adjudicating and supervising peace agreements as well as settlements involving humanitarian and human rights law in addition to mediation or conciliation.<sup>9</sup> Good offices transforms alongside the conflict; as it descends into violence, during the conflict and afterward as a method of preventing and ending the violence as well as reconstructing peace including monitoring both ceasefires and peace agreements. Thus, good offices changes as circumstances require.

Historically, various international and regional treaties include a rather narrow interpretation of good offices. The 1899/1907 Convention for the Pacific Settlement of International Disputes defines good offices under article 2 '[i]n case of disagreement or dispute, before an appeal to arms, the Contracting Parties agree to have recourse as far as circumstances allow to the good offices or mediation of one or more friendly powers.'<sup>10</sup> This conception of good offices separates the process of mediation and identifies it closely with conciliation.

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144, T. M. Franck 'The Secretary-General's Role in Conflict Resolution: Past Present and Pure Conjecture', (1995) 6 EJIL 360, 360, A. Brehio 'Good Offices of the Secretary General as Preventative Measures', (1998) 30 NYUJ In and Pol 589, B. G. Ramcharan 'The Good Offices of the United Nations Secretary-General in the Field of Human Rights', (1982) 76 AJIL 130, Benjamin G. Ramcharan, *Humanitarian Good Offices in International Law* (1983), K. R. Simmonds 'Good Offices and the Secretary General' (1959) 29 *Nordisk Tidskrift International Relations* 330, T. Fischer 'Switzerland's Good Offices: A Changing Concept 1945-2002' (Nr 37, Centre for International Studies, 2002) W. J. Dixon 'Third-party Techniques for Preventing conflict escalation and promoting pacific settlement' (1996) 50 *International Organization* 653, F. O. Vicuna, 'New Dispute Settlement Procedures' (1999) 31 *Studies in Transnational Legal Policy* 59, R. Probst, "Good Offices" in the light of Swiss international practice and experience (1989) I. Johnston, 'Role of the UN Secretary-General: The Power of Persuasion Based on Law' (2003) 9 *Global Governance* 441, Report of the Secretary General, In Larger Freedom: towards development, security and human rights for all' 2005, UN Doc. A/59/2005

<sup>6</sup> R. Adams and B. Kingsbury (eds) *United Nations, Divided World* (1996), 133.

<sup>7</sup> Forthcoming A. O'Donoghue 'Good Offices: Grasping the Place of Law in Conflict' (2012) *British Yearbook of International Law*.

<sup>8</sup> See Vicuna *supra*, note 5 at 60.

<sup>9</sup> See for example the description in See Ramcharan, 'Humanitarian' *supra*, note 5, at 35-51, Ramcharan, 'The Good Offices' *supra*, note 5.

<sup>10</sup> art 2 1907 Convention for the Pacific Settlement of International Disputes is identical in both conventions..

Arguably, while maintaining a distinctive form, good offices includes both mediation and conciliation as well as other forms of dispute settlement activities.

Under Article 3 of the 1899/1907 Convention powers that are ‘strangers to the dispute’ should offer their good offices on their own initiative.<sup>11</sup> This established a right of initiative as part of the practice of good offices. The significance of this right of initiative became evident as multilateralism evolved in the post-Charter era, particularly as, from the outset, UN Secretaries-General became involved in situations without specific mandates or invitations. Article 6 the 1899/1907 Convention states that good offices has ‘exclusively the character of advice and never has...binding force.’<sup>12</sup> This non-binding character remains unless the parties agree otherwise or the Secretary-General is acting under a Chapter VII Security Council resolution.

Various heads of international organisations employ good offices, particularly and most comparable to the UN, the Commonwealth Secretary-General and the Director General of the WTO. The Commonwealth increasingly engages in good offices, The Millbrook Commonwealth Action Programme on the Harare Declaration 1995, The Harare Commonwealth Declaration, 1991 and the Coolum Declaration all set good offices as a priority for the Commonwealth Secretary-General.<sup>13</sup>

Under the dispute settlement process within the WTO, its Director General has a good offices role. Article 5 of the Dispute Settlement Understanding states that ‘[g]ood offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree’. Under Article 5.6 the ‘[t]he Director-General may, acting in an *ex officio* capacity, offer good offices, conciliation or mediation with the view to assisting Members to settle a dispute.’<sup>14</sup> While arguably, the UN Secretaries-General's good offices remains the most developed, the role played by both these heads of organisation suggests that good offices is now more widely regarded as part of responsibilities of heads of certain international organisations.

### 3. UN Good Offices

The *In Larger Freedom* Report acknowledges the importance of

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<sup>11</sup> art 3, 1907 Convention for the Pacific Settlement of International Disputes.

<sup>12</sup> For other examples of Treaty based good offices see Vienna Convention on the Protection of the Ozone Layer (adopted 22 March 1985) 1513 UNTS 293, article 11, The American Treaty on Pacific Settlement (adopted April 30 1948) 30 UNTS 55.

<sup>13</sup> The Millbrook Commonwealth Action Programme on the Harare Declaration, 1995, Issued by Heads of Government, New Zealand, 12<sup>th</sup> November 1995, The Harare Commonwealth Declaration, 1991, Issued by Heads of Government in Harare, Zimbabwe, both available from the Commonwealth website, The Coolum Declaration, The Commonwealth in the 21<sup>st</sup> Century: Continuity and Renewal 2002, available from the Commonwealth website, [www.thecommonwealth.org](http://www.thecommonwealth.org)

<sup>14</sup> Under Article 22.6 if a Panel or Appellate review is already underway the Director General may appoint an arbitrator if disputing parties cannot agree on deadlines. A Handbook on the WTO Dispute Settlement System: A WTO Secretariat Publication (2004) 94 Dispute Settlement Understanding, Annex 2 World Trade Agreement

‘using the Secretary-General’s Good Offices to help resolve conflicts...but we could undoubtedly save many more lives...I urge Member States to allocate additional resources to the Secretary-General for his good offices function.’<sup>15</sup>

The UN Secretary-General’s good offices grew out of the Charter’s legal structure. Article 2(4) together with Chapters VI and VII of the Charter set the basic parameters under which pacific dispute settlement occurs. These articles are the springboards from which good offices emerged, though to fully understand its legal position, it is necessary to move beyond the Charter.<sup>16</sup> For example, article 99 states that ‘the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.’<sup>17</sup> This article enables a Secretary-General to independently assess whether a threat to international peace and security exists.<sup>18</sup> Good offices goes unmentioned in the Charter and therefore, it is the resolutions of the General Assembly and Security Council coupled with practice that requires consideration.<sup>19</sup>

The UN Handbook on the Peaceful Settlement of Disputes defines good offices as when

‘[s]tates party to a dispute are unable to settle it directly, a third party, may offer his [or her] good offices as a means of preventing further deterioration of the dispute and as a method of facilitating efforts towards a peaceful settlement of the dispute.’<sup>20</sup>

Further it states that, ‘[t]he third party exercising good offices normally seeks to encourage the parties to the dispute to resume negotiations, thus providing them with a channel of communication.’<sup>21</sup> This is a basic outline of what good offices encapsulates within the UN structure albeit it not mention involvement beyond facilitation or encouragement, it does not exclude these possibilities either.

<sup>15</sup> See In Larger Freedom, *supra* note 5, at 30.

<sup>16</sup> Chapter XV of the Charter sets out the functions of the Secretariat and the Secretary-General, this accompanied with Chapter VI, Chapter VII and Chapter XIV set out the dispute settlement procedures available to the UN. While there is no specific mention of Good Offices anywhere in the Charter, subsequent practice, including resolutions of the Security Council and General Assembly, has made it an integral part of the UN’s dispute settlements measures.

<sup>17</sup> Kofi Annan argued that, ‘successive Secretary-Generals ...have invoked this article very sparingly. Kofi Annan, ‘Dag Hammarskjöld and the 21<sup>st</sup> Century’ Speech delivered on 6 September 2001 in Uppsala, Sweden. (2001) UN Chronicle No, 46.

<sup>18</sup> This has since been supplemented by the General Assembly Resolutions *inter alia* UNGA Res 37/10 The Manila Declaration on the Peaceful Settlement of Disputes between States (15 November 1982), UNGA Res. 43/51 Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field (5 December 1988), UNGA Res. 50/50 United Nations Model Rules for the Conciliation of Disputes between States (11 December 1995) UNGA Res. 57/26, Prevention and Peaceful Settlement of Disputes, (3 February 2003) Johnstone argues that UNSC Res. 1366 extends the power of Article 99 somewhat in that enables the Secretary-General to bring to the attention of the Security Council cases of serious violations of international law. See Johnston *supra*, note 5 at, 441- 442.

<sup>19</sup> UNGA Res 43/51 Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field (5<sup>th</sup> December 1988) and UNGA Res 37/10 The Manila Declaration on the Peaceful Settlement of Disputes between States (15<sup>th</sup> November 1982).

<sup>20</sup> *The United Nations Handbook on the Peaceful Settlement of Disputes Between States*, UN Doc. OLA/COD/2394, para 101.

<sup>21</sup> *Ibid.*, at para 102.

The General Assembly Resolution on the Peaceful Settlement of Disputes between States affirms that the 'Secretary-General should make full use of the provisions of the Charter.'<sup>22</sup> General Assembly Resolution 43/51 also examined the good offices of the Secretary-General, stating that the, 'Secretary-General if approached by a State or States directly concerned with a dispute or situation should respond swiftly by urging the States to seek a solution...and by offering his good offices.'<sup>23</sup> It goes on to say that, 'The Secretary-General should...consider making full use of fact finding capabilities.'<sup>24</sup> These resolutions were followed in 1995 and 2003 by resolutions reaffirming the role.<sup>25</sup> The Security Council, meeting for the first time at head of state level, also requested that the Secretary-General continue to make use of good offices.<sup>26</sup>

Together with more specific mandates these resolutions establish the legal and political basis for good offices within the UN. In combination these put beyond dispute that good offices forms part of the Secretary-General's function. Thus, it is the parameters of action which are open to discussion and not good offices' legitimacy. Both the Security Council and General Assembly have utilised good offices on many occasions, some of which are explored in the next section. The Charter, resolutions and specific mandates of the Security Council and General Assembly are integral to understanding the good offices role which Secretaries-General carved for themselves.

### **3.1.Security Council Mandates**

Article 98 is the basis on which the Security Council uses the Secretary-General's good offices. Under this article the Security Council can ask the Secretary-General to carry out any activities that it considers necessary. Chapters VI and VII outline the Security Council's role in maintaining international peace and security and enables it to mandate the Secretary-General to take steps necessary to carry out this function. While actions taken under Chapter VII provides a Secretary-General with particularly strong legal foundations, the manoeuvrability and independence of the Secretary-General in carrying out the role must also be carefully maintained.

In 1946 the Security Council first used the Secretary-General's good offices. The conflict centred on the presence of Soviet troops in occupation of the Northern Azeri region of Iran. Trygve Lie, already involved on his own initiative, was asked by the Security Council, in the

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<sup>22</sup> General Assembly Resolutions 37/10 The Manila Declaration on the Peaceful Settlement of Disputes between States, 15<sup>th</sup> November 1982. Part II 6, it also states in Part I, 5 that "States shall seek in good faith...settlement of their international disputes by any of the following means: negotiation, inquiry, mediation, conciliation, arbitration... or other peaceful means of their own choice, including good offices".

<sup>23</sup> General Assembly Resolution 43/51 Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field. 5<sup>th</sup> December 1988. Part 20, it goes on in Part 21 to state, "The Secretary-General should consider approaching the States... in an effort to prevent it from becoming a threat to the maintenance of international peace and security".

<sup>24</sup> Ibid., at part 22.

<sup>25</sup> General Assembly Resolution 50/50 United Nations Model Rules for the Conciliation of Disputes between States, 11<sup>th</sup> December 1995, GA Resolution 57/26, Prevention and Peaceful Settlement of Disputes, 3<sup>rd</sup> February 2003.

<sup>26</sup> UN Doc. S/235000, 13<sup>th</sup> January 1992 at 4.

absence of the USSR, to have all parties report to him on troop withdrawal.<sup>27</sup> In the same year, the Security Council asked Trygve Lie, again already engaged on his own initiative, to be involved in the Commission to settle a dispute on the northern Greek frontier between Greece and Yugoslavia.<sup>28</sup> These two incidences show the Security Council's early confidence in both the office of the Secretary-General and Trygve Lie as incumbent.

The Security Council asked Trygve Lie to report on events in Korea.<sup>29</sup> These reports are key to understanding the developing character of good offices as Trygve Lie used the opportunity to make a statement on his own understanding of events as opposed to an impartial account. Franck argues that, with particular regard to Security Council mandates, such reports enable a Secretary-General to separate himself from both the disputants and the Security Council.<sup>30</sup> In doing so, Trygve Lie laid the foundations for the actions subsequently taken by Dag Hammarskjöld.

### 3.2. General Assembly Mandates

Unlike the Security Council, on very few occasions has the General Assembly asked the Secretary-General to become involved in a specific conflict. Rather, the General Assembly has been prolific in re-affirming the importance of the Secretary-General's good offices as a key aspect of the pacific settlement of disputes.<sup>31</sup> In 1950 the General Assembly established the Permanent Commission for Good Offices but this initiative was not followed by any concerted efforts to actually engage in the practice.<sup>32</sup> Despite the ability to give the Secretary-General whatever instruction it wishes, and the adoption of the 1950 United for Peace Resolution, the General Assembly was slow to give a specific mandate.<sup>33</sup> Trygve Lie was only set administrative tasks within dispute settlement missions rather than any separate mandate for active involvement in dispute resolution.

This lack of General Assembly activity can be explained by the more pro-active role the Security Council was, at that time, undertaking. The Peking Formula, an initiative of Dag Hammarskjöld's explored below, is indelibly linked to the differences between Security Council and General Assembly mandates. The role of Chapter VII and its binding character differentiates the mandates of both organs and, as such, changes the relationship both have with the Secretary-General. Nonetheless, prior to Dag Hammarskjöld taking office, the General Assembly had not actively engaged the Secretary-General as a purveyor of good offices.

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<sup>27</sup> SC Resolution 2, The Iranian Question, 30<sup>th</sup> January 1946.

<sup>28</sup> SC Resolution 15, The Greek Question, 19<sup>th</sup> December 1946.

<sup>29</sup> Gordenker, *supra* note 5, at 144.

<sup>30</sup> Franck, *supra* note 5, at 384, Reports of the Secretary-General to the Security Council since 1994 are available at the United Nations website at [www.un.org/documents/](http://www.un.org/documents/)

<sup>31</sup> For example, GA Resolutions 37/10 The Manila Declaration on the Peaceful Settlement of Disputes between States, 15<sup>th</sup> November 1982, GA Resolution 43/51 Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field 5<sup>th</sup> December 1988, GA Resolution 50/50 United Nations Model Rules for the Conciliation of Disputes between States 11 December 1995, GA Resolution 57/26, Prevention and Peaceful Settlement of Disputes. 3<sup>rd</sup> February 2003.

<sup>32</sup> GA Resolution 379(V) Establishment of a Permanent Commission of Good Offices, 17<sup>th</sup> November 1950

<sup>33</sup> GA Resolution 377(V) United For Peace, 3<sup>rd</sup> November 1950.

### 3.3. On the Initiative of the Secretary-General

The Secretary-General, no matter who has held office, has always acted on his own initiative. The description of early Security Council mandates in the previous section, where Trygve Lie had, in fact, already become involved are good examples of such activity. Trygve Lie's involvement in the Iranian question was one of the first such activities, unequivocally laying claim to the Secretary-General's ability to inquire into situations on his own initiative. The basis on which the Secretary-General becomes involved in negotiations is probably most closely linked to article 99. To assess whether there is a threat to international peace and security the Secretary-General will, at the very least, have to investigate the circumstances. The ability of the Secretary-General to use article 99 in circumstances where he felt there was a threat to international peace and security, aided in the development of autonomous initiatives and underpins the necessity to carry out the role as prescribed by the article though it has been sparingly applied.

During the Korean conflict, Trygve Lie took a very public position. Luard suggests that '[i]t is arguable that he might have done better to leave the initiative more strictly in the hands of the Council and have acted... on the basis of instructions he received from the political bodies.'<sup>34</sup> Trygve Lie came under attack from the Soviet Union for his actions and, as a result, they refused to back him for another term in office. The USA resolved to veto any candidate other than Trygve Lie and, in the end, a General Assembly resolution extended Lie's term of office.<sup>35</sup> Thereafter, the Soviets 'consistently boycotted Trygve Lie on every occasion when he appeared.'<sup>36</sup> Nationalist China also refused to back Lie due to his support for Communist China's representation at the UN. Thus Trygve Lie's ability to carry on good offices was radically reduced and eventually his position being untenable, hastening his retirement.

From these early episodes what is clear is that the Secretary-General was not free to voice an unrequested opinion or become involved in a situation without being first solicited to do so or least being ratified after he had become involved. If not, the wrath of certain members was sufficient as to stop the Secretary-General from carrying out his office. From this basic outline of the circumstances in which Dag Hammarskjöld took over the role of Secretary-General and good offices, it is possible to examine the consequences of his term in office.

## 4. Dag Hammarskjöld and Good Offices

This section examines the good offices undertaken by Dag Hammarskjöld while UN Secretary-General. Two key events: Congo and Peking Hostages, are examined as essential examples of the changes brought about by Dag Hammarskjöld. The development of what was known as 'leave it to Dag' is also considered as an important feature of Dag Hammarskjöld's

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<sup>34</sup> E. Luard; *A History of the United Nations, Volume 1: The Years of Western Domination 1945-1955* (1982), 349.

<sup>35</sup> GA Resolution 492/(V) Continuation in Office of the Secretary-General of the United Nations, November 1<sup>st</sup>, 1950.

<sup>36</sup> See Luard, *supra* note 34, at 352.



influence both on the role of Secretary-General and the use of the good offices.<sup>37</sup> 'Leave it to Dag' also highlights how much of the role of Secretary-General and good offices is linked to the personality holding the office.

'Leave it to Dag' emerged during the Suez crisis of 1956. Dag Hammarskjöld had already, before the UN asked for his involvement, held consultations in Israel and Egypt during the build up to the Suez Crises. Subsequently, under instructions from the Security Council, Dag Hammarskjöld became embroiled in the conflict.<sup>38</sup> Suez is a good example of a Security Council mandate during Dag Hammarskjöld's time in office. The resolution required Dag Hammarskjöld to report on compliance with the armistice agreement and further to ensure its effectiveness. Dag Hammarskjöld played a central role in relaxing the tensions between the parties and indeed the parties were quite positive about his involvement.<sup>39</sup>

After the initial crisis had passed Dag Hammarskjöld continued as a guarantor of the settlement, most probably extending the role beyond what the Security Council mandated, however as Higgins points out, most of these resolutions tend to be vague in their exact parameters.<sup>40</sup> Dag Hammarskjöld's success in the Suez led directly to the 'leave it to Dag' approach within the Security Council and established both Dag Hammarskjöld and the office of Secretary-General at the centre of pacific settlement of disputes, though how much this relied on Dag Hammarskjöld's personality is unquantifiable.

While it was in Suez that the confidence of UN members in Dag Hammarskjöld was established it was in both Congo and in establishing the Peking formula that Dag Hammarskjöld pushed the basis for Secretary-General action. Both of these events moved authorisation for good offices beyond the membership and politics and put the office of Secretary-General forward as an independent office, an international actor based within the Charter with guidance from UN organs as a secondary basis of action.

#### 4.1. Congo

The conflict in Congo was a test for the UN and an indicator of the type of conflicts which would become central to its work. Congo was particularly important for Dag Hammarskjöld as he grappled with both conflicting parties within the country but also the wider interests pushing for various outcomes. Congo came to dominate his final years in office. Gordenker argues that 'nothing had more novelty than the role of the Secretary-General in organising and directing the deployment of armed battalions.'<sup>41</sup> Indeed, Congo was a watershed for both the UN and the office of Secretary-General.

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<sup>37</sup> Gordenker, *supra* note 5, at 352.

<sup>38</sup> SC Resolution 118 Complaint by France and the United Kingdom against Egypt 13<sup>th</sup> October 1956, SC Resolution 119 Complain by Egypt against France and the United Kingdom 31st October 1956

<sup>39</sup> Gordenker, *supra* note 5, at 157.

<sup>40</sup> R. Higgins, *Problems and Process: International Law and How We Use It* (1994), 172

<sup>41</sup> Gordenker, *supra* note 5, at 157.

Prior to the initial Security Council mandate, Dag Hammarskjöld used article 99 to propose the deployment of peacekeepers in Congo.<sup>42</sup> The Security Council granted Dag Hammarskjöld an extremely wide and somewhat vague mandate enabling him to take an extensive range of actions.<sup>43</sup> Dag Hammarskjöld took a very hands-on approach which has not been replicated since. The wide-remit granted by the Security Council mandate allowed Dag Hammarskjöld to react to changing events on the ground and to make decisions quickly.<sup>44</sup> The unfolding events in Congo are discussed in depth elsewhere and, as such, this paper will only linger upon its impact on good offices.

In describing his decision-making process Dag Hammarskjöld outlined the legal hierarchy which a Secretary-General should follow in settling upon a plan of action. First follow, 'the principles and purposes of the Charter which are fundamental law and accepted by and binding on all States.'<sup>45</sup> Second consider 'the body of legal doctrine and precepts that have been accepted by States generally and particularly as manifested in the resolutions of UN organs'.<sup>46</sup> Dag Hammarskjöld places the Charter and not the mandate given by members, either through Security Council or General Assembly, as the first basis of his authority. This is significant in establishing the independence of the office of Secretary-General and the role maintained through good offices.

Dag Hammarskjöld argued that Member States, in signing the Charter, were binding themselves, on all occasions, to follow its precepts.<sup>47</sup> The hierarchy established under article 103 of the Charter extends to the entire international legal order. Customary international law, treaty law and other secondary sources of authority complete and sustain the Charter but do not compete for power. This established a binding line of authority which places the Charter at its apex followed by the Security Council as the organ with binding authority. Yet, even Security Council resolutions must be in compliance with the precepts of the Charter. Kofi Annan argued, confirming Dag Hammarskjöld's chain of authority, that, '[a] Secretary-General must be judged by his fidelity to the principles of the Charter.'<sup>48</sup>

Importantly, for good offices, this line of authority establishes the independence of the UN Secretary-General as separate from other UN organs. According to Dag Hammarskjöld when a Secretary-General is following a Security Council mandate under article 98 both the spirit of the mandate and the Charter, with the Charter as pre-eminent, must be kept in mind. Yet, if a Secretary-General judged a Security Council mandate to be outside the principles of the Charter it is not clear what options might be open to him, particularly as there is no judicial review or other similar process within the UN.

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<sup>42</sup>E. Luard *A History of the United Nations, Volume 2, The Age of Decolonisation 1955-1965* (1989) at 220

<sup>43</sup> SC Resolution 143, The Congo Question 17<sup>th</sup> July 1960.

<sup>44</sup> For a full account of the Congo operation See Gordenker, *supra* note 5, at 217-282.

<sup>45</sup>H. K. Jacobson *Networks of Independence: International Organisations and the Global Political System*, (1979), 137.

<sup>46</sup> *Ibid.* at 137.

<sup>47</sup> Charter of the United Nations, Article 2.2.

<sup>48</sup> Podium 'Impartiality does not mean Neutrality. From a speech by the Secretary-General of the United Nations to the Council on Foreign Relations in New York' *The Independent* January 22<sup>nd</sup> 1999.

Dag Hammarskjöld's involvement in Congo led him to an impasse with the Soviet Union similar to what Trygve Lie had experienced concerning Korea. While, unlike Trygve Lie, he was appointed for a second term by the Security Council, the Soviet Union instigated a sustained plan to remove him from office, and to contemporaneously greatly reduce the power of the Secretary-General.

Chairman Khrushchev stated that the;

‘[a]ssembly should call Mr Hammarskjöld to order, ensure that he does not misuse the position of the Secretary-General; but carries out his functions in strict accordance with the provisions of the UN Charter and the decisions of the Security Council.’<sup>49</sup>

This mirrors comments made in 2004 by the Greek Cypriot leaders regarding Kofi Annan.<sup>50</sup> When a Secretary-General acts in a manner which dissatisfies some members, there is still criticism, however, following Dag Hammarskjöld, such censure is not paralysing. The Soviet Union boycotted Dag Hammarskjöld and proposed a troika office of Secretary-General.<sup>51</sup> This plan never obtained enough support to become a serious option as the political hyperbole that underlined both the criticism and the troika proposal was evident. The impact upon the development of good offices of the Soviet Union's campaign is unclear as it was cut short by Dag Hammarskjöld's death. If a troika position had been created, it is possible that growth may have been stunted as the independence behind good offices would be reduced and possibly good offices may have altogether ceased.

## 4.2. The Peking Formula

Dag Hammarskjöld's establishment of the Peking Formula was key in furthering the independence of the office of Secretary-General and developing good offices as one of its most important functions. Fundamentally, the ‘Peking Formula’ enables the Secretary-General to adjust a General Assembly mandate to make possible his completion of a good offices mission. If a Secretary-General receives a mandate from the General Assembly to conduct negotiations and the mandate is either restrictive or criticises one or more of the parties, the Secretary-General modifies the mandate to accommodate negotiations.

The Peking Formula was established in 1954 when Dag Hammarskjöld was given a mandate by the General Assembly to negotiate the release of US Aircrew Hostages held in the People's Republic of China which, at that time, remained unrepresented at the UN as Nationalist China held the seat. This last detail added to the complications in undertaking the mission. However, the biggest hindrance to resolving the situation proved to be the General Assembly's resolution.<sup>52</sup> In its outright condemnation of the Government of the People's

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<sup>49</sup> See Luard, *supra* note 42, at 203.

<sup>50</sup> Reported in *The Washington Times*, June 14<sup>th</sup> 2004 and ‘Annan's Future Clouded, US says’ *The Washington Post*, April 22<sup>nd</sup> 2003.

<sup>51</sup> J. Cockayne & D. M. Malone, ‘Relations with the Security Council’, in S. Chesterman (ed), *Secretary or General? The UN Secretary General in World Politics* (2007), 69 at 75.

<sup>52</sup> GA Resolution 906/(IX) Complaint of Detention and Imprisonment of United Nations Military Personnel in violation of the Korean Armistice Agreement, 10<sup>th</sup> December 1954.

Republic of China for detaining the aircrew, the resolution made it highly unlikely that they would agree to negotiate for the release of the hostages under its terms.

Dag Hammarskjöld found the resolution too partisan to allow for successful dialogue. To reach a deal with the Government of the People's Republic of China, he disengaged the negotiations from the very General Assembly resolution that granted his mandate. Dag Hammarskjöld assured the Government of the People's Republic that their acceptance of his good offices did not imply acceptance of the UN General Assembly's censure. In disassociating himself from the resolution and taking an impartial stance he fell somewhere between a specific mandate to act and an independent initiative.

The innovation of the Peking Formula should not be underestimated. The use by the General Assembly of good offices while contemporaneously accepting impartial political and diplomatic activity on the part of the Secretary-General was essential in developing the autonomy of the Secretary-General and of good offices. It is what Hammarskjöld described as having, 'led to the acceptance of an independent political and diplomatic activity on the part of the Secretary-General as the neutral representative of the Organisation.'<sup>53</sup> This growing independence was sustained and transformed by Dag Hammarskjöld while he was in office and continued by his successors.

Importantly, the Peking Formula is indelibly linked to a General Assembly and not a Security Council mandate thus indicating that while the Secretary-General can deviate from a mandate established by the General Assembly this is less likely with a Security Council resolution. The authority sanctioning both organs' use of the Secretary-General comes from the same article of the Charter and this may *prima facie* imply that the ability to digress from a strict reading of a mandate should be cognate. Nonetheless, reading the Charter as a whole, the Chapter VII authority of the Security Council to bind members in matters of international peace and security must also be considered.<sup>54</sup> This supremacy appears to be the reason for the Secretary-General's stricter interpretation of Security Council resolutions, even when not adopted under Chapter VII, as opposed to the liberal interpretations of General Assembly resolutions. However, the above discussion of Dag Hammarskjöld's own view of the line of authority should also be kept in mind in considering the Peking Formula.

## 5. After Dag Hammarskjöld

Discussing the legacy of Dag Hammarskjöld, Kofi Annan stated that, 'I suspect he would envy me the discretion I enjoy in deciding what to say and what topics to comment on.'<sup>55</sup> Kofi Annan regarded himself, the seventh Secretary-General, as having much more discretion and independence than Dag Hammarskjöld. To fully understand the impact which Dag Hammarskjöld had on good offices and the office of Secretary-General a brief overview of

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<sup>53</sup> Gordenker, *supra* note 5, at 144.

<sup>54</sup> UN Charter Art 98.

<sup>55</sup> Kofi Annan: Dag Hammarskjöld and the 21<sup>st</sup> Century, Speech delivered on 6<sup>th</sup> September 2001 in Uppsala, Sweden. (2001) UN Chronicle No, 46, 46.

the activities of the Secretaries-General who followed him is necessary. This section will outline how good offices developed after Dag Hammarskjöld's death.

Since U Thant's engagement in the dispute in 1964, Cyprus has been a re-occurring fixture of Secretaries'-General good offices which continues to be beyond resolution.<sup>56</sup> Following the Turkish invasion of 1974, Kurt Waldheim established a framework for negotiation,<sup>57</sup> however, as with every case since, subsequent talks stalled.<sup>58</sup> Boutros Boutros Ghali held intensive negotiations 1993.<sup>59</sup> This effort was welcomed by the Security Council but, again, was unsuccessful.<sup>60</sup> Kofi Annan, in his efforts to resolve the dispute, moved far beyond the traditional role of good offices to actually composing, instead of mediating, a settlement that became known as the Annan Plan. Under the Plan if parties failed to negotiate a settlement it was agreed to put to a resolution composed by the Secretary-General to the people by referendum.<sup>61</sup> Ultimately, the plan was rejected by the Greek Cypriot community.<sup>62</sup> In the aftermath of the failed plan Kofi Annan decided that he had accomplished all he could at that time.<sup>63</sup> Negotiations have once again commenced under the current Secretary-General.<sup>64</sup>

From a good offices perspective what is important is the vast independence that Kofi Annan had in devising a resolution which was directed at individuals and not their representatives. For the first time, there was a direct line between individuals and the office of Secretary-General. This appears to be the furthest that Security Council mandated good offices have been extended. While in the Congo, Dag Hammarskjöld had the power to conduct battles on the ground, he did not have the authority to bypass the political representatives and go directly to the people. The Cypriot Security Council resolutions tend to be imprecise and no member of the Security Council has criticised a Secretary-General's actions in Cyprus, which suggests their acquiescence to his wider activities. This exemplifies just how much the role has grown and the trust parties and the Security Council now have in the Secretaries'-General good offices, even if some parties to the dispute have themselves criticised the Annan Plan and subsequent negotiations have yet to bear fruit.<sup>65</sup>

The Security Council continues to rely on good offices. Its use has ebbed and flowed, for example in the aftermath of the Cold War the Security Council's invocation of good offices diminished. Nonetheless, what is evident is how much the Security Council value good

<sup>56</sup> For details see [www.cyprus-un-plan.org](http://www.cyprus-un-plan.org).

<sup>57</sup> Report of the Secretary-General on Cyprus, 30<sup>th</sup> April 1977, SG S/12523.

<sup>58</sup> K. Waldheim *The Challenge of Peace* (1980) 73.

<sup>59</sup> UN Doc S/24472 of 21<sup>st</sup> August 1992.

<sup>60</sup> SC Resolution 889 Cyprus, 15<sup>th</sup> December 1993.

<sup>61</sup> Text of the Annan Plan and other details are available from [www.cyprus-un-plan.org](http://www.cyprus-un-plan.org).

<sup>62</sup> Report of the SG on his mission of Good Offices in Cyprus. 28<sup>th</sup> May 2004, S/2004/437,1

<sup>63</sup> *Ibid.*, 2.

<sup>64</sup> 'Cyprus: Ban calls for decisive steps towards final settlement after intensive talks' *UN News Service* 25th January 2012, <http://www.un.org/apps/news/story.asp?NewsID=41035&Cr=Cyprus&Cr1=#>.

<sup>65</sup> Reported in *The Washington Times*, June 14<sup>th</sup> 2004, 'In a seven-page response to a highly critical report on the Greek-Cypriot attitude by Mr. Annan, Mr. Papadopoulos described proposals for better relations with the Turkish-Cypriot state as "outside the secretary-general's good offices mission" and in "direct contravention of the Security Council resolution and international law." He termed Mr. Annan's conclusions "insulting," "offensive" and "flawed" and said the United Nations was setting itself up as "judge and jury."' Though given both sides agreed to let the Secretary-General putting forward a settlement this seems more like political posturing given international criticism.

offices as a significant aspect of the Secretary-General's role.<sup>66</sup> In this short space, every Security Council mandate cannot be discussed, however, the continued use and support for good offices is apparent. In 1946, they were the first UN organ to entrust the Secretary-General with good offices. Although this is not surprising given the Security Council role in the maintenance of international peace and security, it suggests an immediate recognition of its importance. The Security Council allows much latitude in these mandates. While occasionally there has been criticism, the role which Dag Hammerskjöld established allows for much independence. The Security Council readily relies on good offices and their lead gave credence to the mandates which have followed from other UN organs.

The General Assembly continues to employ the Secretary-General's good offices. For example, over several years the General Assembly requested the Secretary-General's involvement in Cambodia.<sup>67</sup> In addition, variations on the Peking Formula continue, for example, Javier Pèrez de Cuéllar in Afghanistan in the 1980s. The Soviet Union's veto in the Security Council left it to the General Assembly to mandate the Secretary-General negotiations.<sup>68</sup> Over the following years the Secretary-General was heavily involved. The General Assembly's resolution called for the immediate withdrawal of Soviet troops, an objectionable proposition to both the Soviet Union and the Afghan Government it supported.<sup>69</sup> To conduct negotiations the Secretary-General employed the Peking Formula.<sup>70</sup> Urquhart described the Secretary-General's involvement as 'offer [ing] a compelling example of an exceedingly difficult and long step by step process of UN conflict resolution in a situation in which others could not or did not wish to act'.<sup>71</sup>

Of late, the General Assembly has taken a backseat in good offices as the Security Council takes the lead in international peace and security. Though, as mentioned above, the General Assembly has continued to support the notion of good offices in the guise of broader resolutions on dispute settlement within the UN.

The Secretary-General continues to act on his own initiative. In 1962, a Yemenite *coup d'état* and the involvement of foreign forces supporting both sides of the conflict caused an escalation in violence within the country. Thant negotiated for the dispatch of UN forces to supervise the withdrawal of foreign forces. Subsequently, he reported his activities to the Security Council which did not debate the Report, suggesting their tacit agreement to the Secretary-General acting on his own initiative.<sup>72</sup>

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<sup>66</sup> Security Council Resolution 669 Iraq-Kuwait 24<sup>th</sup> September 1990, 'Welcoming the Secretary-General's use of his Good Offices to advance a peaceful solution based on the relevant resolutions of the Council...'

<sup>67</sup> GA Resolution 34/22 The situation in Kampuchea 14<sup>th</sup> November 1979, GA Resolution 44/22 The situation in Kampuchea 16<sup>th</sup> November 1989.

<sup>68</sup> GA Resolution 35/37 The Situation in Afghanistan and its Implications for International Peace and Security November 20<sup>th</sup> 1980.

<sup>69</sup> GA Resolution ES-6/2, 14<sup>th</sup> January 1980.

<sup>70</sup> UN Press Release SG/SM/4124, 20<sup>th</sup> April 1980.

<sup>71</sup> V. Avakov, 'The Secretary General in the Afghanistan Conflict, The Iran-Iraq War, and the Gulf Crisis', in B. Rivlin & L. Gordenker (eds), *The Challenging Role of the UN Secretary General Making: The Most-Impossible Job in the World Possible* (1993), 152 at 155.

<sup>72</sup> *Ibid.* at 167.

U Thant's involvement in Vietnam illustrates the pressure a Secretary-General can bring to bear upon members of the UN. Originally, U Thant expressed a wish to only hold one term of office, however 'when he made public his reluctance, the expressions of support and confidence which his reluctance had elicited demonstrated that he too now had considerable capacity to make demands.'<sup>73</sup> He chose to claim a wider UN role in Vietnam, While such a demand was not popular with the US and he had little success, unlike his immediate predecessor he did not fall out with a major power to such a degree that his tenure became impractical, underscoring the growing independence of the office.

Kurt Waldheim was less sure of the Secretary-General's ability to act and stated, following an unsuccessful involvement in the 1980 American hostage situation in Iran, that the 'simple truth' was that the Secretary-General 'has no executive power.'<sup>74</sup> This pronouncement despite the fact that during an earlier hostage situation in Algeria, Kurt Waldheim neither sought nor received any mandate and successfully negotiated the release of hostages. This incidence also demonstrates that states are willing to respond to such activities by a Secretary General.<sup>75</sup>

In 1983, Javier Pèrez de Cuéllar with the Secretary-General of the OAS and the Contadora Group settled various conflicts in Central and South America.<sup>76</sup> Their efforts resulted in the Arias plan, the Esquipalas Accords I and II and the Declaration of Costa del Sol.<sup>77</sup> His personal involvement in settling the Central American issue was pivotal and without his intense motivation, it is doubtful that such success would have been achieved.<sup>78</sup> The fact that the majority of the activities undertaken were outside a Security Council or General Assembly mandate helps to cement the independent good offices role, especially when it resulted in a successful resolution.

In 1991, Javier Pèrez de Cuéllar involved himself in the hostage situation in the Lebanon. After several fruitless efforts by other mediators to liberate the hostages, Javier Pèrez de Cuéllar secured their release.<sup>79</sup> He stated that 'I have been working I don't know how many years, working quietly in order to obtain the release of all the hostages'.<sup>80</sup> This illustrates the low-key manner in which good offices are performed. He eventually secured the release of all the hostages in the Lebanon; this is especially significant given the difficult on-going power struggles in the area.

A more recent development has been the use of good offices outside the realm of the UN. A request by parties to a dispute and, or, regional group, to a Secretary-General to use his good offices to resolve a dispute. Probably the most famous example is the Rainbow Warrior Dispute.<sup>81</sup> Such requests epitomise the confidence which states place in the office of

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<sup>73</sup> U Thant *View from the UN* (1978) 80.

<sup>74</sup> O. Pellicer, 'The United Nations in Central America: The Role of the Secretary General, see Rivlin & Gordenker *supra* note 71, at 179.

<sup>75</sup> See Waldheim *supra* note 58, at 179.

<sup>76</sup> Consisting of Columbia, Mexico, Panama and Venezuela.

<sup>77</sup> See *supra* note 74, 177-178.

<sup>78</sup> *Ibid.* 181.

<sup>79</sup> T. M. Franck *Fairness in International Law and Institutions* (1997) 188.

<sup>80</sup> 'Hostage Release: Steady gains for the freedom- brokers' *The Guardian* September 25<sup>th</sup> 1991.

<sup>81</sup> Rainbow Warrior Dispute (1987) 26 ILM 1346.

Secretary-General. This authority is distinct to that used by the Security Council or the General Assembly under the Charter. How much this authority depends on the individual personality of the incumbent or the political climate at the time open to debate.

Under Article 100 of the Charter the Secretary-General and the Secretariat 'in the performance of their duties...shall not receive instructions from any Government'. In acting at the request of the parties, it is possible the activities fall outside the duties under the Charter and, as such, grant more leeway. In acting as Secretary-General (and it is as Secretary-General the individual has been solicited and not as a private person) he should follow first 'the principles and purposes of the Charter which are fundamental law and accepted and binding on all States.'<sup>82</sup> It is difficult to imagine circumstances that would permit circumvention of the principles of the Charter. If such activities were in contravention of a resolution, it is very possible that the Secretary-General may be transgressing article 100.

The Cuban Missile Crisis proffers a good example of the use by major powers of Secretary-General good offices. Reportedly the;

'US Assistant Secretary of State for International Organisational Affairs credits the Secretary-General with serving as a middleman in crucial parts of the dialogue between President Kennedy and Chairman Khrushchev which assistance led to a peaceful solution.'<sup>83</sup>

U Thant was on hand to 'propose a quid pro quo between the Soviet Union and the US for simultaneous removal of missiles from Turkey and Cuba.'<sup>84</sup> Although this never came to pass it suggests the faith the superpowers had in the Secretary-General's impartiality and independence as well as his ability to act without a Council or Assembly mandate. The very fact it was the two superpowers who had solicited the Secretary-General's aid further added, at this critical juncture, to the legitimacy of parties coming to the Secretary-General independent of a UN mandate.

During the Rainbow Warrior dispute, Javier Pèrez de Cuéller, at the request of France and New Zealand, negotiated a settlement between the two States.<sup>85</sup> This settlement, which looked more akin to arbitration than traditional good offices, was a departure, which similar to the Annan Plan illustrated the depth of authority given to Secretaries-General. Both parties agreed, in advance, to a binding settlement, a significant departure from traditional good offices and demonstrates the change that has come about in its operation.

There are many examples of a Secretary-General embroiling himself in good offices at the request of the parties. So far this has not lead to any conflict of interest with resolutions of the UN organs, although such conflict is not purely hypothetical. As Trygve Lie stated

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<sup>82</sup> See Jacobson *supra* note 45, at 137.

<sup>83</sup> See Franck *supra* note 92, at 178 and see Gordenker, *supra* note 5, at 174.

<sup>84</sup> See Luard, *supra* note 34, at 353.

<sup>85</sup> Rainbow Warrior Dispute (1987) 26 ILM 1346.



‘when he agrees with us, governments tend to feel the Secretary-General is within his rights and is a good fellow besides; when his views differ from ours he is clearly exceeding his authority, his reasoning is bad and even his motives may be suspect.’<sup>86</sup>

A Secretary-General must keep his position as an officer of the UN at the forefront of his mind if he is not to do damage to both the office of Secretary-General and good offices. So far all Secretaries General have succeeded in balancing commitments to resolving conflict and to the UN. Their ability to do is largely down to the groundwork set by Dag Hammarskjöld during his term in office.

## 6. Conclusion

It was suggested when Javier Pèrez de Cuéller took over as Secretary-General that his predecessors had created a ‘dispute settlement role’ whose content may be in opposition to most UN members.<sup>87</sup> More than any other holder of the office of Secretary-General Dag Hammarskjöld established the dynamism and independence of the dispute settlement role identified when Javier Pèrez de Cuéller took office. Dag Hammarskjöld’s impact as Secretary-General is evident in the independence of the office, the development of good offices beyond a very narrow conception and the expansion of the role of the individual international actor. While this paper examined this evolution only in the context of good offices, in many ways, this exemplifies the strengths and difficulties associated with the office of Secretary-General and just how important Dag Hammarskjöld is to the role.

The intervention of international actors in conflict has become an accepted attribute of conflict resolution and transitions to peace. Yet, as outlined, the exact parameters of action for heads of international organisations are far from obvious. The legitimacy of the UN Secretary-General’s actions emanate from the Charter and the UN organs, as well as the practice emanating from the office. The Secretary-General is as an accepted international actor and arbitrator whose involvement does not denote any acceptance of the wider UN membership’s political views. Without the advances made by Dag Hammarskjöld it is unlikely if the office would have developed to the extent that Secretaries-General are free to act independent of both the members and organs of the UN.

When, as the first Secretary-General Trygve Lie, was sworn into office, the President of the General Assembly called upon him to be ‘firm without intransigence ... be conciliatory without weakness ... impartial without exception.’<sup>88</sup> Trygve Lie’s difficult task of laying the groundwork for the office must be given credit, particularly his perseverance in not bowing to the pressures members placed upon him. Nonetheless, incontrovertibly it was Dag Hammarskjöld, in standing fast in the Congo and during the Peking Hostage situation, who firmly established that a Secretary-General was not at the whim of the powerful states or members and further, regarding good offices, a Secretary-General works within the principles

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<sup>86</sup> See Luard, *supra* note 34, at 346.

<sup>87</sup> See Adams and Kingsbury, *supra* note 6, at 148.

<sup>88</sup> Verbatim Record of the Twenty-Second Plenary Meeting, Installation of the SG of the UN, Saturday, 2<sup>nd</sup> February 1946 at 11:00 am A/PV.22.

of the Charter and not the vagaries of politics. Naturally, there are legitimate criticisms of Dag Hammarskjöld's specific actions and policies. Nonetheless, his lasting legacy to those UN Secretaries-General who followed him is an office which, if used correctly, can be independent, authoritative and bring about pacific resolution to conflicts.