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# The International Civil Servant in Theory and Practice: Law, Morality, and Expertise

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Carsten Stahn and Henning Melber (eds). **Peace Diplomacy, Global Justice and International Agency: Rethinking Human Security and Ethics in the Spirit of Dag Hammarskjöld**. Cambridge: Cambridge University Press, 2014. Pp. 635. £95. ISBN: 9781107037205.

Roger Lipsey, **Hammarskjöld: A Life**. Michigan: University of Michigan Press, 2013. Pp. 760. \$35. ISBN: 9780472118908.

Lise Namikas. **Battleground Africa: Cold War in the Congo, 1960–1965**. Stanford: Stanford University Press, 2013. Pp. 352. \$29.95. ISBN: 9780804796804.

Anne Orford. **International Authority and the Responsibility to Protect**. Cambridge: Cambridge University Press, 2011. Pp. 246. £28.99. ISBN: 9780521186384.

‘There can be no better rule of thumb for a Secretary-General, as he approaches each new challenge or crisis, than to ask himself, “How would Hammarskjöld have handled this?”’

Annan, ‘Dag Hammarskjöld and the Twenty-First Century’<sup>1</sup>

‘I don’t suppose we’ll fully understand Dag Hammarskjöld, no matter how closely we look. He’ll walk away free in the end.’

Lipsey, *Hammarskjöld: A Life*<sup>2</sup>

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<sup>1</sup> Annan, ‘Dag Hammarskjöld and the Twenty-First Century’, in *Peace Diplomacy* 35 (ch. 2), at 35.

<sup>2</sup> Lipsey, *Hammarskjöld: A Life*, at 260.

## Abstract

Reflecting upon the ambiguous relationship between international civil servants and international law in both theory and practice, this review essay examines several recent books that address the life and legacy of Dag Hammarskjöld, the second Secretary-General of the United Nations. Drawing upon recent theoretical work regarding international organizations, the essay argues that the authority of international civil servants should be understood as operating through three distinct yet interconnected modalities of discourse and practice: legal, moral and expert. Moreover, a comprehensive account of the authority exercised by international civil servants must take account of how they respond to any tensions that arise between their bases of authority as well as of their shifting relations with other ‘global governors’. The essay considers the depiction of Hammarskjöld by each of the books under review, highlighting the sometimes overlooked interconnections between the different sources of authority upon which he drew and suggesting some starting points for an alternative, integrated account of his thought and practice.

## 1 Introduction

What is the place of international civil servants in international law? How much do they contribute to making the legal norms and institutions that govern states? To what extent does law sustain and constrain their authority? These important and difficult questions are raised, directly and indirectly, by several recent works that examine the life and legacy of Dag Hammarskjöld, the second and arguably most influential Secretary-General of the United Nations (UN). While serving in that capacity during the crucial years of 1953–1961, at the height of the Cold War and decolonization and perhaps the most formative period of UN history, Hammarskjöld was intimately involved in the formulation of several legal innovations that have since become staples of UN activity, including preventive diplomacy and peacekeeping. Yet he has also been accused, both during his lifetime and more recently, of expanding the authority of his own office to the detriment of democratic government.

The books under review offer a variety of valuable insights into Hammarskjöld’s experience and achievements as UN Secretary-General. Roger Lipsey’s massive new biography, *Hammarskjöld: A Life* (hereinafter *A Life*) is mostly concerned with the relationship between Hammarskjöld’s inner spiritual life and his experiences as an international diplomat. *Peace Diplomacy, Global Justice and International Agency* (hereinafter *Peace Diplomacy*), promises to ‘examine[] Hammarskjöld’s approach towards international civil service, agency and value-based leadership’ from a range of disciplinary standpoints.<sup>3</sup> In *International Authority and the Responsibility to Protect* (hereinafter *International Authority*), Anne Orford takes Hammarskjöld as a pivotal figure in the transformation of the office of Secretary-General and the rise of international

<sup>3</sup> Stahn and Melber, ‘Human Security and Ethics in the Spirit of Dag Hammarskjöld’, in *Peace Diplomacy* 1 (ch. 1), at 11.

executive rule in the 'decolonised world', with particular focus on the UN's fateful peacekeeping mission in the Congo in the early 1960s. Finally, Lise Namikas' monograph on the Cold War in the Congo, *Battleground Africa: Cold War in the Congo, 1960–1965* (hereinafter *Battleground Africa*) helps to place Hammarskjöld's role in that encounter into a broader context of international politics.

Taken together, these works should prompt international lawyers to reconsider the ambiguous relationship between international civil servants and international law in both theory and practice. Contemporary legal theory has focused on the role of non-governmental organizations,<sup>4</sup> networks of government officials<sup>5</sup> and public and private regulatory bodies<sup>6</sup> in shaping law at the global level, but it has given relatively little attention to the office holders of international organizations as a distinct class of actors. Yet scholars have long recognized the importance of such officials in the development and application of international law.<sup>7</sup> Moreover, recent international relations theory suggests the possibility of focusing on the work of international civil servants as 'global governors', insofar as they 'create issues, set agendas, establish and implement rules or programs' and, in sundry other ways, 'exercise power across borders for the purposes of affecting policy'.<sup>8</sup>

In reflecting on these theoretical questions, this review essay argues that the authority of international civil servants should be understood and analysed as operating through three distinct, yet interconnected, modalities of discourse and practice: legal, moral and expert.<sup>9</sup> To an international lawyer, it may appear obvious that international officials derive their mandates from law – the legal powers conferred upon them by the constituent instruments of international organizations. But law intersects and interacts, in a myriad ways, with two other modes of discourse and practice: value-rational and affective frameworks, motivated by the concerns of morality, and the instrumental rationality of different forms of expertise.<sup>10</sup> Thus, the everyday work of international civil servants requires them not only to deal in the currency of legal arguments and instruments but also to draw upon moral purposes and technical means that are present in their institutional settings as well as their own personal values and professional training.

<sup>4</sup> Koh, 'Transnational Legal Process', 75 *Nebraska Law Review* (1996) 181.

<sup>5</sup> A.-M. Slaughter, *A New World Order* (2004).

<sup>6</sup> Kingsbury *et al.*, 'Foreword: Global Governance as Administration: National and Transnational Approaches to Global Administrative Law', 68 *Law and Contemporary Problems* (2005) 1.

<sup>7</sup> See, e.g., Schachter, 'The Development of International Law through the Legal Opinions of the United Nations Secretariat', 25 *British Yearbook of International Law (BYIL)* (1948) 91; Thomas M. Franck, 'The Secretary-General's Role in Conflict Resolution: Past, Present and Pure Conjecture', 6 *European Journal of International Law* (1995) 360.

<sup>8</sup> Avant, Finnemore, and Sell, 'Who Governs the Globe?' in D.D. Avant, M. Finnemore and S.K. Sell (eds), *Who Governs the Globe?* (2010) 1, at 2.

<sup>9</sup> Cf. M. Barnett and M. Finnemore, *Rules for World* (2004) 17–25 (distinguishing between the rational-legal, delegated, moral and expert authority of international organizations); and Avant, Finnemore, and Sell, *supra* note 8, at 11–14 (identifying 'five bases of authority for global governors – institutional, delegated, expert, principled and capacity-based').

<sup>10</sup> See generally Max Weber, *Economy and Society*, edited by Guenther Ross and Claus Wittich (1978), at 24–25.

By giving due attention to all three modalities, a more accurate picture may be formed of the conditions under which international civil servants are able to govern, and of their relationship to international law. As explored in important recent work by Martha Finnemore and others, moreover, global governance is a dynamic, ongoing process that involves the interaction of multiple actors, each of whom draws upon one or more sources of authority.<sup>11</sup> A comprehensive account of the authority exercised by international civil servants must therefore take account of how they respond to any tensions that may arise between their bases of authority, as well as of their shifting relations with other ‘global governors’. The UN Secretary-General holds a unique position among international civil servants, of course, and Hammarskjöld was an extraordinary Secretary-General; his career therefore helps to bring the issues considered in this essay into sharper focus and relief, instead of offering a fully representative sample.

Three distinct images of Hammarskjöld appear in the works under review, corresponding broadly to the three modalities outlined earlier. The first is of a trained lawyer who saw himself as acting within and promoting international law and who made a signal contribution to its development; the second is of a profoundly ethical individual, whose personal beliefs and values shaped his public actions; and the third is of an administrator, diplomat and economist, who used his expertise to influence the conduct of the UN and states. This review essay examines the treatment of each of these dimensions – legal, moral and expert – highlighting, in turn, their sometimes overlooked interconnections and indicating possible areas for further scholarly exploration. The review concludes by suggesting some starting points for an alternative, integrated account of all three dimensions of Hammarskjöld’s thought and practice.<sup>12</sup>

## 2 Law

Hammarskjöld’s background in international law can be traced to his family environment and education as a young man, long before he was appointed to the office of Secretary-General. His older brother Åke was the first Registrar of the Permanent Court of International Justice and later a judge of that Court. Their father, Hjalmar Hammarskjöld, served at various times as a member of the Permanent Court of Arbitration, delegate to the Second Peace Conference at The Hague, chairman of the Committee of Experts for the Progressive Codification of International Law of the League of Nations, and president of the International Law Association as well as being prime minister of Sweden during the First World War.<sup>13</sup> Dag Hammarskjöld himself received a Bachelor of Laws from Uppsala University, while his many published

<sup>11</sup> See generally Avant, Finnemore, and Sell, *supra* note 8.

<sup>12</sup> This review essay draws on research conducted for my forthcoming book, entitled *To Reform the World: The Legal Powers of International Organizations and the Making of Modern States*.

<sup>13</sup> See generally B. Urquhart, *Hammarskjöld* (1972), at 19–21; M. Fröhlich, *Political Ethics and The United Nations: Dag Hammarskjöld as Secretary-General* (2008), at 52.

speeches and writings evidence his sustained interest in the potential of international law to guide the conduct of the UN and international relations more generally.<sup>14</sup>

Much has been written regarding Hammarskjöld's deep allegiance to the principles of the UN Charter, his 'subtle imagination' and 'inventive mind' in applying them to real issues in international relations<sup>15</sup> and his legal technique of 'fusing ... opposing elements into workable solutions'.<sup>16</sup> As Georges Abi-Saab has demonstrated most clearly in relation to the Congo operation, Hammarskjöld's legal prowess enabled him to take the initiative in proposing and framing draft resolutions for the UN Security Council so that it could 'reach a decision on U.N. action without making it depend, as a condition precedent, on a clear legal characterization of the situation'.<sup>17</sup> For a generation (and perhaps more) of international lawyers, that prowess established a benchmark against which all other Secretaries-General would be measured.<sup>18</sup>

Hammarskjöld's contributions to international law comprise a major theme of *Peace Diplomacy*. Co-edited by a professor of international law, 11 of the 25 chapters in the book are written or co-written by lawyers, and nearly all touch upon legal matters in one way or another. Most pertinently, Ove Bring examines Hammarskjöld's 'dynamic and evolutionary approach' to the UN Charter and international law;<sup>19</sup> Aiofe O'Donoghue analyses the 'rather nebulous legal underpinnings' of the 'good offices' function, as exercised and developed by Hammarskjöld;<sup>20</sup> Carsten Stahn offers a wide-ranging investigation into the problematic legacies of Hammarskjöld's influence on the evolution of international executive authority;<sup>21</sup> Vijayashri Sripati examines the practice of constitutional assistance, tracing its origins to the Congo peacekeeping operation;<sup>22</sup> and J. Craig Barker considers Hammarskjöld's relationship to the more recent idea of a 'responsibility to protect' under international law, exploring that idea

<sup>14</sup> See generally W. Foote (ed.), *Servant of Peace: A Selection of Speeches and Statements of Dag Hammarskjöld* (1962); and A.W. Cordier and W. Foote (eds), *Public Papers of the Secretaries-General of the United Nations. Dag Hammarskjöld*, vols. 2–5 (1972–1975).

<sup>15</sup> Holmes, 'The United Nations in the Congo', 16 *International Journal* (1960) 1, at 1, 2.

<sup>16</sup> Schachter, 'Dag Hammarskjöld and the Relation of Law to Politics', 56 *American Journal of International Law (AJIL)* (1962) 1, at 4–5.

<sup>17</sup> G. Abi-Saab, *The United Nations Operation in the Congo* (1978), at 11. Abi-Saab's slim book remains the most penetrating analysis of the legal arguments surrounding the Congo operation.

<sup>18</sup> See, e.g., Schachter, 'The International Civil Servant: Neutrality and Responsibility', in Robert S. Jordan (ed.), *Dag Hammarskjöld Revisited* (1983) 39 (ch. 3); Stein, 'Mr. Hammarskjöld, the Charter Law and the Future Rôle of the United Nations Secretary General', 56 *AJIL* (1962) 9; Cordier, 'The Rule of Law in the World Community', 111 *University of Pennsylvania Law Review* (1963) 892; and T.M. Franck and J. Carey, *The Legal Aspects of the United Nations Action in the Congo* (1963).

<sup>19</sup> Bring, 'Hammarskjöld's Dynamic Approach to the UN Charter and International Law' in *Peace Diplomacy* 142 (ch. 9), at 150.

<sup>20</sup> O'Donoghue, 'Breaking Free: Dag Hammarskjöld, Good Offices and Heads of International Organisations' in *Peace Diplomacy* 341 (ch. 17), at 342.

<sup>21</sup> Stahn, 'From "Conference Machinery" to "Global Administration"? International Executive Authority beyond Hammarskjöld' in *Peace Diplomacy* 439 (ch. 21).

<sup>22</sup> Sripati, 'Hammarskjöld and International Executive Rule: A Third World Perspective on International Law' in *Peace Diplomacy* 477 (ch. 22), at 478.

through the lens of an ethic of care drawn from family law and feminist theory.<sup>23</sup> Each of these makes a worthwhile addition to the literature on Hammarskjöld's legal thought and practice.

The link between Hammarskjöld's legal thought and the responsibility to protect is most fully explored by Anne Orford in *International Authority*. In the first part of the book, Orford argues that Hammarskjöld initiated a series of innovative 'practices of protection', particularly in the peacekeeping operations he oversaw in the Middle East and the Congo, which replaced 'imperial visions of order with a new form of international executive rule'.<sup>24</sup> The responsibility to protect can therefore be seen as 'build[ing] on the legacy left by Hammarskjöld', while departing from that legacy in 'offer[ing] a normative account of international authority'.<sup>25</sup> In this sense, the doctrine performs the function of translating (Hammarskjöld's and others') 'deeds into words',<sup>26</sup> rather than the reverse. In subsequent chapters, Orford advances a further set of arguments that problematize both Hammarskjöld's actions and the responsibility to protect in the light of long-standing legal and political debates over authority and jurisdiction. Provocative in its invocation of Thomas Hobbes and Carl Schmitt as theoretical touchstones, her thesis has already prompted considerable debate and no doubt will continue to do so for some time.<sup>27</sup>

An issue raised by all of these works is the extent to which Hammarskjöld's contributions to international legal doctrine and practice can be considered in isolation from the larger intellectual context and his interaction with other actors, including the larger corps of UN functionaries. As Stahn points out, characterizations of Hammarskjöld's emphasis on international executive authority as 'revolutionary' are misleading when viewed within a longer history of international organizations and regimes of territorial administration.<sup>28</sup> Similarly, scholars who laud the originality of Hammarskjöld's 'dynamic approach to the UN Charter'<sup>29</sup> rarely acknowledge that such approaches were anticipated from the earliest days of the organization.<sup>30</sup> One must also give due weight to the contributions of diplomats such as Lester B. Pearson, whose role in the invention of peacekeeping is rather downplayed in most of the works under review;<sup>31</sup> of legal advisers such as Oscar Schachter, whose contribution in drafting various speeches and reports by Hammarskjöld is yet to be studied

<sup>23</sup> See especially Barker, 'Who Cares? Dag Hammarskjöld and the Limits of Responsibility in International Law' in *Peace Diplomacy* 477 (ch. 23). See also Kofi Abiew and Gal-Or, 'Libya, Intervention and Responsibility: The Dawn of a New Era?' in *Peace Diplomacy* 536 (ch. 24); Arbour, 'The Arab Uprising and the Rise and Fall of Human Rights' in *Peace Diplomacy* 561 (ch. 25).

<sup>24</sup> Orford, *International Authority*, at 32. See also *ibid.*, at 103, 189.

<sup>25</sup> *Ibid.*, at 106.

<sup>26</sup> *Ibid.*, at 6.

<sup>27</sup> See, e.g., articles published under the rubric 'Books etc.' in 1 *London Review of International Law* (2013) 131.

<sup>28</sup> Stahn, *supra* note 21, at 444–447.

<sup>29</sup> Bring, *supra* note 19, at 146.

<sup>30</sup> See generally Pollux, 'The Interpretation of the Charter', 23 *BYIL* 54 (1956).

<sup>31</sup> With the exception of Fröhlich, 'The "Suez story": Dag Hammarskjöld, the United Nations, and the Creation of UN Peacekeeping' in *Peace Diplomacy* 305 (ch. 16), at 305–335.

systematically;<sup>32</sup> and of UN officials such as Hammarskjöld's special representatives in the Congo, Andrew Cordier and Rajeshwar Dayal, who made crucial decisions in exercising broad delegated authority and pushed Hammarskjöld to take actions that he otherwise might not have taken.<sup>33</sup>

A second and more serious puzzle concerns the role of emergency and exception in Hammarskjöld's legal thought and practice. In the Congo operation, in particular, Hammarskjöld frequently cited emergency conditions to justify the suspension of law and to take actions that would otherwise have been improper. Even before the operation was launched, Hammarskjöld told his compatriot and friend Sture Linnér that his service would be valuable in post-independence Congo because his background in commercial enterprises meant that he 'would not feel hampered by the usual civil servant caution, looking things up in the textbook all the time, but would go ahead and create rules by breaking the old ones in the process if necessary'.<sup>34</sup> On another occasion, advising Cordier on what to do if the situation deteriorated, Hammarskjöld told him: 'At any time you may face the situation of complete disintegration of authority that would put you in a situation of emergency which in my view would entitle you to greater freedom of action in protection of law and order.'<sup>35</sup> Responding to later criticism of Cordier's actions, Hammarskjöld told the Security Council that officials on the spot had had no time to consult higher authorities on the issue: '[T]hey had to act on their own responsibility, within their general mandate, in order to meet the emergency which they were facing.'<sup>36</sup> Statements such as these raise troubling questions regarding someone who reportedly thought of himself as 'a man of law'<sup>37</sup> and deserve greater critical reflection by international lawyers. More broadly, they highlight the inherent tension between the different bases of authority on which Hammarskjöld relied and his ability (and willingness) to shift between them in a pragmatic and flexible way.

One key to this puzzle, and an example of how Hammarskjöld's formulation of his legal authority drew on wider intellectual currents, was his conception of the UN Charter as a malleable, 'living' instrument serving larger moral purposes. Already by the early 1950s, a sizeable body of scholarship had amassed using constitutional metaphors to explain *de facto* amendments to the UN Charter in practice.<sup>38</sup> This approach

<sup>32</sup> Nelson, 'Dag Hammarskjöld's Spirituality and the Quest for Negotiated Peace, Reconciliation and Meaning' in *Peace Diplomacy* 106 (ch. 7), at 117 (noting that Schachter was involved in the preparation of one of Hammarskjöld's addresses); Fröhlich, *supra* note 13, at 26 (recording the claim by Schachter that he wrote drafts of Hammarskjöld's annual reports); Lipsey, *A Life*, at 541 (stating that Hammarskjöld collaborated with Schachter to write a memorandum on the use of force).

<sup>33</sup> See, e.g., Lipsey, *A Life*, at 485 (showing that Dayal tried to persuade Hammarskjöld 'to push for a more aggressive mandate' and to be less rigid about the UN Charter principle of non-intervention).

<sup>34</sup> Sture Linnér, *United Nations Oral History Project* (8 November 1990), at 4–5, available at [www.unmultimedia.org/oralhistory/2011/10/linner-sture/](http://www.unmultimedia.org/oralhistory/2011/10/linner-sture/) (last visited 14 August 2015).

<sup>35</sup> Urquhart, *supra* note 13, at 444.

<sup>36</sup> UN SCOR, 896th Meeting, para. 94, UN Doc. S/PV.896, 9 September 1960.

<sup>37</sup> Schachter, 'Dag Hammarskjöld and the Relation of Law to Politics', 56 *AJIL* (1962) 1, at 1.

<sup>38</sup> See, e.g., Brierly, 'The Covenant and the Charter', 23 *BYIL* (1946) 83, at 83: 'Constitutions always have to be interpreted and applied, and in the process they are overlaid with precedents and conventions which change them after a time into something very different from what anyone, with only the original text

remained controversial, especially among lawyers from the Soviet bloc, who argued that a liberal, ‘constitutional’ interpretation that permitted ‘*de facto* revision’ only served to legitimize the unlawful manipulation of Charter rules by Western states.<sup>39</sup> Nevertheless, in a speech delivered at the start of his second term, soon after the successful launch of the UN Emergency Force in the Suez, Hammarskjöld stressed that the Secretary-General could act even without the guidance of the General Assembly or Security Council, ‘should this appear necessary in order to help in filling any vacuum that may appear in the systems which the Charter and traditional diplomacy provide for the safeguarding of peace and security’.<sup>40</sup> In the meantime, he had started to see the UN as a ‘living, evolving, experimental institution’<sup>41</sup> and to interpret the Charter accordingly.

What bears underscoring here is how Hammarskjöld used this conception of the Charter to justify his own exercise of novel executive powers in conditions of crisis. In a lecture delivered at the University of Chicago Law School in May 1960, he argued that the Charter had proven to be ‘a framework of sufficient flexibility to permit growth beyond what seems to have been anticipated in San Francisco’ and that the UN had, without formally revising the Charter, ‘undergone innovations explained by organic adaptation to needs and experiences’.<sup>42</sup> The multiplication of specialized agencies, however, had raised concerns about ‘the risk of disintegration of the international framework through a proliferation of organs’,<sup>43</sup> and this threat of fragmentation necessitated further experimentation in the UN’s structures and practices. Indicating that the solution lay in an expansion of the powers exercised by his own office, Hammarskjöld offered the example of the US president, who exercised executive authority in consultation with a group of close collaborators. Acknowledging the difficulties involved in applying the same model in an international organization, Hammarskjöld nevertheless suggested that the Secretary-General’s expanded role, which already addressed ‘increasingly widespread diplomatic and political activities ... in response to developing needs’,<sup>44</sup> meant that a similar arrangement would need to be found in the long term through ‘imaginative and constructive constitutional innovations’.<sup>45</sup>

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before him, could possibly have foreseen.’ See also generally Engel, ‘De Facto Revision of the Charter of the United Nations’, 14 *Journal of Politics* (1952) 132; Scott, ‘Revision of the United Nations Charter: A Study of Various Approaches’, 53 *Michigan Law Review* (1954) 39; Black, ‘The United Nations Charter: Problems of Review and Revision’, 24 *University of Cincinnati Law Review* 26 (1955).

<sup>39</sup> See, e.g., Morozov, ‘International Law and the U.N.’ in *Contemporary International Law*, edited by G. Tunkin (1969) 118, at 127: ‘The idea of revising the U.N. Charter *de facto* has taken firm root in Western writings on international law. The bourgeois jurists’ interpretation of the Charter is based on the conception of arbitrary, or “liberal” interpretation. ... This approach to the question of the Charter’s interpretation in effect means distortion of its purposes and merely justifies its violation.’

<sup>40</sup> Cited in Lipsey, *A Life*, at 321–322.

<sup>41</sup> Hammarskjöld, ‘Human Rights and the Work for Peace’ (10 April 1957), reprinted in Foote, *supra* note 14, 126, at 128–129.

<sup>42</sup> Hammarskjöld, ‘The Development of a Constitutional Framework for International Cooperation’ (1 May 1960), reprinted in Foote, *supra* note 14, 251, at 256.

<sup>43</sup> *Ibid.*, at 258.

<sup>44</sup> *Ibid.*, at 259.

<sup>45</sup> *Ibid.*, at 260.



Only two months after making these comments, the launch of the Congo operation provided an unprecedented opportunity for Hammarskjöld to realize his vision of expanded executive authority. As discussed in the next part of this essay, that operation also raised difficult questions regarding the moral bases of authority claimed by Hammarskjöld.

### 3 Morality

The second image of Hammarskjöld presented in the works under review is of a profoundly ethical person whose commitment to the United Nations sprang from deep and personal sources, including his family's tradition of public service, a national cultural commitment to neutrality, and his own sense of Christian mystical vocation.<sup>46</sup> That sense of vocation was articulated most clearly in his private journal of spiritual reflections, posthumously published under the title *Markings*,<sup>47</sup> but Hammarskjöld was unusually forthright about his motivations in official statements as well. Seeing his service as Secretary-General as a kind of religious calling, he viewed the UN as an 'instrument of faith'<sup>48</sup> and framed its activities in terms of a 'philosophy of solidarity' that made possible the beginning of a new cultural synthesis 'on a universal basis'.<sup>49</sup> Beneath the surface of international politics, he believed, the true 'battlefield' was 'the hearts of men'; what was needed was a balance of 'practical action' and 'the creation of a spirit'.<sup>50</sup> In an address to the American Association for the UN early in his international career, Hammarskjöld disclosed the conviction that guided him as Secretary-General: 'You cannot grip the world and shape it as a material thing. You can only influence its development if you recognize and respect it as a thing of the spirit.'<sup>51</sup>

For many in the UN and outside it, Hammarskjöld was the epitome of the impartial, non-partisan international civil servant. Friends and former colleagues who have written about him frequently attribute a large part of his success as Secretary-General to his high moral character, integrity and independence.<sup>52</sup> Coming from a small, neutral power, Hammarskjöld was notably sympathetic to the challenges facing the new, non-aligned states of Asia and Africa. Indeed, several of his most significant achievements, particularly in the peacekeeping operations in the Middle East and Congo, depended upon his ability to mobilize that emerging constituency. In turn, the 'Afro-Asian' bloc in the UN General Assembly responded enthusiastically, for the most part, to his willingness to oppose the interests of 'Great Powers' on behalf of 'those many

<sup>46</sup> See generally Lyon, 'The U.N. Charter, the New Testament, and Psalms: The Moral Authority of Dag Hammarskjöld' in K.J. Killie (ed.), *The UN Secretary-General and Moral Authority* (2007) 111 (ch. 4); Van Dusen, 'Dag Hammarskjöld: The Inner Person' in A.W. Cordier and K.L. Maxwell (eds), *Paths to World Order* (1967) 22.

<sup>47</sup> D. Hammarskjöld, *Markings* (1964).

<sup>48</sup> Hammarskjöld, 'An Instrument of Faith' (20 August 1954), reprinted in Foote, *supra* note 14, 56, at 58.

<sup>49</sup> Hammarskjöld, 'Asia, Africa and the West', reprinted in Foote, *supra* note 14, 212, at 216, 213–214.

<sup>50</sup> Hammarskjöld, *supra* note 48, at 59 and 58.

<sup>51</sup> Hammarskjöld, 'Together in Our Concern, Our Hopes, and Our Determination', 15 *UN Bulletin* (1953) 277, at 278.

<sup>52</sup> See, e.g., Urquhart, *supra* note 13; Schachter, *supra* note 18.

nations who feel themselves strong as members of the international family but who are weak in isolation'.<sup>53</sup>

*Peace Diplomacy* explores Hammarskjöld's exercise of moral authority from a variety of perspectives. Early in their introduction, Stahn and Melber observe that Hammarskjöld's 'ethics, principles and credo [were] deeply shaped by his commitment to virtues, such as integrity and impartiality',<sup>54</sup> and several of the subsequent chapters elaborate upon the same theme. Most directly relevant is Paul R. Nelson's discussion of Hammarskjöld's spirituality and its influence on his 'diplomacy of reconciliation', accentuating, in particular, the inspiration Hammarskjöld drew from the ethics of Martin Buber.<sup>55</sup> In a similar vein, Monica Bouman explores Hammarskjöld's practice of 'the politics of hope', relating this practice to the philosophies of Hannah Arendt, Karl Jaspers and Albert Schweitzer.<sup>56</sup> Finally, Henning Melber examines the evolution and effect of Hammarskjöld's views on global justice, democracy and human rights within the context of rapid decolonization.<sup>57</sup>

The connection between Hammarskjöld's personal and public moral authority is also a major focus of *A Life*. Lipsey differs from most other biographers in his commitment to tracing, in great detail, the 'conversation' in Hammarskjöld's 'inner world' between 'the master diplomatic craftsman and the devoted man of prayer'.<sup>58</sup> Adopting a chronological approach, the book sets Hammarskjöld's public acts and addresses against passages from *Markings* and the 'supple, expressive middle voice'<sup>59</sup> of his personal correspondence in a way that allows the reader to see – or imagine she sees – the interplay of outward action and inward reflection over time. Written in a lively journalistic style, *A Life* adds texture to events, sympathetically illuminating Hammarskjöld's relationships with his parents, his struggles as a young man and his professional challenges and frustrations.

These works build on an already substantial literature addressing Hammarskjöld's mysticism and morality.<sup>60</sup> In giving attention to the interaction between Hammarskjöld's public and private personas, *A Life* most resembles Manuel Fröhlich's excellent *Political Ethics and the United Nations*.<sup>61</sup> Like Lipsey (and Bouman), Fröhlich finds great significance in Hammarskjöld's correspondence with Buber and Schweitzer; if anything, Fröhlich presents a deeper exploration of the relationship between Hammarskjöld's thought and these philosophers as well as the writings of Christian mystics such as Meister Eckhart, St. John of the Cross and Thomas à Kempis.

<sup>53</sup> Hammarskjöld, 'Introduction to the Annual Report 1959–1960' (31 August 1960), reprinted in Foote, *supra* note 14, 293, at 312.

<sup>54</sup> Stahn and Melber, in *Peace Diplomacy*, at 2.

<sup>55</sup> Nelson, in *Peace Diplomacy*, at 109.

<sup>56</sup> Bouman, 'Dag Hammarskjöld and the Politics of Hope', in *Peace Diplomacy* 77 (ch. 6).

<sup>57</sup> Melber, 'Dag Hammarskjöld and Africa's Decolonisation', in *Peace Diplomacy* 255 (ch. 14).

<sup>58</sup> Lipsey, *A Life*, at 318.

<sup>59</sup> *Ibid.*, at 10.

<sup>60</sup> See, e.g., Van Dusen, *supra* note 46; H.P. Van Dusen, *Dag Hammarskjöld: The Statesman and His Faith* (1967); Lyon, *supra* note 46; and P.R. Nelson, *Courage of Faith: Dag Hammarskjöld's Way in Quest of Negotiated Peace, Reconciliation and Meaning* (2007).

<sup>61</sup> Fröhlich, *supra* note 13.

The most glaring problem in most treatments of Hammarskjöld's political morality is the tendency to downplay evidence of his partiality and bias – particularly against the first prime minister of the Congo, Patrice Lumumba, and the influence of the Soviet Union in that country. As historians have long established, there is considerable evidence that Hammarskjöld and other UN officials secretly sided against Lumumba, whom they regarded as unstable and susceptible to Soviet influence;<sup>62</sup> shared their views with British and US officials that Lumumba should be removed from power and welcomed Lumumba's dismissal by the president, Joseph Kasavubu.<sup>63</sup> Hammarskjöld even went so far as to collaborate with American officials on drafting official UN statements, passing confidential reports and analyses to them<sup>64</sup> and holding secret discussions with British representatives regarding strategies for keeping the Soviets out of the Congo.<sup>65</sup> As Helen M. Hintjens and Serena Cruz indicate, Hammarskjöld decisions and actions certainly contributed to facilitating the continuity of violence in the Congo from decolonization to the present day.<sup>66</sup> Yet precious little of this evidence appears to disturb the mostly uncritical and laudatory – sometimes bordering on hagiographical – accounts of Hammarskjöld's ethical approach to diplomacy. In theoretical terms, these oversights prevent a full appreciation of the dilemmas faced by international civil servants in managing the conflicting demands of diverse missions and broad constituencies.<sup>67</sup>

Also missing from most of these analyses is a sustained effort to connect Hammarskjöld's morality with his legal thought, so as to identify ways in which he attempted to bridge these two sources of authority. A noteworthy exception is Stahn's chapter in *Peace Diplomacy*, which draws upon Max Weber's ideal types of 'legitimate domination'<sup>68</sup> to distinguish between 'legal-rational' and moral authority, which Stahn finds merged in Hammarskjöld's conception of the UN as a 'secular church'.<sup>69</sup> One connection that goes unexplored by Stahn (and in the other works under review), however, is the relationship between Hammarskjöld's elevated, almost mystical view of the UN Charter as 'a living and growing organism'<sup>70</sup> and a Christian approach to

<sup>62</sup> See A. James, *Britain and the Congo Crisis* (1996), at 67 (quoting from a conversation on 1 September 1960 in which Hammarskjöld reportedly told the British deputy permanent representative to the UN that Lumumba was 'already clearly a Communist stooge' and that the secretary-general had 'conceived the United Nations operation as a means of preventing the Soviet penetration of Africa').

<sup>63</sup> See, e.g., Gibbs, 'The United Nations, International Peacekeeping and the Question of 'Impartiality': Revisiting the Congo Operation of 1960', 38 *Journal of Modern African Studies* (2000) 359, at 370 (reporting that at one point Hammarskjöld 'told the US ambassador to the UN that "Lumumba must be broken"' and told British diplomats 'that he considered it essential "to 'undercut' Lumumba"'); James, *supra* note 62, at 71: 'In conversations with a British diplomat, Hammarskjöld candidly stated that "the actions of the United Nations favored and were designed to favor Kasavubu".'

<sup>64</sup> See generally Gibbs, *supra* note 63, at 369–373.

<sup>65</sup> See generally James, *supra* note 62, at 66–67.

<sup>66</sup> Hintjens and Cruz, 'Continuities of Violence in the Congo: Legacies of Hammarskjöld and Lumumba' in *Peace Diplomacy* 216 (ch. 12). See also generally Sinclair, 'The Ghosts of Colonialism in Africa': Silences and Shortcomings in the ICJ's 2005 *Armed Activities Decision*' (2007) 14 *ILSA Journal of International and Comparative Law* 121.

<sup>67</sup> Cf. Avant, Finnemore and Sell, *supra* note 8, at 19–22.

<sup>68</sup> Weber, *supra* note 10, at 215ff.

<sup>69</sup> Stahn, in *Peace Diplomacy*, at 452–453.

<sup>70</sup> Hammarskjöld, 'International Cooperation within the United Nations' (25 June 1955), reprinted in Foote, *supra* note 14, at 92.

hermeneutics that focuses on the ‘spirit’, rather than the ‘letter’, of the law.<sup>71</sup> In this regard, one would hope that a future volume might include an analysis of the relationship between his account of the evolution of international constitutional law and the French philosopher Henri Bergson’s concept of ‘creative evolution’, an acknowledged influence on Hammarskjöld’s thinking.<sup>72</sup>

A second under-examined connection between legal and moral authority in Hammarskjöld’s thought may be located in his famous Oxford address on ‘The International Civil Servant in Law and in Fact’.<sup>73</sup> In the course of an extended defence of the idea of a neutral international civil service, delivered in reply to Soviet criticisms of Hammarskjöld’s actions in the Congo, Hammarskjöld offered a fascinating analysis of the various means by which the Secretary-General could reduce his own level of personal discretion in cases where the political organs of the UN – the Security Council and the General Assembly – could not themselves offer guidance. Such means included consulting the principles and purposes of the Charter, referring to ‘the body of legal doctrines and precepts that have been accepted by States generally’ and employing certain ‘constitutional means and techniques’, such as conferring with the permanent missions to the UN or the use of advisory committees.<sup>74</sup> Beyond these various legal and constitutional techniques, however, the international civil servant had to undertake continual acts of intellectual and moral self-governance. In dealing with what was essentially an area of ‘personal judgment’, questions of integrity and conscience became paramount. Accordingly, the international civil servant was required to ‘keep himself under the strictest observation’, to be ‘fully aware’ of his own sympathies and antipathies and to ‘meticulously check himself so that they are not permitted to influence his actions’.<sup>75</sup> Only through a continuous effort of self-surveillance could the international civil servant be sure that he had done his duty.

What is interesting and theoretically significant here is Hammarskjöld’s implicit recognition of the limits of law’s authority – and that beyond those limits lay a realm of individual conscience and character that could not be subjected to external regulation. Hammarskjöld’s language throughout the speech suggests that he viewed the moral authority of the international civil servant as deriving from something akin to sexual self-discipline: non-action was a temptation to be resisted;<sup>76</sup> the ideal was to

<sup>71</sup> Cf. 2 Corinthians 3:6 (New International Version): ‘He has made us competent as ministers of a new covenant—not of the letter but of the Spirit; for the letter kills, but the Spirit gives life.’

<sup>72</sup> See Hammarskjöld, cited in Cordier and Foote, *supra* note 14, vol. 4, at 599 (commenting on his speech at the University of Chicago Law School: ‘[T]he whole speech ... was one regarding evolution, sociological evolution, and its expressions in higher and higher forms of society. Of course, we are working on the brink of the unknown because we have no idea as to what the international society of tomorrow will be. We can only do what we can now to find solutions, in a pragmatic sense, to the problems as they arise ... you may find a further clue ... in the final words [of my speech], where I happen to use the Bergsonian term “creative evolution”.’) See also generally H. Bergson, *Creative Evolution*, translated by A. Mitchell (1944).

<sup>73</sup> Hammarskjöld, ‘The International Civil Servant in Law and in Fact’ (30 May 1961), reprinted in Foote, *supra* note 14, 329.

<sup>74</sup> *Ibid.*, at 346–347.

<sup>75</sup> *Ibid.*, at 348–349.

<sup>76</sup> *Ibid.*, at 345.

be 'politically celibate' but not 'politically virgin'<sup>77</sup> or 'a neuter'.<sup>78</sup> Few scholars have acknowledged – much less explored – the relationship between this conception of the morally responsible international civil servant and international executive authority in Hammarskjöld's thought. (One might also note in passing a revealing passage in a personal letter, cited by Lipsey, in which Hammarskjöld refers to international law as 'what, if anything, is a European legacy to the world, the idea of *an international discipline* imposed on all countries in the common interest'.)<sup>79</sup> However, law and morality were not the only sources of authority on which Hammarskjöld drew. As the remainder of this review suggests, a full appreciation of Hammarskjöld's accomplishments and missteps must also take into consideration the particular kinds of expert authority he exercised.

## 4 Expertise

The third image that emerges from these books is of Hammarskjöld as expert – administrator, economist and diplomat. When appointed Secretary-General, Hammarskjöld was initially viewed more as a competent bureaucrat than as a likely institutional innovator.<sup>80</sup> Coming from a family whose involvement in civil service dated back to the early 17th century, he had already served in a variety of Swedish government positions, including as secretary of a commission on unemployment, permanent under-secretary of the Ministry of Finance, chairman of the Board of the Swedish National Bank, chief delegate to the Paris Conference of the Organization for European Economic Cooperation, and minister without portfolio, specializing in domestic and international economic issues.<sup>81</sup>

Hammarskjöld's background in civil service, economic development and international diplomacy made him especially attuned to the importance of those areas of UN activity. Soon after assuming office as Secretary-General, he re-organized the Secretariat to be more streamlined, centralized and efficient, reflecting the Swedish national tradition of public administration with which he was familiar.<sup>82</sup> As the editors of his collected public papers note, Hammarskjöld brought to the UN's Economic and Social Council 'much personal expertise and experience in international economic affairs', regularly attending and assuming a leading role in the Council's proceedings.<sup>83</sup> Early in his first term, moreover, he successfully negotiated the release of US airmen who had been shot down during the Korean conflict and were being held in

<sup>77</sup> *Ibid.*, at 331. The reference to celibacy derived from Walter Lippman's article about his interview with Khrushchev, in which Lippmann drew the conclusion that it was the view of the Soviet government that 'the kind of political celibacy which the British theory of the civil servant calls for, is in international affairs a fiction'. *Ibid.*, at 329.

<sup>78</sup> *Ibid.*, at 348.

<sup>79</sup> Lipsey, *A Life*, at 519–520.

<sup>80</sup> See generally Urquhart, *supra* note 13, at 11–16.

<sup>81</sup> See generally *ibid.*, at 368–369.

<sup>82</sup> *Ibid.*, at 71.

<sup>83</sup> Cordier and Foote, *supra* note 14, vol. 2, at 13.

China on charges of espionage.<sup>84</sup> In each of these areas of activity, Hammarskjöld was able to draw upon his prior professional training and experience.

Given the book's title, it is not surprising that many of the chapters in *Peace Diplomacy* address Hammarskjöld's expertise as a diplomat. Manuel Fröhlich reconstructs a detailed, day-by-day account of the diplomacy surrounding the creation of the first armed peacekeeping operation, the UN Emergency Force in the Suez, based on original research in the UN archives.<sup>85</sup> Maria Stella Rognoni does something similar for the Congo crisis,<sup>86</sup> and Alanna O'Malley more specifically examines the effects of that crisis on the UN Secretariat's diplomatic practice.<sup>87</sup> Adopting a more evaluative approach, Peter Wallensteen compares Hammarskjöld's efforts to those of the seventh Secretary-General, Kofi Annan, in relation to three defined phases of conflict resolution ('agenda diplomacy', 'agreement diplomacy' and 'implementation diplomacy').<sup>88</sup> Jan Anne Vos also compares Hammarskjöld and Annan, drawing upon a typology of leadership styles ('managerial', 'visionary' and 'strategic') that was previously formulated by Kent Kille.<sup>89</sup>

For the most part, the works under review are at pains to emphasize the fraught geopolitical landscape that Hammarskjöld was required to navigate. Occasionally, however, there is a tendency to credit Hammarskjöld personally with far-reaching achievements and influence. Individual agency and choice must of course play an important role in any historical account; the danger lies in overestimating these in relation to other factors. Biography is particularly vulnerable to this error, especially when written from the perspective of an 'Old Believer',<sup>90</sup> as are works that place Hammarskjöld's 'vision',<sup>91</sup> 'politics of hope',<sup>92</sup> 'diplomacy of reconciliation',<sup>93</sup> or 'political wisdom'<sup>94</sup> at the centre of analysis of world events. To take one example, O'Malley asserts that Hammarskjöld's 'personal investment' in the proceedings of the UN General Assembly 'chang[ed] the nature of the institution which the major powers had to deal with' and had 'clear benefits in reinvigorating' that organ 'as a scene of debate and a forum for the exercise of soft power'<sup>95</sup> – but surely this is to minimize the more profound transformations being wrought in the Assembly at the time by the crisscrossing dynamics of Cold War ideological conflicts and decolonization.

<sup>84</sup> See generally Urquhart, *supra* note 13.

<sup>85</sup> Fröhlich, in *Peace Diplomacy*, at 307.

<sup>86</sup> Rognoni, 'Dag Hammarskjöld and the Congo Crisis, 1960–1961', in *Peace Diplomacy* 193 (ch. 11), at 193–215.

<sup>87</sup> O'Malley, 'The Dag Factor: How Quiet Diplomacy Changed the Role of the Secretariat during the Congo Crisis, 1960–1961' in *Peace Diplomacy* 280 (ch. 15).

<sup>88</sup> Wallensteen, 'Dag Hammarskjöld's Diplomacy: Lessons Learned' in *Peace Diplomacy* 364 (ch. 18), at 366.

<sup>89</sup> Vos, 'Visions of International Life: From Hammarskjöld to Annan and Beyond' in *Peace Diplomacy* 387 (ch. 19) at 389; cf. K. Kille, *From Manager to Visionary: The Secretary-General of the United Nations* (2006).

<sup>90</sup> Lipsey, *A Life*, at 3.

<sup>91</sup> Urquhart, 'A Beacon of Hope: Dag Hammarskjöld and the United Nations', in *Peace Diplomacy* 43 (ch. 3), at 49.

<sup>92</sup> Bouman, in *Peace Diplomacy*.

<sup>93</sup> Nelson, in *Peace Diplomacy*, at 106–114.

<sup>94</sup> Lipsey, in *Peace Diplomacy*, at 119–129.

<sup>95</sup> O'Malley, in *Peace Diplomacy*, at 300.

Namikas' study of the ideological struggle over post-independence Congo serves as a useful corrective in this respect. An important contribution to the burgeoning body of scholarship on the history of the Cold War,<sup>96</sup> the book suggests that Hammarskjöld's 'experimental managing of the crisis ... changed the nature of superpower interaction, at least in this case, in light of nonalignment'.<sup>97</sup> But it also paints a more complex picture of the interaction of 'global governors' – whether transnational, state or local. In particular, Namikas helpfully emphasizes the agency of Congolese actors in the crisis and reveals the pressures placed on Hammarskjöld by African states 'to realign the organization and put it on a more neutral footing'.<sup>98</sup> Namikas further highlights the divergent approaches advocated within different parts of the US government, reminding us that other bureaucracies, such as the UN itself, may reflect similar diversity and might helpfully be subjected to a similar form of disaggregated analysis.

The works under review do not exhaust the possible avenues of research into Hammarskjöld's exercise of expert authority. An aspect of Hammarskjöld's expertise that has received almost no systematic scholarly treatment, for example, is his approach to public administration. By the 1950s, public administration had already attained the status of an independent management science and discipline in North America and Europe, with growing academic efforts to systematize knowledge and practical experience in that field.<sup>99</sup> Lipsey offers a tantalizing précis of an article that Hammarskjöld wrote in 1951, not long before his appointment as Secretary-General, on 'The Civil Servant and Society',<sup>100</sup> but this is a topic that cries out for more in-depth analysis.

One notably original contribution is Anne Orford's analysis of his economic thought in relation to the post-war reconstruction projects associated with the critical theorists of the Frankfurt School, Jean Monnet, Friedrich Hayek and the German Ordoliberals (Freiburg School), respectively.<sup>101</sup> Expanding upon an argument first broached in *International Authority*,<sup>102</sup> Orford asserts that Hammarskjöld 'enshrined a particular form of economic thinking at the heart of the UN'.<sup>103</sup> This 'form of economic thinking', she submits, was more aligned with the ordoliberals, who favoured the reconstruction of competitive markets by a strong, but neutral, executive authority rather than with the members of the Stockholm School of economics to which Hammarskjöld belonged, who generally promoted the emergence of a social welfare state and distributive policies in Sweden.<sup>104</sup> Going further, Orford argues that Hammarskjöld introduced into the UN system economic theories and models of the

<sup>96</sup> See, e.g., O.A. Westad, *The Global Cold War: Third World Interventions and the Making of Our Times* (2007); P.M. McGarr, *The Cold War in South Asia: Britain, the United States and the Indian Subcontinent, 1945–1965* (2013); J.R. McNeill and C.R. Unger (eds), *Environmental Histories of the Cold War* (2013).

<sup>97</sup> Namikas, *Battleground Africa*, at 11.

<sup>98</sup> *Ibid.*, at 18–19.

<sup>99</sup> See generally D. Waldo, *The Administrative State*, xviii–xx (2nd edn, 1984); D.A. Wren, *The History of Management Thought* (2005).

<sup>100</sup> Lipsey, *A Life*, at 68.

<sup>101</sup> Orford, 'Hammarskjöld, Economic Thinking and the United Nations' in *Peace Diplomacy* 156 (ch. 10).

<sup>102</sup> Orford, *International Authority*, at 52–56.

<sup>103</sup> Orford, in *Peace Diplomacy*, at 187.

<sup>104</sup> *Ibid.*, at 172–173.

state that had disastrous consequences for the processes of decolonization and development, in the Congo and elsewhere, for decades to come.<sup>105</sup>

Orford does not claim to present a comprehensive account of the dynamics of authority exercised by Hammarskjöld as Secretary-General. Nevertheless, it is worth considering her arguments in this chapter in relation to a view of governance as a process that involves the interaction of multiple actors, each drawing upon various sources of authority. Orford draws on recent scholarship suggesting a ‘hidden duel’ between Hammarskjöld and Gunnar Myrdal, a leading member of the Stockholm School, with the implication that the former adhered to a conservative strain of economics from a relatively early stage.<sup>106</sup> If this is true, it was an adherence that appears to have gone undetected by several people who knew him well, including his mentor Ernst Wigforss, the Swedish finance minister,<sup>107</sup> and Myrdal himself,<sup>108</sup> nor has any documentation yet come to light showing significant contact between Hammarskjöld and either the Freiburg School or any related group such as the Mont Pèlerin Society.<sup>109</sup> However, even granting that Hammarskjöld might have held views that aligned with ordoliberal economic theories, more evidence would be needed to show that these views were actually implemented to a significant extent in the practice of the UN and other specialized agencies and that they were more determinative of outcomes than, say, the actions of powerful states, the initiatives of local actors and non-aligned states<sup>110</sup> or private business interests.<sup>111</sup>

To the contrary, the preponderance of evidence suggests that UN development thinking in the post-war period was heavily influenced by the welfare state economic theories associated with John Maynard Keynes.<sup>112</sup> Leading development economists closely associated with the UN during this time, such as Arthur Lewis, Hans Singer and Raúl Prebisch, all emphasized central planning, industrialization and social welfare.<sup>113</sup> In contrast with the ordoliberal ‘idea that the state had a limited role to play in

<sup>105</sup> *Ibid.*, especially at 163, 171, 187 and 188.

<sup>106</sup> Orford, *International Authority*, at 54–56; Orford, in *Peace Diplomacy*, at 158–163.

<sup>107</sup> See, e.g., M.W. Zacher, *Dag Hammarskjöld’s United Nations* (1970), at 12 (quoting the memoirs of Wigforss: ‘A liberal suspicion of the state, which has gradually put its stamp on political conservatism, was in fact not very compatible with the view of the tasks of the state in economic life which placed Hammarskjöld more decisively among the planners than the economic liberals’).

<sup>108</sup> J. Toye and R. Toye, *The UN and Global Political Economy* (2004), at 101 (reporting that Myrdal was surprised when told that Hammarskjöld had adopted an ‘anti-Keynesian line’ on some matter, and that Myrdal replied that he ‘rather thought that [Hammarskjöld] was an economic planner and rather Left wing and not an anti-Keynesian’).

<sup>109</sup> See generally P. Mirowski and D. Plehwe (eds), *The Road from Mont Pèlerin: The Making of the Neoliberal Thought Collective* (2009).

<sup>110</sup> Lipsey, in *Peace Diplomacy*, at 487–488 (showing that Jawaharlal Nehru wanted Indian UN troops to be given additional military powers).

<sup>111</sup> See generally D.N. Gibbs, *The Political Economy of Third World Intervention: Mines, Money, and U.S. Policy in the Congo Crisis* (1991).

<sup>112</sup> See generally O. Stokke, *The UN and Development* (2009).

<sup>113</sup> See generally J. Toye, *Dilemmas of Development* (2nd edn, 1993); and R.L. Tignor, *W. Arthur Lewis and the Birth of Development Economics* (2006). On Singer’s and Prebisch’s respective careers in the UN and contributions to development economics, see generally Toye and Toye, *supra* note 108, at 54–58 and 111–128.



planning, redistribution, or the provision of social welfare',<sup>114</sup> many of the key actors in the UN system shared the assumption, as Singer later put it, that 'the same principles of planning, macroeconomic management of the economy by governments and mobilization of latent resources based on Keynesian principles, were also applicable to the problems of developing countries'.<sup>115</sup>

Indeed, it is important to see that Hammarskjöld's expert authority was underpinned by the larger moral justifications of UN development activities. Notwithstanding any views he may have held privately, Hammarskjöld's speeches and the policies he oversaw as UN Secretary-General surely place him closer on the spectrum to Myrdal than, say, the disciples of Friedrich Hayek and well within the mainstream of development thinking at the time. In this respect, it is striking that none of the books under review discusses Hammarskjöld's signal contribution to the evolution of UN technical assistance – the so-called 'OPEX' service to provide operational, executive and administrative personnel to developing countries. In Hammarskjöld's thinking, 'the question of administration' was essentially connected to the problem of self-determination and the possibilities of decolonization.<sup>116</sup> Originally proposed by Lester Pearson and enthusiastically promoted by Hammarskjöld until its adoption, OPEX was designed to overcome bottlenecks in administration (and, thus, self-determination) by seconding civil servants from 'developed' countries to serve for longer periods of time in an executive and operational capacity in the national administrations of 'developing' countries.<sup>117</sup>

This form of technical assistance assumed even greater significance in the context of the Congo peacekeeping operation. Taking the OPEX model a step further, Hammarskjöld carefully elaborated a plan to introduce a group of experts who would serve 'on a level of higher administrative responsibility' and 'receive a new and so far untried status' as consultants to the chief of civilian operations, who in turn reported to the special representative of the Secretary-General.<sup>118</sup> Unlike regular OPEX personnel, these consultants were not accredited to the ministries of the Congolese government but, instead, formally functioned only within the UN 'orbit'.<sup>119</sup> By inserting senior experts with de facto policy- and decision-making responsibility into governmental ministries, Hammarskjöld thus effectively placed much of the Congo under UN administration. Resistance to this scheme – and its ultimate failure – demonstrated once again the fraught dynamics of authority in global governance.

<sup>114</sup> Orford, in *Peace Diplomacy*, at 164.

<sup>115</sup> Cited in Stokke, *supra* note 112, at 594, n. 54.

<sup>116</sup> Hammarskjöld, 'An International Administrative Service' (30 May 1956), reprinted in Foote, *supra* note 14, 114, at 116.

<sup>117</sup> See generally Y. Alexander, *International Technical Assistance Experts* (1966); Ü. Kirdar, *The Structure of United Nations Economic Aid to Underdeveloped Countries* (1966), at 64–83.

<sup>118</sup> Hammarskjöld, 'United Nations Civilian Operation in the Republic of the Congo', 7(4) *UN Review* (1960) 55, at 55.

<sup>119</sup> *Ibid.*

## 5 Conclusion

This review essay has argued that international civil servants should be understood as exercising authority in several modes at once: legal, moral and expert. These three forms of authority coexist in a state of dynamic tension. They can be distinguished analytically – they are marked out by characteristic vocabularies and conventions of thought and action – but in reality all three overlap and interact in a complex medley of configurations in the day-to-day practice of international organizations. Understanding the relationship between international civil servants and international law therefore requires careful inquiry, with diligent attention to the interplay of these modalities.

Each of the works under review usefully highlights one or more dimensions of Hammarskjöld's thought and practice. None, however, offers an account that encompasses all three sources of authority surveyed above. At most, they might correlate Hammarskjöld's inner spiritual life and diplomatic activities, his juridical and economic thinking or his conception of legal-rational and moral authority. Perhaps for this reason, there is a common (though not universal) tendency to overlook inconsistencies and tensions between the sources of the authority that Hammarskjöld exercised or between the high ideals he expressed and the record of UN actions in reality. As noted throughout this review, moreover, there is a consistent propensity among scholars to overstate Hammarskjöld's personal agency and influence, without due regard for the wider intellectual and institutional context or his interactions with other local, national and transnational actors.

An alternative approach, which I have pursued elsewhere,<sup>120</sup> would situate Hammarskjöld's thought and practice within the post-war project of state formation and modernization that sought to universalize an idealized model of the liberal, welfare-oriented administrative state, particularly in formerly colonized territories.<sup>121</sup> Though the precise form of such a state was contested,<sup>122</sup> at its core was a governmental rationality and a common set of institutions that persist, in more or less attenuated form, to the present day.<sup>123</sup> Hammarskjöld's significance lies precisely in his ability to articulate, within an evolving 'constitutional' framework, a rationale of international authority that merged the moral justifications of that project of state formation and modernization with a novel assertion of the expertise of international civil servants in managing the attendant processes of decolonization and economic development.

What was distinctive and important about the Congo operation, then, was the early attempt, unsuccessful though it may have been, to link the immediate strategic goals of peacekeeping to a model of the state in which the provision of social welfare was central to the concerns of government. Indeed, the deepening suspicion between UN

<sup>120</sup> Sinclair, *supra* note 12.

<sup>121</sup> See generally Michael E. Latham, *Modernization as Ideology* (2000); Nils Gilman, *Mandarins of the Future* (2003).

<sup>122</sup> See generally E.-A. Gosta, *Three Worlds of Welfare Capitalism* (1990).

<sup>123</sup> See generally Garland, 'The Welfare State: A Fundamental Dimension of Modern Government', 55 *European Journal of Sociology* (2014) 327.

officials and the Congolese central government, not to mention the numerous logistical and financial challenges faced by the operation, suggests an alternative critical narrative to the one proposed by Orford. Instead of demonstrating ‘the limits of the liberal project’ in a conservative economic sense,<sup>124</sup> it may be more fruitful to hypothesize that the Congo operation revealed the limits of the modernizing, welfare-oriented project of state-building in the global South, and that in doing so it foreshadowed the broader ‘neoliberal’ turn in development theory and praxis some two decades later. In the course of that operation, moreover, Hammarskjöld increasingly employed the language of emergency and responsibility to justify UN actions, in a way that resonates in international legal discourse today. The operation thus exemplifies the profound dilemmas arising from the tensions between the various sources of authority drawn upon by international civil servants, the challenges they face in attempting to maintain and exercise that authority while meeting the demands of other global governors, and the dangers latent in both. In all of these respects, the study of Hammarskjöld’s achievements and failings remains a relevant and indeed urgent undertaking.

## Individual Contributions to *Peace Diplomacy*

*Carsten Stahn and Henning Melber*, Human Security and Ethics in the Spirit of Dag Hammarskjöld: An Introduction;

*Kofi Annan*, Dag Hammarskjöld and the Twenty-First Century;

*Brian Urquhart*, A Beacon of Hope: Dag Hammarskjöld and the United Nations;

*Pieter Kooijmans*, Dag Hammarskjöld, 1905–61: A Remarkable Man, a Remarkable Secretary-General;

*Hans Corell*, Dag Hammarskjöld, the United Nations and the Rule of Law in Today’s World;

*Monica Bouman*, Dag Hammarskjöld and the Politics of Hope;

*Paul R. Nelson*, Dag Hammarskjöld’s Spirituality and the Quest for Negotiated Peace, Reconciliation and Meaning;

*Roger Lipsey*, From the Unwritten Manual: Dag Hammarskjöld’s Political Wisdom;

*Ove Bring*, Hammarskjöld’s Dynamic Approach to the UN Charter and International Law;

*Anne Orford*, Hammarskjöld, Economic Thinking, and the United Nations;

*Maria Stella Rognoni*, Dag Hammarskjöld and the Congo Crisis, 1960–1;

*Helen M. Hintjens and Serena Cruz*, Continuities of Violence in the Congo: Legacies of Hammarskjöld and Lumumba;

*Jean Omasombo Tshonda*, Lumumba v. Hammarskjöld: A Story of Confrontation;

*Henning Melber*, Dag Hammarskjöld and Africa’s Decolonisation;

*Alanna O’Malley*, The Dag Factor: How Quiet Diplomacy Changed the Role of the Secretariat during the Congo Crisis, 1960–1961;

*Manuel Fröhlich*, The ‘Suez Story’: Dag Hammarskjöld, the United Nations and the Creation of UN Peacekeeping;

<sup>124</sup> Cf. Orford, in *Peace Diplomacy*, at 177–187.

*Aoife O'Donoghue*, Breaking Free: Dag Hammarskjöld, Good Offices and Heads of International Organisations;

*Peter Wallensteen*, Dag Hammarskjöld's Diplomacy: Lessons Learned;

*Jan Anne Vos*, Visions of International Life: From Hammarskjöld to Annan and Beyond;

*Steven Blockmans*, EU Global Peace Diplomacy: Institutional Framework;

*Carsten Stahn*, From 'Conference Machinery' to 'Global Administration'? International Executive Authority beyond Hammarskjöld;

*Vijayashri Sripati*, Hammarskjöld and International Executive Rule: A Third World Perspective on International Law;

*J. Craig Barker*, Who Cares?: Dag Hammarskjöld and the Limits of Responsibility in International Law;

*Francis Kofi Abiew and Noemi Gal-Or*, Libya, Intervention and Responsibility: The Dawn of a New Era?;

*Louise Arbour*, The Arab Spring and the Rise and Fall of International Human Rights.