

The ITPCM



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in this issue:

PEACE KEEPING



TRENDS AND CHALLENGES IN AFRICA

Newly launched on the ITPCM agenda:

Master in Electoral Policy & Administration, [more p. 67](#)

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The ITPCM International Commentary

**PEACE
KEEPING
TRENDS
AND CHALLENGES
IN AFRICA**

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*Special thanks goes to **Charlotte Reed** for her continued assistance.*

The ITPCM International
Commentary

RECENT CHALLENGES TO PKO'S IN AFRICA

Introduction

Peace-keeping and peace-building operations have undergone major changes in the last decades. From the expansion of the mandate (more and more civilian tasks are assigned to PKOs) to the manner in which the mandate is accomplished (peace-keeping with muscles), from the troop contributing States (who could have imagined 20 years ago that PRC would have become a major troop contributing State?) to the integrated mission concept (not only military but as well police and civilians are requested to implement the mandate of the field missions).

Significant changes occurred as well on the side of the PK/PB provider: while in the past it has been mainly the UN to deliver PKO's nowadays we are facing a new situation in which there are several actors ready to deploy a field operations (regional organisations, sub-regional organisations, coalition of the willing and even individual States). The international scenario in which these operations are carried out is very different from the past: nowadays most of the operations are carried out after a civil war, while in the past PKOs were typically deployed after an international war. The issue of the security of the personnel participating to a PK operations changes significantly as well: in the past the PK were mostly perceived, by the national public opinion of the hosting State as "the good guys" nowadays peace-keepers are often considered as very relevant target for criminal and terrorist ac-

tivities, specially to the high media exposure which accompanies any lethal event involving international PK forces.

The International Training Programme for Conflict Management of the Scuola Superiore Sant'Anna has carefully investigated these new trends and innovations and we have done our best to continuously update the content of our training courses to make sure that what we deliver in the classroom corresponds to the real situation in the field. This being an essential characteristics of our approach, we are extremely grateful to the representatives of several international organisation who provide us, on a regular basis, with the necessary inputs and suggestion on how to update and make more relevant the content and the delivery techniques of our Courses.

This issue of the ITPCM Commentary reflects very well our continuous search for deepening our analysis of the most recent challenges the field operations are facing and our interests and willingness to contribute to the scholarly and practitioners debate about the real impact and the consequences of these innovations. This issue is primarily dedicated to the challenges PK and PB Operations are meeting in Africa, a continent in which most of the currently run operations are delivered.

In his article Malte Brosig, Senior Lecturer, International Relations, WITS,

SA examines an old dilemma, *African solutions to African Problems or Meddling in your Neighbour's Conflict?* The author wishes to engage in a debate about the implications of a much stronger influence of African countries on peacekeeping. While as such the increasing willingness of African countries to commit troops to peacekeeping operations can be seen as a positive sign, it can also quickly turn out to be problematic if neighbouring countries use peacekeeping as an instrument for their own purposes and become war fighting parties. The author notes that AU has developed very little instruments to discipline its troop contributing countries in order to guarantee they are fully committed to a collective security mandate and reaches the conclusion, therefore, that it is "essential to further support and expand management capabilities, particularly within the thinly stretched Peace and Support Operations Division (PSOD) at the AU headquarters, and broaden participation in AU missions from across all regions of the continent".

Annalisa Creta, a senior research fellow, investigates the ongoing UN review of the peacekeeping training existing systems and practices with the Global Peacekeeping Training Architecture project. As a proper training of all those involved in a PKO is of crucial importance for the effective and professional delivery of the PKO itself, the author concludes that "A renewed Global Peacekeeping Training Architecture should be shaped upon

the afore identified four pillars – harmonized standards; quality assurance criteria and systems; strong link between training and recruitment; impact of training measurement - so as to build bridges among the United Nations, member States, training providers, other international and regional organizations engaged in peace support operations for effective partnerships and synergic linkages in all phases of peacekeeping training (pre-deployment, mission-induction, in mission, specialization)”

Alessio Pascali, a graduate student of the Scuola Sant’Anna reminds us that the access to modern technology and technological innovations is becoming of paramount importance in peacekeeping operations, as these tools can greatly enhance mission capabilities in a cost-effective fashion. Within this framework he investigates the legal and political consequences related to the decision of the UN, for the first time in its history, to contract a civilian operator to provide five Unmanned Aerial Vehicles for MONUSCO, its peacekeeping operation in the Democratic Republic of Congo (DRC).

Margherita Melillo, another graduate student of the Scuola, focuses her attention on a very sensitive issue, namely the need of an increasing cooperation between the PKO’s and the ICC. Examining the case of DRC, the author reaches the conclusion that cooperation is definitely important and mutually beneficial. In this framework the caution of the UNSC in openly endorsing the cooperation is understandable. A point of balance should therefore be sought. “Nevertheless, such a prudence should not hamper the concrete implementation of the cooperation: as affirmed with regard to the outcome of the cases in DRC, lack of clarity in the procedures might eventually be more damaging than no cooperation at all. In this regard, the improvements of the MOU with UNOCI in Côte d’Ivoire allow optimism”.

Benjamin Agordzo, at present Head of Training, AMISOM, examines UN Security Council Resolution 2124 which established a Trust Fund to boost the

strength of AMISOM military and providing support to Somali National Army (SNA). While the overall aim of the resolution is to intensify military offensive against Al-Shabaab, recover more territories, and expand Federal Government of Somalia (FGS) authority, the Resolution, however, failed to increase the number of AMISOM Police nor did it offer any support to the Somali Police Force (SPF), thereby creating a security gap within liberated Somali communities. The author contends that “winning the war against Al Shabaab goes beyond military venture; requires anticipating the effects of the military offensive on ordinary law abiding Somali by empowering local and international police as well as mobilizing support at all levels to contain the effects of the military offensives on Somalia”.

Serena Tiberia, Associate Human Rights Officer, UN Joint Human Rights Office in the Democratic Republic of the Congo (OHCHR-MONUSCO) examines how the implementation of the Human Rights Due Diligence Policy in the DRC may gain new momentum following the adoption of resolution 2147 (2014). As so far MONUC and MONUSCO gave an essential contribution to its development in 2009-2011, Serena argues that it is important now to support a renewed effort and a strong partnership between MONUSCO and the UNCT.

Emanuele Sommario, assistant Professor of International Law, examines a critical and complex issue concerning the unlawful conduct of UN Peacekeepers: allocating responsibility to Troop Contributing States and/or the UN. He briefly illustrates the relevant international law rules and describes how they have been applied by Dutch courts in a recent case concerning the 1995 massacre of Srebrenica.

Finally, Evelien Vleeshouwers, UNMISS Outreach Unit, South Sudan, deals with the burning issue on the UNMISS main challenges in increasing population awareness about the UNMISS mandate and improving relations with them. The problem of the quality of information and the importance of raising awareness among the local population on the activities

and mandate of the PKO’s is becoming more and more crucial to win the heart and the minds of the public opinion. Evelien suggests in her contribution several interesting and concrete solutions to overcome such challenges.

We are sincerely indebted to all contributors to this issue for their cooperation and timely delivery of their papers. I wish to all our readers and to all the friends of the ITPCM of the Scuola to enjoy the reading of this issue of the Commentary. Do not forget to have a look at the last pages of this issue in which we present the forthcoming Courses we will be organising in the coming months, including a very ambitious and innovative Master on Electoral Policy and Administration, which we will be run starting from next year with the support of international IDEA. I wish to all of you, as well, a very pleasant and hopefully relaxing period of holidays during this Summer.

Andrea de Guttry

Full Professor of Public International Law & Director, International Training Programme for Conflict Management Scuola Superiore Sant’Anna

Contributions

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New Force Commander of MONUSCO Visits Goma - Carlos Alberto dos Santos Cruz, newly appointed Force Commander of the UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), visited the city of Goma on 11 June.

11 June 2013 - Goma, Democratic Republic of the Congo, UN Photo | Sylvain Liechti

AFRICAN SOLUTIONS TO AFRICAN PROBLEMS OR MEDDLING IN YOUR NEIGHBOUR'S CONFLICT?

IS PEACEKEEPING INCREASING INTER-STATE TENSIONS?

by **Malte Brosig**

*Senior lecturer in international relations
at the University of the Witwatersrand in
Johannesburg.*

Introduction

This article traces and discusses some of the newer trends in peacekeeping in Africa. The current decade can be said to be a decade of African peacekeeping in which Africa is not only the main target of international deployments but is now also the one of the main sources and troop contributor for UN missions and those of African regional organizations. As the numbers of deployed peacekeepers

is reaching new global heights - missions are increasingly equipped with robust mandates and peacekeepers are often coming from the direct neighbourhood - new challenges are emerging. These newer trends in peacekeeping bear significant potential for increasing inter-state tensions and complicating conflict solution. This article wants to engage in a debate about the implications of a much

stronger influence of African countries on peacekeeping. So far such a debate remains under-developed and its dynamics too often remain hidden and under-explored.

There is no doubt peacekeeping in the second decade of the millennium is on the surge again with Africa rather unsurprisingly remaining at the centre of international peacekeeping deploy-

ments. The reluctance with which the international community has treated the continent when it came to sending out large scale operations seems to be over. While the famous Brahimi Report in 2000 warned the UN that there are many conflicts in which the UN should not intervene, particularly when there is no peace to keep, this doctrine has de facto now often been put aside by equipping peacekeeping operations with robust mandates. Especially the failed peacekeeping mission to Somalia in the early 1990s back then led to a dramatic decline of UN peacekeeping, with less than 20,000 peacekeepers being deployed in the year 2000 in total. Current trends in peacekeeping point into a very different direction. Large peacekeeping missions of the UN and regional organizations with more than 20,000 troops are currently deployed to the Democratic Republic of Congo (DRC) (UN), Somalia (AU) and Darfur (UN/AU). Larger missions with more than 10,000 troops are deployed to Mali, the Central African Republic (CAR) and South Sudan and UN peacekeeping numbers are again peaking at around 100,000 troops (soldiers, police and civilian staff). In terms of numbers it is not only the UN which is deploying at record levels. Since the inauguration of the African Peace and Security Architecture (APSA) of the AU more than ten years ago the AU got involved in increasingly larger and more demanding conflicts with missions such as AMISOM in Somalia growing from just 1,700 troops in 2007 to more than 20,000 today.

Not only the numbers of deployed troops seem to be on the rise but also the quality of peacekeeping and its tasks have changed as can be seen by the recent call of the UN Secretary-General for a review of UN peacekeeping. As Ban Ki-moon finds "UN peacekeeping operations are increasingly mandated to operate where there is no peace to keep" and "some UN peacekeeping operations are being authorized in the absence of clearly identifiable parties to the conflict or a viable political process."¹ While sig-

nificantly more peacekeepers are deployed currently than during the time of the Brahimi Report, peacekeepers increasingly operate in situations of severe insecurity and violence which very likely will continue in the near future. This can be seen in Mali, the DRC, CAR, or Somalia where peace enforcement and the use of offensive military capabilities is often not the exception but forms an essential part of the mission mandate. While there is certainly no surplus of peacekeepers as such, and passively watching the unfolding of armed conflicts is no option, the current surge in peacekeeping comes with a number of risks which this article aims at discussing.

More combat orientated peace enforcement operations entail a significantly higher risk of casualties among peacekeepers, often combined with uncertain perspectives for peace, which cannot be expected to find many sympathies among states if other vital geostrategic interests are not involved. Simply said why should states engage in high risk operations if their security is not compromised or there are no other economic or political interests in play which is more likely the case when a larger conflict is located in the regional neighbourhood? However, if states are primarily supporting peace enforcement for geostrategic, economic, political or other interests, peacekeeping might turn into an instrument increasing inter-state tensions in ongoing conflicts and thus has the potential to complicate peacemaking efforts by the UN and regional organizations. The challenge is to control the side-effects and unintended consequences of robust peacekeeping.

An African Decade of Peacekeeping

Despite massive international investment in institutional security structures in Africa, deadly conflict remains one of the great challenges of the continent. The slogan *African solutions to African problems* has over the years acquired more substantive

meaning especially with the setting up of the AU and its APSA. Although the APSA was not designed to replace the UN or regional economic communities (RECs) and its standby peacekeeping forces are still not fully operational, it has been involved in a growing number of peacekeeping operations. There is no doubt that the AU is becoming the central African actor deploying peacekeeping missions. Beyond the regional focus on African organizations, African countries are contributing significantly to UN missions. Indeed the number of African peacekeepers within UN missions has increased substantially over the last years and has surpassed contributions from Asia, which traditionally provided the largest contingents. By the end of 2013 43,432 UN peacekeepers were coming from Africa (see Figure 1).

In contrast to Asia, African countries are almost exclusively deploying to the African continent. At the same time African countries are also deploying significant numbers of troops through the AU and RECs. While accurate numbers are difficult to get from African organizations, it is safe to say that the majority of deployed peacekeepers is now coming from the African continent. However, the contribution from African countries and regions are rather uneven. The clear leaders in African contributions to UN peacekeeping are Ethiopia with 6,534 troops, Nigeria 4,949 and Rwanda 4,683 deployed in May 2014. Countries like Egypt, Senegal, Tanzania, Ghana and South Africa have all deployed between 2000-3000 troops.² However, not all African political heavy weights are deploying under the UN. For example Algeria, Burundi and Uganda are only contributing minimal numbers but play a much more visible role within AU peacekeeping and African politics.

Differences are also visible when it comes to comparing sub-regions. Much of the dynamics is driven by only two regions Western and Eastern

1 Remarks at Security Council Open Debate on Trends in United Nations Peacekeeping Secretary-General

Ban Ki-moon, Security Council, 11 June 2014 http://www.un.org/apps/news/infocus/speeches/statments_full.asp?statID=2251#.U6AEzVeuS9W Accessed 17 June 2014.

2 Data taken from <http://www.un.org/en/peacekeeping/resources/statistics/contributors.shtml> Accessed 18 June 2014.

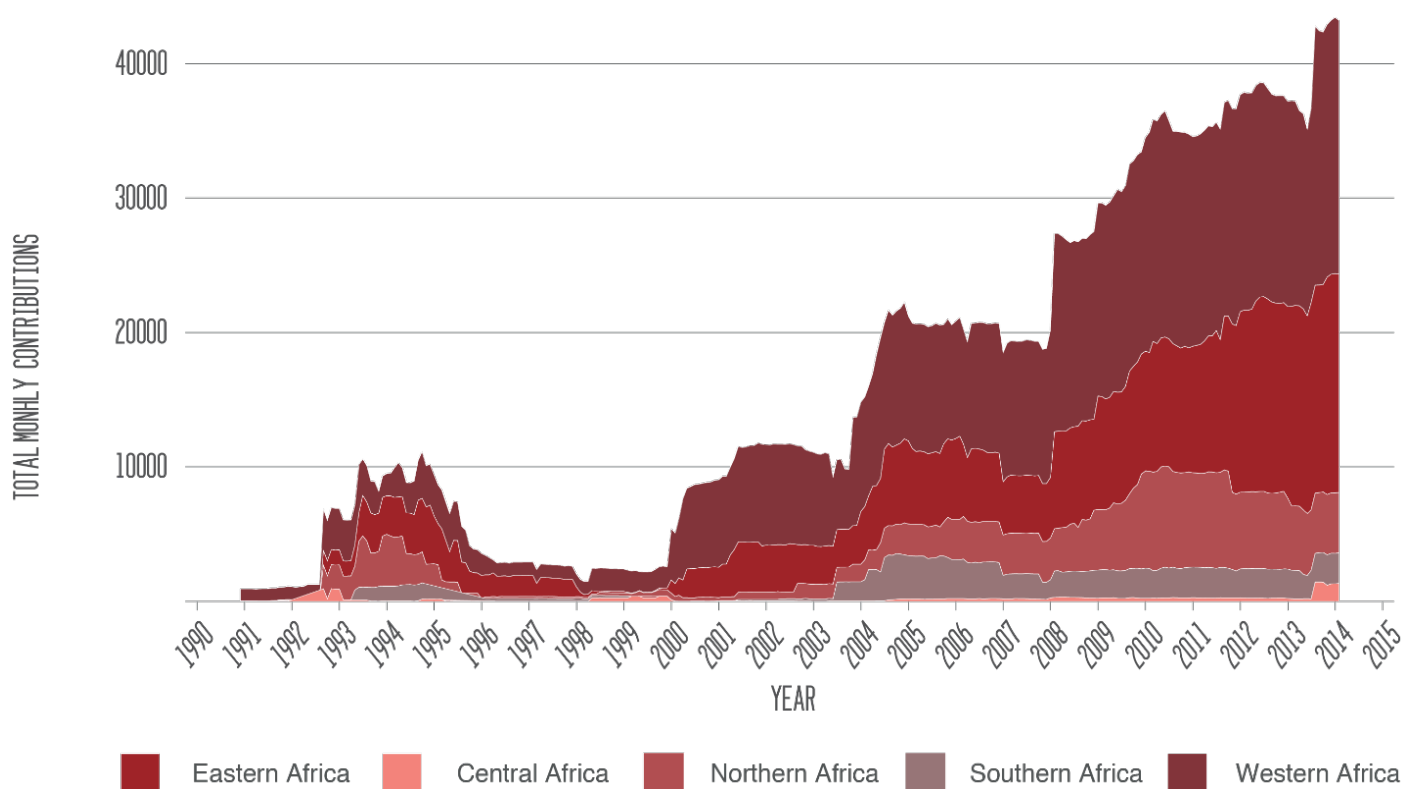


Figure 1 African contributions to UN peacekeeping - Source: <http://www.providingforpeacekeeping.org/profiles/africa/>

Africa. While Northern and Southern Africa are on average not hosting many peacekeeping missions and Central Africa has been embroiled in the conflict within the DRC, Western and Eastern Africa are both characterized by significant prevalence of armed conflict but also the willingness to intervene by using the instrument of peacekeeping. Indeed there seems to be a relationship between the appearance and prevalence of conflict (see Figure 2) and the increase in African peacekeeping from the direct regional neighbourhood.

De facto, today, many peacekeeping operations in Africa have a robust mandate which grew out of realities on the ground, humanitarian needs and a vibrant international debate around norms of the responsibility to protect (R2P) and protection of civilians (POC). While classically peacekeeping was envisioned to be applied after a conflict has ceased as an instrument helping countries survive the often very insecure transition process from conflict to lasting peace, such missions have become rather the

exception. A more robust engagement in peacekeeping in the DRC resulted from the incapacity of the UN mission to control various rebel movements mostly in the Eastern part of the country who repeatedly committed severe war crimes. In Mali it resulted from the French military intervention in 2013 which primarily aimed at fighting back an Islamist takeover of the country. In Somalia the AU mission was deployed into an ongoing war leaving no option than to pro-actively fight Al-Shabaab. In these three examples no reliable or lasting peace agreements could stabilise the countries or the peace process which often only rests on shaky grounds created by international pressure.

Conceptually there is quite a significant doctrinal gap between the UN and AU regarding peacekeeping deployments. While at least formally the UN aims at deploying in situations in which there is a peace to keep the AU endorsed a different approach arguing that “in certain situations, peace has to be created before it can

be kept.”³ Certainly the geographical proximity of regional organizations to conflicts exerts a much greater pressure for action than in the further away New York headquarters of the UN. Considering these new trends in peacekeeping it appears that the growing African role has led the UN to progressively move away from its more traditional approaches to peacekeeping.

These new trends of more African engagement, often from the near neighbourhood, with robust mandates for peace enforcement, can create interstate tensions and thus also has the potential to fuel rather than solve conflicts. While as such deploying peacekeepers from the region is not wrong, especially when it is difficult to motivate countries to commit to these missions because they are located far from the conflict, the interest of single states within peacekeeping missions need to be scrutinised and set in con-

3 AU PSC 307th Meeting Addis Ababa 9 January 2012, PSC/PR/2.(CCC-VII), para. 100 (VII).

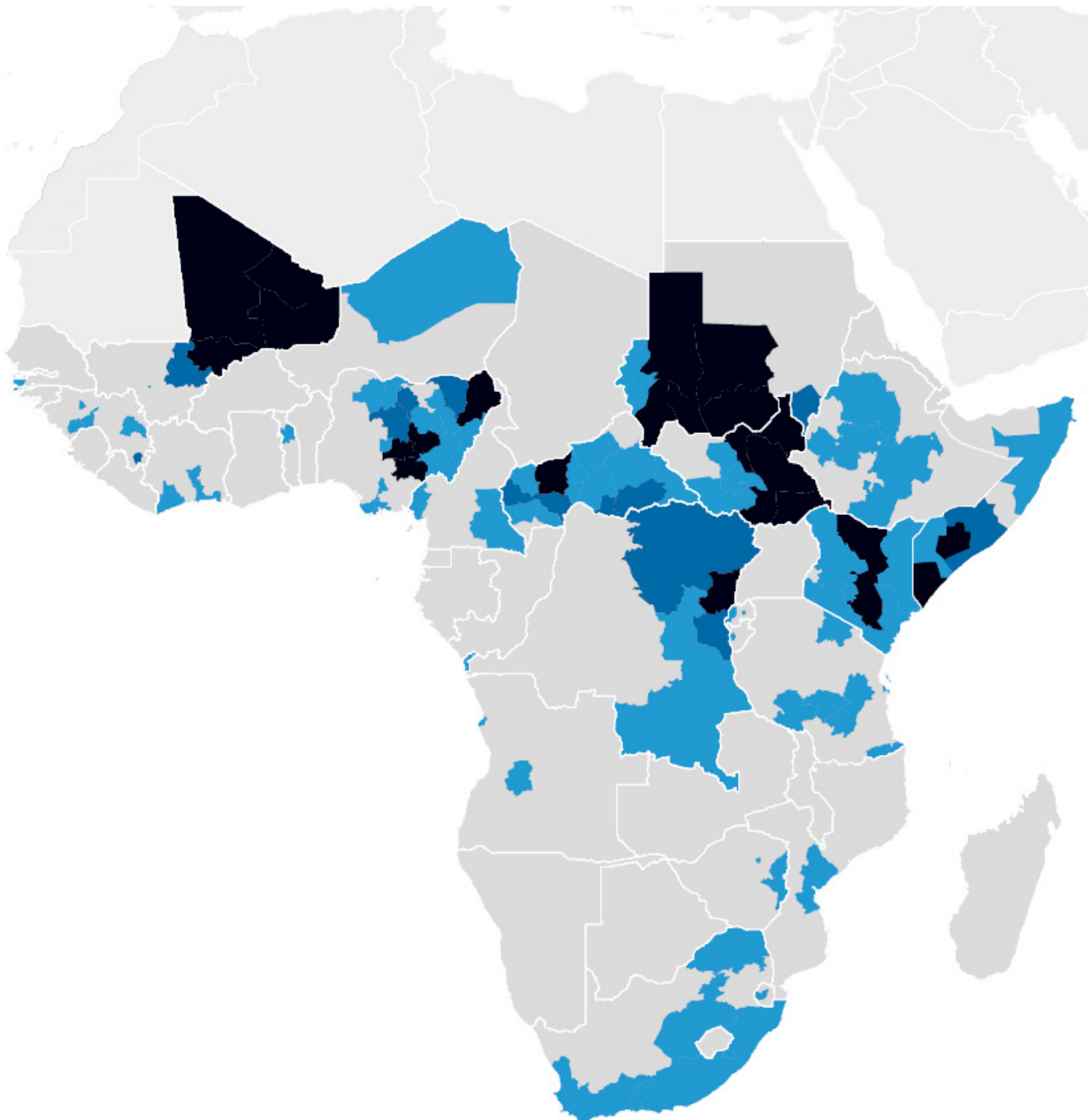
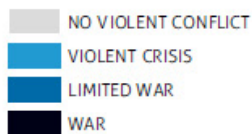


Figure 2 The Heidelberg Conflict Barometer 2013 Africa Focus

Source: Conflict Barometer 2013, Heidelberg Institute for International Conflict Research, p. 43. http://www.hiik.de/en/konfliktbarometer/pdf/ConflictBarometer_2013.pdf Accessed 18 June 2014.



text with their impact on the conflict and the prospect of solving it. Examples from Somalia, the DRC and CAR aim at illustrating how thin the line is, between peacekeeping and peace

enforcement as a legitimate instrument for peace creation, and national foreign policy preferences of single countries potentially undermining peacekeeping missions.

Somalia

The roots of the Somali conflict are many and have been discussed in the literature at length. In the early phase of operation AMISOM fears

have been issued that the mission was very likely going to fail, because of lacking resources and interest of troop contributing countries to fully commit to such a dangerous operation admits an ongoing war.⁴ While the operation can still be counted as the world's most dangerous peacekeeping missions in which hundreds of peacekeepers got killed, African states have now grouped together and deployed a forceful contingent of more than 20,000 troops who managed to drive out Al-Shabaab from the capital Mogadishu and economically important cities at the Indian Ocean. These successes are primarily military ones and have exerted some pressure on Islamist military groups. However, it should not be forgotten that AMISOM emerged out of a unilateral military invasion of Ethiopia into Somalia in 2006 which was significantly boosted by a Kenyan military operation in the South of Somalia later on. It is well established that Ethiopia's invasion was supported by the US

and Kenyan influence on Somalia treating it as its own political backyard has been branded as subjugation by peacekeeping by one regional commentator.⁶ More recently Kenyan-Somali relations have deteriorated significantly. With Kenya's military intervention in the South of Somalia, the subsequent re-hatting of Kenyan troops into AU peacekeepers, Al-Shabaab terror attacks expanded into Kenya. Following the Westgate Mall terror attack in 2013 Kenyan police increased pressure on Somali migrants in the country, including even Somali diplomats. The opening of a Kenyan consular in Kismayo was also seen as a further attempt of Kenyan authorities "to take the control and the ownership of land of this region."⁷ While AMISOM could claim back significant territory from Al-Shabaab and has made important contributions to a more stable Somalia, it should not be overlooked at what political consequences. If militarily much stronger neighbouring countries participate in peacekeeping

ping, this can easily become a recipe for future conflicts.

The Democratic Republic of Congo

In the case of the DRC conflict for a very long time has been fairly international involving a number of African countries. While in the last months of Mobutu reign his main rival Laurent-Desire Kabila was supported by Rwanda and Uganda, he quickly was confronted with a rebellion in Eastern Congo which his former allies supported as Kabila decided to cut ties with them. Only a coalition of Angola, Namibia and Zimbabwe in the end saved him from defeat. Since then various rebel groups have emerged in Eastern and Northern DRC often with foreign nationalities from neighbouring countries among them (see Figure 3). Most of these militias are historically connected to the Hutu-Tutsi conflict. Currently the Democratic Forces for the Liberation of Rwanda (FDLR) operates with around 2,000 troops and has been set up by Rwan-

Repatriated	Combatants	Dependents	Total
Rwandan	12,410	12,506	24,916
Ugandan	629	339	968
Burundi	3,784	132	3,916
Others	32	2	34
Total	16,855	12,979	29,834

Figure 3 Status of Foreign Armed Group Repatriation from 2002 - 31 May 2014

Source: <http://monusco.unmissions.org/Default.aspx?tabid=10728&language=en-US> Accessed 19 June 2014

over concerns of spreading Islamist groups and Ethiopian concerns over the Ogaden and Eritrea's support of armed groups in Somalia. To some extent the Ethiopian-Eritrean conflict took forms of a proxy war in Somalia in which Eritrea was arming Islamist militias and AMISOM was fighting them.⁵ The continuously strong Ethio-

operations, because it allows them to cover narrower national foreign policy interests with more legitimate branding of international peacekeep-

ISS Monograph, 104-106.

6 Abukar Arman "Somalia: 'African Solution or Subjugation?'" *May 13, 2014* <http://www.scoop.co.nz/stories/HL1405/S00111/somalia-african-solution-or-subjugation.htm> Accessed 19 June 2014

7 Somalia: Diplomatic row heats up as Kenya appoints a new representative to Somali region 1 May 2014 <http://www.somalicurrent.com/2014/05/01/somalia-diplomatic-row-heats-up-as-kenya-appoints-a-new-representative-to-somali-region/> accessed 19 June 2014.

dans fleeing to the DRC after Kagame claimed power. Parts of the FDLR are supposed to have been complicit in the 1994 genocide. Other groups are the Allied Democratic Forces (ADF) or the Lord's Resistance Army (LRA) which are both Ugandan rebel groups. Finally the National Liberation Forces (FNL) is a Burundian Hutu-led group which also operates in the DRC.⁸

Until today rebel groups remain a significant threat for the country and

8 For a short overview of foreign rebel groups operative in the DRC see <http://monusco.unmissions.org/Default.aspx?tabid=10727&> accessed 28 June 2014.

4 Paul Williams (2009) „Into the Mogadishu Maelstrom. The African Union Mission in Somalia“ *International Peacekeeping* 16(4) 514-530.

5 Sabala, Kitizito (2011) "Regional and extra-regional inputs in promoting (in)security in Somalia" in Roba Sharamo and Berouk Mesfin (eds) *Regional Security in the post-Cold War Horn of Africa*,

region. As almost 14 years of UN peacekeeping could not curtail rebel movements leading to numerous war crimes, terrorising civilians, and in 2012 M23 rebels captured the regional capital Goma. As a consequence the UN Security Council adopted resolution 2098 in 2013 authorising the deployment of an Intervention Force in order to 'neutralize' rebel forces. Since then the intervention brigade which is chiefly staffed by African soldiers with South Africa, Malawi and Tanzania each sending one battalion of 850 soldiers successfully engaged the M23 rebels.

In July 2013 Patrick Cammaert, former military advisor in the UN Department of Peacekeeping Operations and former Eastern Division commander of the UN Mission in the DRC warned, that "The history of proxy support, vested national interests, and overlapping ethnic populations still has potential to draw regional powers into conflict in the DRC either through covert support for rebel groups or in actual military engagement as in the Second Congo War." This rather sceptical view is not unfounded. While the defeat of M23 is as such a positive development it cannot be said that lasting peace has been achieved for the region at the moment. In the first half of 2014 political tensions between South Africa and Rwanda and the DRC and Rwanda have increased. While M23 has been defeated other rebel groups are still operative. Unfortunately, as regular Congolese troops moved into former rebel positions, tensions with Rwanda increased resulting in an exchange of heavy gun and artillery fire in early June 2014.⁹ Kagame's domestic hard hand on the opposition, with the execution of opposition members in South Africa, also led to a severe cooling down of diplomatic relations between Kigali and Pretoria. With the extensive economic interests of South Africa in the DRC and its leadership role within the Intervention Brigade this situation is bearing considerable political weight. The fact that the in-

tervention brigade so far has predominantly focused on the M23, but not the FDLR, which was complicit in the 1994 Rwandan genocide, has further steered scepticism and opposition in Kigali now accusing the UN of applying double standards.¹⁰

The Central African Republic

Finally the CAR constitutes another case in which African peacekeeping clashes with national foreign policy preferences of neighbouring countries. Since 1997 the CAR has witnessed 12 peacekeeping missions by eight different organizations. What appears as an impressive international commitment is indeed rather the opposite. Half-hearted peacekeeping missions in the past allowed conflict to re-appear with force in the last two years, when president Bozize was ousted by Seleka rebels in 2012/13. Although they installed rebel leader Djotodia as president, he quickly failed to build a stable government and the country plunged into civil war starting a cycle of revenge attacks triggering the worst humanitarian crisis the country had witnessed so far. Apart from the domestic roots of conflict, the country has seldom managed to play an independent role internationally, but has rather suffered from neighbouring countries and major conflicts in its vicinity such as in the DRC, Darfur, Chad or LRA fighters moving into its territory. The absence of a viable peace and security organization in Central Africa, and the divergence of international attention to other major conflicts around CAR in the DRC and Darfur, allowed single state interest to undermine international peacekeeping efforts. Most visibly this can be observed in the relationship between the CAR and its northern neighbour Chad. Chad for decades intervened in the CAR by supporting rebels and fighting them if they became a threat for Chad. A UN Commission of Inquiry recently found that Chad pro-actively supported Seleka militarily when ousting

Bozize.¹¹ Parts of the Chadian troops were later recruited for the AU peacekeeping mission MISCA. A situation which is unacceptable taking away any legitimacy as impartial peacekeepers from the AU mission in a still very fragile and violent security environment. Furthermore, Chadian soldiers committed war crimes by killing 30 unarmed civilians while they have been in the country. Later on Chad completely withdrew their 850 troops from the peacekeeping mission, and thus the AU was losing its largest contingent overnight, further weakening the mission.

Conclusion

In sum, this article sketched out some of the perils that accompany current trends in peacekeeping. There is clear evidence that peacekeeping is becoming more African. Africa is not only the target of international deployments but increasingly also the source. The number of African peacekeepers within UN missions is surpassing those from Asia. Together with the AU and RECs African countries are clearly carrying the lion's share in terms of provided troops. However, this surge in numbers comes in most cases from the near neighbourhood and countries directly affected by armed conflict in their region. While as such the increasing willingness of countries to commit troops to peacekeeping operations can be seen as a positive sign, it can also quickly turn out to be problematic if neighbouring countries use peacekeeping as an instrument for their own purposes and become war fighting parties. This risk is particularly apparent in conflicts which are ongoing without a reliable peace agreement in place and in situations in which peacekeeping becomes peace enforcement. In such situations it is highly likely that peacekeepers get embroiled in regional disputes or

⁹ Fresh Fighting on DRC-Rwanda Border, 13 June 2014, <http://news.iafrica.com/worldnews/944016.html> Accessed 19 June 2014.

¹⁰ Rwanda Comments on UN Security Council debate on new trends in peacekeeping, 7196th meeting of the UN Security Council, S/PV.7196, 11 June 2014, p.5.

¹¹ Rebecca Hamilton „Foxes guarding the hen house”, *Foreign Policy*, 5 June 2014, http://www.foreignpolicy.com/articles/2014/06/05/foxes_guarding_hen_house_united_nations_central_african_republic?utm_content=buffer12bcc&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer Accessed 20 June 2014

are even used as an instrument primarily fostering national foreign policy interests. Naturally international attention is predominantly focusing on the conflict and its warring parties. However, it should not be forgotten that peacekeeping, and especially peace enforcement, can easily become part of those problems the peacekeepers aim at targeting. So far the AU has developed very little instruments to discipline its troop contributing countries in order to guarantee they are fully committed to a collective security mandate. It is therefore essential to further support and expand management capabilities, particularly within the thinly stretched Peace and Support Operations Division (PSOD) at the AU headquarters, and broaden participation in AU missions from across all regions of the continent. To a slightly lesser extent this is also true for the UN.



Somali police officers take part in a training exercise to stop and search a vehicle at General Kahiye Police Academy in Mogadishu, Somalia, on June 16. The African Union is currently training one hundred Somali Police officers in a program aimed at equipping the Somali Police Force with the necessary skills to effectively arrest suspects, stop vehicles at checkpoints, and cordon off areas.

16 June 2014, AMISOM Photo | Tobin Jones

MORE COHERENCE IN PEACEKEEPING TRAINING? THE GLOBAL PEACEKEEPING ARCHITECTURE PROJECT

THE UN IS EMBARKING IN A THOROUGH REVIEW OF THE CURRENT PEACEKEEPING TRAINING SYSTEMS AND PRACTICES.

by **Annalisa Creta**

*Research fellow,
Scuola Superiore Sant'Anna*

Introduction

The nature of peacekeeping is increasingly evolving as United Nations operations are tasked to carry out a diversified array of activities. The multidimensional mandates of most of the current operations do entail a strengthened investment in quality human resources, hence an enhanced need to ensure that staff de-

ployed is adequately equipped with the knowledge, skills, and attitudes required to perform assigned duties. Also, the growing involvement of other actors (e.g. EU, AU) in peacekeeping, requests coordinated efforts for ensuring understanding and compatibility of approaches to work between organizations. Recent statis-

tics related to peacekeeping personnel currently serving in ongoing operations show that in the 17 ongoing DPKO-led peace operations the total staff is of 116,043 (of which 97,438 are uniformed personnel¹; 17,002 civilian and 2,022 UNVs). The African Union

¹ Out of which 40762 are from Africa.

has about 25,379 uniformed and 193 civilian personnel deployed in AU-mandated operations. The European Union CSDP operations and mission count about 5,104 staff (of which 2,891 military, 932 police and 1191 civilians)². Ninety per cent of the personnel currently deployed by these organisations serves in missions operating in Africa.

Precisely in this endeavour, in 2012-2013 the Integrated Training Service of UN DPKO carried out a Global Peacekeeping Training Needs Assessment (TNA) with the objective of: determining the knowledge, skills and behaviours required for the effective implementation of peacekeeping mandate tasks; identifying performance and skill gaps that can be filled through training; and assessing current peacekeeping training activities and mechanisms. The report indicated that peacekeeping training is a critical element to effective mandate implementation and it did not simply advocate for more resources for training, but recommended that a holistic approach be undertaken, an approach that considers training as a 'strategic investment' in peacekeeping and where priorities are clearly set and resources targeted in areas of high return on investment. The report also concluded that

*"[t]he global enterprise of peacekeeping training involves the UN Secretariat and related bodies, as well as national, regional and independent training institutions of many kinds. In the absence of a true architecture for peacekeeping training, coherence amongst these actors requires common understanding of peacekeeping challenges, widely accepted standards and the sharing of information and expertise."*³

² A snapshot of personnel deployed in peacekeeping missions as of September 2013 (UN, EU, AU and other actors) is available at: http://www.zif-berlin.org/fileadmin/uploads/analyse/dokumente/veroeffentlichungen/ZIF_World_Map_Peace_Operations_2013.pdf For an account of updated data on UN peacekeeping personnel statistics, see: <http://www.un.org/en/peacekeeping/resources/statistics/factsheet.shtml>

³ UN DPKO/DFS, Training: A Strategic Investment in UN Peacekeeping - Global Peacekeeping Training Needs Assessment, Final Report 2012-2013, para 99. Document

The antecedents

The General Assembly set up the foundation of the current Global Peacekeeping Training Architecture through its resolution 49/37 of 1995 by attributing specific responsibilities to both member States and the UN Secretariat as it relates to peacekeeping training. The former were recognized as the bearers of primary responsibility for pre-deployment training of uniformed personnel and the latter in charge of the development of training standards and materials to support such training efforts.⁴ With the establishment of new and more complex operations over the time, training requirements for both peacekeeping personnel have grown and, with the restructuring of DPKO and the creation of DFS in 2007, the Integrated Training Service (ITS) was created as the centre responsible for all peacekeeping training (both military, civilian and police). Since then, ITS has been devising and implementing a training strategy based on training standards development, ToT courses, training recognition policies for military and police training, mobile training teams. Such a strategy did achieve significant results, although the increasing training demands stemming from the more and more multifaceted multidimensional mission mandates made it necessary for such programs to undergo a comprehensive review.

The current peacekeeping architecture and its challenges

The Global Peacekeeping Training Architecture was based on a shared understanding of roles and responsibilities of different actors. As explained by the Secretary General,

"[t]he lead role in identifying training needs and standards for United Nations peacekeeping rests with the Policy, Evaluation and Training Division. The development and delivery of peacekeeping training entails collaboration and

available at: <http://peacekeepingresourcehub.unlb.org/PBPS/Pages/Public/viewdocument.aspx?id=2&docid=1355>

⁴ Operative paragraph 53 of that same resolution also tasked the Training Unit, focal point for peacekeeping training in DPKO, to act as a coordinating centre on peacekeeping training matters between the United Nations and national and international peace-keeping training centres.

*partnership with Member States for the pre-deployment training of military and police personnel; with the Departments of Peacekeeping Operations and Field Support and the United Nations Secretariat for cross-cutting training and job-specific and technical training for civilians; and with peacekeeping missions for induction and ongoing training once deployed to the field. The full development of the peacekeeping training architecture for capability development initiatives for troop and police contributors, workforce development for civilian staff and direct training support to peacekeeping missions will entail a wider and more extensive partnership, which will include peacekeeping training institutions worldwide as well as training entities within both the Secretariat and the wider United Nations system."*⁵

The 2012-2013 Global Peacekeeping Training Needs Assessment, by assessing cross-cutting training needs of military, police and civilian personnel at all levels in peacekeeping missions, service centres and at Headquarters, yielded some key recommendations, which are pivotal towards a restructuring of the existing training architecture and towards ensuring that training efforts at all levels are concerted, synergic and coherent. Among the suggested courses of action, the report purports to:

- "Move Towards a Culture of Learning" by considering training a central element towards effective implementation of operations' mandates.
- "Encourage More Integration and Less Fragmentation, identifying clear direction and clearly-defined strategic priorities. This necessitates an integrated effort amongst all actors involved in peacekeeping training." The definition of training needs and priorities based on operational necessities stemming from missions' needs analysis should trigger improved coordination and synergies with all the actors involved in peacekeeping training.
- "Do Better with Existing Tools and Materials, addressing gaps in awareness of and access to training, policies and guidance. Based on set priorities,

⁵ Report of the United Nations Secretary General on Progress on Training in Peacekeeping, A/65/644, 21 December 2010, para. 19.

there is a need to improve learning methodology and delivery in collaboration with Member States and training institutions".

▪ "Focus on Impact, assessing and evaluating the impact of training, in order to support it as a strategic investment".⁶

Through the Global Peacekeeping Training Architecture project, ITS is striving to undertake a **comprehensive review** of the peacekeeping training existing systems and practices so as to follow up on all the recommendations going in the direction of leveraging the various international peacekeeping training capacities, capabilities, tools and resources in a more coordinated and coherent way. This in order to strengthen the implementation of pre-deployment and in mission training, foster harmonized training standards and methodologies for increasing integration, interoperability and effective missions mandates implementation.⁷

Such a **review** – that to be effective needs the engagement of DPKO, DFS, Member States and training institutions - will have to meet the challenges the current training architecture is facing. Some of them relate to:

- the lack of coherence in actions and approaches of the various stakeholders, in particular as it relate to training standards;
- the not always very strict linkages between training and recruitment/deployment: it is not always those who are trained that are subsequently serving in peacekeeping missions.
- The fact that not all the training needs for peacekeeping tasks are dealt with and addressed in UN peacekeeping training materials;
- The proliferation of education and training initiatives by Member States and/or training centres that do not al-

ways adequately meet the standards developed by the UN;

- The lack of appreciation of the implications for training (national, pre-deployment, or in-mission), of contemporary multi-dimensional peacekeeping operations;
- The absence of systematized mechanisms for training quality assurance (certification) that can ensure that individuals/units to be deployed have been imparted quality pre-deployment training, using UN standards and materials.

Data gathered during the 2012-2013 TNA show that the participation rate in pre-deployment training is still far from universal, even though pre-deployment training is mandatory for newly recruited civilian staff (or those who have not been deployed in the past three years) as it is for all uniformed personnel⁸. Another area of concern ... highlighted relates to the use of Standardized Training Curricula. Indeed, not all Member State pre-deployment training is conducted using UN STM.

The Global Peacekeeping Training Architecture project - towards a renewed system

The increasing number of training institutions⁹ and training aimed at preparing personnel for peacekeeping operations requests a continuous, enhanced and special effort to guarantee a more harmonized approach to training.

If we take Africa as an example, one of the pillars of the operationalisation of the African Peace and Security Architecture (APSA) has been the creation of the African Stand-by force (ASF) through an ongoing long-term capacity building process, currently ongoing, aimed at enhancing the ability of

the AU to deliver effective responses to conflicts. One of elements towards the development of sustainable peacekeeping capabilities is namely training¹⁰. Various are the existing consultation mechanisms on peacekeeping related issues, including training, between the AU and other international actors: the G8++ Africa Clearing House, the AU-UN Panel on Peacekeeping, the Joint AU-EU Partnership, together with many bilateral ongoing initiatives (e.g. the Training for Peace programme, Africa Conflict Prevention Pool, ACOTA, just to mention a few). This brief description well summarises the hectic reality surrounding peacekeeping training: a plethora of actors involved, not always coordinated in their actions, standards, deliverables.

A review of the Global Peacekeeping Training Architecture should ideally foster and strengthen mechanisms for pooling and sharing training efforts, capacities and expertise based on 'a harmonised approach to training'. An approach that is based on needs, focused on building knowledge and skills for effective mandates' implementation, grounded on standardized curricula, which allow for the creation of a common knowledge base to operate in an international environment. Indeed, compatible training standards and principles should apply to all training efforts - both those delivered by member States (pre-deployment for military and police), by the United Nations (to peacekeeping personnel), by national training centres (peacekeeping foundation courses and specialisation courses mainly for civilians) - so as to ensure that personnel deployed has a common understanding of UN peacekeeping. This can only be achieved if all actors engaged in peacekeeping training function in a coherent way addressing the same priority needs. The core issues at stake are those of: harmonized standards and their use; the coordination of training efforts and the quality of training delivered;

⁶ UN DPKO/DFS, Training, paras 73-94.

⁷ Also the Senior Advisory Group on rates of reimbursement to troop-contributing countries and other related issues recommended that "systems be put in place to ensure effective monitoring of pre-deployment training, operational readiness and the evaluation of mandate delivery and that resources be made available for verification and assessment throughout the life of the mission..." (A/67/713 para. 55). Such recommendation was endorsed by the general Assembly in resolution 67/261 of 14 June 2013.

⁸ 19% of military and 30% of police respondents to the survey sent for the purposes of the 2012-2013 TNA have not participated in any pre-deployment training. 46% of civilian respondents who are eligible have not participated in pre-deployment training.

⁹ For an overview (non exhaustive) of the existing peacekeeping training centres (both civilian, military and police) per country and region check the ZIF Training Guide-Peacekeeping Training Centres 'Europe', 'Africa Middle East Asia', 'Americas', at : <http://www.zif-berlin.org/en/analysis-and-information/publications/zif-guides.html>

¹⁰ Relevant work has already been carried out and is ongoing in relation to ASF training: the training doctrine, training standards, evaluation and validation, the role of centres of excellence, training needs for the three components (civilian, military, police), harmonisation of training curricula.

the extent to which all personnel deployed actually receives training. A review of the Global Peacekeeping Training Architecture should focus on those core issues by building effective partnerships among relevant stakeholders involved in the training delivery process - coordinated by the United Nations Secretariat (ITS specifically) - in and on the following key areas: (a) harmonized approach to training; (b) training recognition policies and mechanisms; (c) establishment of a virtual cycle between recruitment, pre-deployment, mission induction training; (d) impact of training evaluation.

On a harmonized approach to training

Effective training standards are pivotal for the successful training of personnel of peace support operations. Well-trained personnel directly contributes to improved practices in the field and enhances the impact of the operations they are part of. Common training standards among organizations/training institutions – *alias* standards whose content, shape and objectives have a common framework - do trigger compatible approaches towards the development and management of knowledge and skills that improve the work that peace support and other international operations carry out.

A harmonized knowledge management approach would lead to greater efficacy in the provision of training for crisis operations. It would also allow for an easier movement of personnel between Organizations and missions (inter-operability) and enable the sharing of resources, costs and time of training, in addition to collective efforts to improve practice. Various are the ongoing efforts at the regional level to develop standardized curricula in various areas of peacekeeping training, based and building upon UN standards, where existing.¹¹

11 Harmonization of training standards efforts are ongoing in Africa and Europe. In the latter a system of training certification has also been developed within the framework of the Europe's New Training Initiative for Civilian Crisis Management (ENTRI) that provides certification to training courses in the field of civilian crisis management. A C3MC-label is awarded to courses that meet established standards and criteria for training civilian personnel to be deployed in crisis management missions. ENTRI is an initiative funded by the

The United Nations, the European Union, the African Union, the Organization for the Security and Cooperation in Europe and other relevant stakeholders work next to each other in conflict and post-conflict scenarios. Their relationship spans from the mere fact of operating in the same environment to joint cooperation through established partnerships. Training can be a tool to promote understanding and compatibility of approaches to work within and between such institutions. Sharing and improving quality standards would support a coordinated response to a greater preparation of personnel in the field. This in turn would contribute towards improvements in the quality of the work being done on the ground. Better quality and coordination would help to strengthen the credibility of the international community in the contexts in which they operate.

Compatible standards would support the widening of a pool of personnel trained to recognized quality levels. This would ease mobility between institutions. The development of skills undergone with one training provider would be recognized by another, reducing unnecessary duplication of training.

The Global Peacekeeping Architecture project should undergo a broad scale mapping for taking stock of existing efforts in the field of harmonization of standards for peacekeeping training and find the way to coordinate and streamline such efforts. In order to ensure complementarities and full interoperability, information and experiences have to be shared and possibilities of increased co-operation between organizations in the area of training have to be explored, and where existing further enhanced and implemented in order to: to share information on challenges, needs on training and lessons learned; to harmonize training standards in compliance with new training develop-

European Commission (90%) and co-funded by its 13 implementing partners. See www.entriforcem.eu. In Africa, the process of harmonisation of training standards is being carried out by African Peace Support Trainers Association (APSTA) on behalf of AU PSOD.

ments; to co-operate on the planning, implementation, evaluation and standardization of training.

On training recognition policies and mechanisms

A system of training certification can constitute an element of quality assurance so that the personnel deployed within the framework of peacekeeping operations possess a coherent and similar level of knowledge and sufficient competences. It should offer an objective evaluation standard and allow training institutions to improve the quality of their courses, recognized by the United Nations. A training certification system could enable the Organization to rely on a group of well-trained personnel, who attended certified training courses, which comply with agreed standards and criteria. Training institutes would improve the quality of their courses, which would be formally certified, provided they meet specified standards and criteria. Also, individual participants would obtain a qualification at the UN level provided they have acquired specific competencies in the peacekeeping field after having participated in a training course, which holds the UN certification.

A system of training certification would also constitute an additional support tool for Member States and the Organization in their 'duty of care' with regard to recruited and deployed personnel. It would provide them with instruments to ensure that training courses are based on agreed common standards on the whole spectrum of issues relevant to peacekeeping and encompassing both hard knowledge requirements and soft skills needs. Such a tool would also contribute to a similar management culture among future mission members and a sense of common identity and purpose. This in turn, would improve the quality of work on the ground.

The current UN training recognition policy, only applicable to police and military courses based on the STM should be revised so as to allow a wider spectrum of course curricula to be certified, in particular in those substantive, support and soft skills

areas considered as priority training needs for the fulfilment of current mission tasks. This also in light of the transversal nature of international deployments, with the circulation of personnel both across countries and across missions, the setting of a system of training certification would enable a comprehensive approach to the building of expertise for missions deployed not only with the UN, but also with other organisations.

On the establishment of a virtual cycle between recruitment and pre-deployment training

Already in 2000, the Report of the Panel on United Nations Peace Operations (better known as Brahimi report), highlighted the pressing need for UN peacekeepers to be fully well-trained to face up to the increasingly complex tasks they are expected to undertake. The Report also steadily recommended that units that did not meet the minimum standards of training and equipment should not be deployed. Certified courses based on common training standards would need to be linked to the recruitment/deployment process. This is an important basis for developing capacities for the rapid deployment of qualified personnel for specific mission tasks.

On the impact of training evaluation

The adoption and systematic implementation of a training impact assessment methodology to evaluate the impact of training on improved staff performance - and ultimately on improved mission's mandates implementation - would sustain that training is 'a means to an end', henceforth a strategic investment for effective peacekeeping tasks' execution. This would be done by comparing resources invested in training against developments in improved work capacity of the mission. The return of investment methodology DPKO/DFS have been working on to start evaluating impact of several of their training programs could be a valuable tool for strengthening and giving more coherence to the peacekeeping training architecture.

Conclusions

A renewed Global Peacekeeping Training Architecture should be shaped

upon the afore identified four pillars – harmonized standards; quality assurance criteria and systems; strong link between training and recruitment; impact of training measurement - so as to build bridges among the United Nations, member States, training providers, other international and regional organizations engaged in peace support operations for effective partnerships and synergic linkages in all phases of peacekeeping training (pre-deployment, mission-induction, in mission, specialization). An appropriate organizational structure would be needed for participative and successful collaboration between training institutions coming from as many Member States as possible, and for effective and transparent cooperation and coordination with other International Organizations.



A UN Unmanned/Unarmed Aerial Vehicles (UAV) is taxiing in at Goma airport following a successful flight during an official ceremony with USG for UN Peacekeeping Operations Herve Ladsous.

3 December 2013, MONUSCO Photo | Sylvain Liehti

THE STRATEGIC AND LEGAL IMPACT OF THE USE OF UNMANNED AERIAL VEHICLES IN UN PEACEKEEPING

THE CASE OF MONUSCO IN THE DRC

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Introduction

In the initial phase of the Rwandan genocide, in April 1994, the forces of the United Nations Assistance Mission for Rwanda (UNAMIR) were unaware that the vast majority of the slayings were centrally organised and overwhelmingly perpetrated by Hutus.¹ “We were blind and deaf in the

field”, UNAMIR force commander Lieutenant-General Roméo Dallaire bitterly complained, denouncing the lack of an adequate intelligence gathering structure in the mission.²

Since the dreadful days of the Rwandan tragedy, UN peacekeeping has experienced many changes and

transformations. Today it is facing a “heightened level of new threats”,³ because peacekeepers are increasingly being deployed in countries where there is little peace to keep and where

¹ Johnson, L. K. (2010) *The Oxford Handbook of National Security Intelligence*, New York: Oxford University Press, p. 290.

² Melvern, L. (2006) *Conspiracy to Murder: the Rwandan Genocide*, London: Verso, p.84.

³ Ladsous, H. (2014) *Statement by Under-Secretary-General to the Special Committee on Peacekeeping Operations*

[Online], Available: <https://www.un.org/en/peacekeeping/articles/140224-USG-HL-C34-FINAL.pdf> [18 June 2014].



parties to the conflict are shifting to non-State actors, which frequently target UN staff with improvised explosive devices (IED) or other asymmetrical and unconventional tools.⁴ At the same time, while the demand for UN peacekeeping is growing, the global economic crisis has severely tightened the budget constraints of the missions. As a result of these conflicting trends, access to modern technology and technological innovations is becoming of paramount importance in peacekeeping operations, as these tools can greatly enhance mission capabilities in a cost-effective fashion.

The Unmanned Aerial System (UAS) is one of the technologies that may prove useful to improve the operational effectiveness of peacekeeping missions, multiply their impact on the ground, and enhance the safety and security of both Peacekeepers and host communities. The UAS is essentially a monitoring and surveillance system composed of a variable number of Unmanned Aerial Vehicles (UAV) and their control and support equipment. These camera-equipped drones can greatly increase the situational awareness of the troops on the ground, by providing a tactical overview of the operational scenario in real time.

The United Nations has recently acknowledged the potential of this tool in conflict situations.⁵ As a result, last year, for the first time in its history, it contracted with a civilian operator to provide five Unmanned Aerial Vehicles for MONUSCO, its peacekeeping operation in the Democratic Republic of Congo (DRC).⁶ According

4 Ibid.

5 "UN peacekeeping missions have used surveillance UAVs in other, less publicized instances, but typically during peacetime. For example, the Security Council in Resolution 1706 mandated the use of aerial surveillance to monitor trans-border activities of armed groups along the Sudanese borders with Chad and the Central African Republic". Apuuli, K. P. (2014) "The Use of Unmanned Aerial Vehicles (Drones) in United Nations Peacekeeping: The Case of the Democratic Republic of Congo", "ASIL Insights", vol. 18, issue 13, [Online], Available: <http://www.asil.org/insights/volume/18/issue/13/use-unmanned-aerial-vehicles-drones-united-nations-peacekeeping-case> [19 June 2014].

6 In this regard, it is important to stress that the UAS employed by the UN is

to Karlsrud and Rosén (2013), the deployment of UAVs in the DRC can be considered a "defining moment" for the UN peacekeeping.⁷ This article explains why this is the case, by outlining the strategic and legal consequences of the use of this technology by MONUSCO.

The circumstances of the deployment of the UAS in the DRC

A UN Peacekeeping operation has been operating in the DRC since 1999. Although the peacekeepers have been successful in stabilising many parts of the country, its eastern region continues to be plagued by recurrent waves of conflict, chronic humanitarian crises and serious human rights violations.⁸ In November 2012, the situation in the region worsened as a rebel group known as "Mouvement du 23 mars" (M23) consolidated its hold on the Northern Kivu province by briefly occupying its capital.⁹ As a result of these events, the Secretary-General was asked by the President of the Security Council to consider different options for the employment of the additional force multipliers necessary to confront the threats posed by the M23 rebellion and to improve the Mission's ability to implement its mandate.¹⁰ In his reply to the President of the Security Council, on December 2012, Ban Ki-moon wrote:

composed of unarmed drones, which are not more lethal than "flying cameras". Thus, they should not be confused with the armed drones increasingly employed by the US to carry out extrajudicial killings.

7 Karlsrud, J. and Rosén, F. (2013) "In the Eye of the Beholder? UN and the Use of Drones to Protect Civilians", *Stability: International Journal of Security and Development*, vol.2, no.2, art. 27, p. 2, Available: <http://dx.doi.org/10.5334/sta.bo> [18 June 2014].

8 *Monusco Background*, [Online], Available: <http://www.un.org/en/peacekeeping/missions/monusco/background.shtml> [18 June 2014].

9 Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic

Republic of the Congo, S/2013/96, 15 February 2013, [Online], Available: http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2014/157 [18 June 2014].

10 Statement by the President of the Security Council, S/PRST/2012/22, 19 October 2012, [Online], Available: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_prst_2012_22.pdf [19 June 2014].

"Additional information capabilities are needed for advanced information collation, analysis and dissemination to enhance situational awareness and to permit timely decision-making. This includes external imagery/electronic equipment and associated analysis capabilities, notably surveillance capability such as that provided by unmanned aerial systems".¹¹

Taking note of this input, on 28 March 2013 the Security Council unanimously adopted resolution 2098 (2013), authorizing MONUSCO to take "all necessary measures" in order to monitor the implementation of the arms embargo previously established and, in particular, "to observe and report on flows of military personnel, arms or related materiel across the eastern border of the DRC, including by using [...] surveillance capabilities provided by unmanned aerial systems".¹² After the go-ahead of the Security Council, the Procurement Division of the UN Office of Central Support Services organised an international tender for the provision of one Unmanned Aerial System for three years (plus two optional years) in the DRC.¹³

The tender was won by Selex ES, an Italian company part of the Finmeccanica Group, who provided MONUSCO with a UAS composed of five drones with a range of 250 km. The system operating in the DRC, called Falco, is an "unarmed, mission-proven, medium-altitude, medium-endurance UAS capable of operating from semi-prepared airstrips with fully

11 Letter dated 27 December 2012 from the Secretary-General addressed to the President of the Security Council, S/2013/43, 22 January 2014, [Online], Available: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_43.pdf [18 June 2014].

12 UN Security Council, Resolution 2098/2013, 28 March 2013, S/RES/2098(2013), [Online], Available: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2098.pdf [18 June 2014]. This resolution also strengthened MONUSCO by including in its mandate a Special Intervention Brigade, which is supposed to "carry out targeted offensive operations [...] in a robust, highly mobile and versatile manner [...] to prevent the expansion of all armed groups, neutralise these groups, and to disarm them".

13 Stupart, J. (2013) *Drones and Rooivalk to the DRC*, [Online], Available: <http://www.africandefence.net/drones-and-rooivalk-to-the-drc> [18 June 2014].

automated take off, landing and mission execution capability".¹⁴ Selex ES remains in control of the system and is responsible for the operation and the maintenance of the aircrafts.

Impact on the field

At the end of the October 2013, the DRC army and the UN forces launched a decisive attack against the M23 group, resulting in a "total victory" over the rebels.¹⁵ By the time the first two UAVs were deployed by MONUSCO, at the beginning of December 2013, the M23 forces were already in disarray. However, according to various experts, the decision to deploy the UAS was instrumental in the victory of the governmental troops, because Rwanda and Uganda, the suspected supporters of the rebel movement, allegedly refrained from intervening in October out of concern that, in the occasion of a prolonged conflict, they would eventually be discovered by the new UN surveillance system.¹⁶

The deployment of the UAVs was also subject to an initial evaluation by the Secretary-General. In his last Report on MONUSCO, dated 5 March 2014, he stated that the UAS has been used by MONUSCO to support the planning of offensive operations against armed groups and to monitor the implementation of the arms embargo, by providing the mission with a "responsive, controlled and timely source of information" on the illegal activities of the rebels.¹⁷ In addition, according to a press release from the UN News Centre, the UAS permitted the rescuing of 14 people after a shipwrecking on Lake Kivu.¹⁸ An operating drone spotted the boat in distress

and prompted the intervention of the peacekeepers.

Concerns on the use of the UAVs: the use of collected information

The deployment of UAS in the DRC was a contested issue in the latest round of negotiation for the 2014 Report of the General Assembly Committee for Peacekeeping Operations (the so-called C-34), an organ established by the General Assembly in order to review and provide recommendations on United Nations peacekeeping operations.

The EU, Canada, Japan and the US attempted to welcome the achievements of the UAS in MONUSCO. However, they were confronted by a coalition of delegations, composed of Russia, ABUM (Argentina, Brazil, Uruguay and Mexico) and the Non-Aligned Movement (a variegated group composed of 120 States), which held a deeply critical position on the matter. The main concern of the delegations opposing positive reference to the use of UAVs in the Report relates to the disposal of the data collected by the drones: who should receive the information? How widely should it be disseminated? How should it be classified and stored? These are critical issues because a UAS is likely to collect information which, if revealed, may jeopardise the security of the concerned State (like video of army compounds or defence facilities). In addition, any leaks of information collected in this manner would seriously threaten the integrity of UN peacekeeping and destroy the legitimacy of the use of drones.¹⁹

Answers to the above-mentioned questions and concerns can be found in the Policy²⁰ and the Standard Operating Procedure (SOP)²¹ on Monitoring and Surveillance (M&S) Technology in Field Missions. Both these documents were elaborated by the Department for Peacekeeping Operations (DPKO) and the Department of

Field Support (DFS) in the 2010 and were perhaps tellingly reviewed in November 2013, just a month before the deployment of the UAS in the DRC.

The Policy lists "Remotely Piloted Vehicles", such as the MONUSCO drones, as an M&S technology subject to its guidelines. First of all, this document recognises that M&S technologies "requires careful political management as regards its potential intrusiveness and information sharing".²² As a consequence, it states that sensitive information (catalogued as such by the recipient of the information) should be classified as *Confidential* or *Strictly Confidential*, for proper storage, retrieval, archiving and disposal.²³ In addition, the Policy affirms that processed information should be shared within the UN only and that it is the Head of Mission that should decide on the distribution list within the United Nations Country Team, based on the "need-to-know principle" and taking into account safety and privacy of individuals.²⁴

In addition, with regard to private contractors (as in the case of Selex ES), the SOP recognises that access and storing data provided by such entities "requires serious scrutiny and assessment in order to ensure information and operations security and need detailed written arrangement".²⁵

In short, information gathered by UAVs in the DRC should be treated as any other piece of intelligence collected through Monitoring and Surveillance Technology, with additional transparency and accountability issues arising from the fact that the drones are operated by a private company. Regrettably, however, the contract between the UN and Selex ES is not open for public consultation.

UAVs and Humanitarian Law

The deployment of the UAS also has an interesting impact on the mission from a Humanitarian Law perspective, with regard to the application of the principles of distinction and of

14 Selex ES Falco begins supporting United Nations peacekeeping operations, [Online], Available: <http://www.selex-es.com/-/falco-un-peacekeeping> [19 June 2014].

15 Apuuli, K. P. (2014).

16 Ibidem.

17 Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, S/2014/157, 5 March 2014, [Online], Available: http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2014/157 [19 June 2014].

18 UN News Center (2014), *UN Mission helps rescue shipwrecked passengers in eastern DR Congo*, [Online], Available: http://www.un.org/apps/news/story.asp?NewsID=47727#.U6Ct-bPI_tqU [18 June 2014].

19 Karlsrud, J. and Rosén, F. (2013), p. 6.

20 DPKO and DFS, *Policy on Monitoring and Surveillance Technology in Field Missions*, Ref. 2010.34, 1 November 2010.

21 DPKO and DFS, *Standard Operating Procedures on Monitoring and Surveillance Technology in Field Missions*, Ref. 2010.35, 1 November 2010.

22 Policy, p. 4.

23 Ibid.

24 Ibid, p. 5.

25 SOP, p. 7.



precaution in attack. Let's tackle these issues separately.

First of all, UAVs in the DRC are being operated by civilian contractors who are not UN peacekeepers.²⁶ As civilians, according to the customary *principle of distinction*, they enjoy general protection against dangers arising from military operations and cannot be the object of attack.²⁷ However, they enjoy this protection unless and for such time as they take a direct part in hostilities.²⁸ According to the Interpretive Guidance of the International Committee of the Red Cross (ICRC), in order to qualify as direct participation in hostilities, a specific act must meet a set of criteria (threshold of harm, direct causation and belligerent nexus).²⁹ In the case of an attack conducted by the UN forces which causes the required threshold of harm to the detriment of an armed group, a direct causal link can be established between the harm resulting from this attack and the activities carried out by the UAS contractors, if they constitute an integral part of the military operation.³⁰ Thus, by identifying targets and/or transmitting tactical intelligence to attacking forces,³¹ the civilian contractors that operate the UAS take a direct part in hostilities and become open to lawful attack by enemy forces.

In addition, the use of drones has important consequences with regard to the application of the *principle of precaution* in attack set forth in Art. 57 of the First Geneva Protocol, according to which "in the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects".³² The provision of additional situational awareness ensured by the drones significantly increases the precautionary

obligations of peacekeepers and reinforces the obligation to use force in a proportional manner, taking all due precautions to avoid, and in any event to minimise, incidental loss of civilian life, injury to civilians and damage to civilian objectives.³³ Furthermore, data registered by UAVs may be important for post-action scrutiny of the UN compliance with International Humanitarian Law in cases of dispute and loss of civilian lives.³⁴

Conclusion

Hervé Ladsous, Under-Secretary-General for the UN Department of Peacekeeping Operations (DPKO), declared that the conflict-torn eastern region of the DRC was an "experimental theatre" for the use of UAS.³⁵ The results of this experiment seem pretty clear: the UAS improved the situational awareness of the troops on the grounds, enhancing the decision-making process of the leadership of MONUSCO. It was instrumental in the protection of civilian and in the control of the illegal activities of armed groups in the region and allegedly deterred the intervention of neighbouring States which were considered as supporting these groups. Furthermore, it significantly increased peacekeepers' precautionary obligations under IHL in targeting situations, thereby providing an additional layer of protection to the civilian population.

Ultimately, the proof that the deployment of a UAS in the DRC was indeed a defining and successful moment for the UN peacekeeping lies in the future use of this technology to support other UN peacekeeping missions. According to Karlsrud and Rosén (2013), the success of surveillance UAVs in the DRC will prompt a debate over "whether the UN should have weaponised drones"³⁶, which could enable UN peacekeepers to implement their protection mandates more effectively while minimising harm. However,

the political feasibility of this option seems extremely questionable, because of the opposition of several countries and of recent international controversies on the disputed morality and lawfulness of using drones for targeted killings.³⁷ Nevertheless, on 30 May 2014 the UN has called for companies to submit expressions of interest to provide surveillance drones for Mali.³⁸ A closer look to the attached description of requirements reveals that "while the initial deployment of UAS is expected to be based in a particular UN Mission, future deployment could be in any peacekeeping mission".³⁹ In short, the UN is willing to rapidly expand the use of this technology, as it is looking at other potential theatres of operations in Côte d'Ivoire, South Sudan, and in the Central African Republic. As long as the UAVs are deployed in strict compliance with international law⁴⁰ and with the overarching principles of peacekeeping (firstly, the consent of the host State), this is actually good news. If surveillance drones will become a standard component of UN peacekeeping missions, blue helmets deployed in difficult and dangerous operations all over the world will never again be left blind and deaf.

26 Apuuli, K. P. (2014).

27 See Art.51, para. 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

28 Art. 51, para. 3 of Protocol I.

29 See Melzer, N. (2009) *Interpretative Guidance on the Notion of Direct Participation in Hostilities under IHL*, [Online], Available: <http://www.icrc.org/eng/assets/files/other/icrc-002-0990.pdf> [18 June 2014].

30 Melzer, N. (2009), p. 54.

31 Ibid, p. 55.

32 Article 57, para. 1 of Protocol I.

33 Article 57, para. 2 of Protocol I.

34 Karlsrud, J. and Rosén, F. (2013), p. 6.

35 Ladsous: Congo Is UN "Laboratory" for Drones and New Technology, 7 April 2014, [Online], Available: <http://www.ipinst.org/events/panel-discussions/details/531.html?tmpl=component&print=1> [18 June 2014].

36 Karlsrud, J. and Rosén, F. (2013), p. 7.

37 Ibid, p. 3.

38 United Nations Procurement Division, Request for expression of interest, 28 April 2014, [Online], Available: <http://www.in-nercitypress.com/icpeoi9777mali.pdf> [19 June 2014]

39 Ibid

40 In this regard, see the Report of the Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security, A/68/98, 24 June 2013, [Online], Available: http://www.un.org/ga/search/view_doc.asp?symbol=A/68/98 [27 June 2014]. The Report acknowledges that Information and Communication Technologies (ICTs) "can also be used for purposes that are inconsistent with international peace and security" and thus states that "international law, and in particular the United Nations Charter, is applicable and is essential to maintaining peace and stability and promoting an open, secure, peaceful and accessible ICT environment".



International Criminal Court (ICC) Haagse Arc

8 April 2010, The Netherlands, Photo | Ekenitr

PEACE-KEEPING PEACE-BUILDING PEACE-JUSTICE: THE CONTRIBUTION OF UN PKOs TO INTERNATIONAL CRIMINAL JUSTICE

THE EVOLUTION OF THE FUNCTIONS MANDATED TO UN PEACEKEEPING OPERATIONS HAS OCCASIONALLY LED TO THE ALIGNMENT OF THEIR ACTIVITIES WITH INTERNATIONAL CRIMINAL JUSTICE. IN THIS FRAMEWORK, A CO-OPERATION WAS DEVELOPED BETWEEN INTERNATIONAL CRIMINAL TRIBUNALS, AND PROMINENTLY, THE INTERNATIONAL CRIMINAL COURT.

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A two-sided coin: overlapping functions in peacekeeping and international criminal justice

As the Capstone doctrine authoritatively stated, '[t]he boundaries between conflict prevention, peacemaking, peacekeeping, peacebuilding and peace enforcement have become increasingly blurred' (Capstone doctrine: 18). In particular, today UN

peacekeeping operations are often mandated to engage in peacebuilding activities, such as disarmament, demobilization and reintegration (DDR) of combatants, electoral assistance, security sector reform (SSR), protection and promotion of human rights,

restoration of State authority and rule of law activities.

The passage from 'human rights', 'State authority', 'rule of law', to international criminal justice has reasonably been short. The Preamble

to the Rome Statute establishing the International Criminal Court (ICC) might give some hints in this regard:

*"[...] Mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity, Recognizing that such grave crimes threaten the peace, security and well-being of the world, Affirming that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation [...]."*¹

On the other side of the coin, ever since the 90s, international criminal justice started viewing cooperation with peacekeeping operations as advantageous. At first, it was supposed that their military and police personnel would have been profitably employed for arresting the indicted criminals. In fact, international or hybrid ad-hoc criminal justice tribunals usually lack such powers. The main responsibility lies with the States, which, however, have not always proven to be capable or committed to do it. The issue was first raised during the debate over the legal basis for the NATO's IFOR/SFOR mission to undertake arrests of the International Criminal Tribunal for the Former Yugoslavia's indicted criminals (Gaeta, 1998). Later on, attention was brought by the arrest by the UN peacekeeping mission UNIFIL of the former President of Liberia Charles Taylor and his transfer to the Special Court for Sierra Leone (Frulli, 2006).

The big shift in international criminal justice has obviously been represented by the establishment of the ICC in 2002, the first global permanent institution with 'jurisdiction over persons for the most serious crimes of international concern'². Despite its broad perspectives, the ability of the ICC to exercise its jurisdiction essentially

depends on the willingness of States to give their consent, by ratifying the Rome Statute.³ Even with regard to cases for which it has jurisdiction, the ICC completely depends on its Member States for undertaking arrests, as the Court has neither police nor military force. But even beyond this, the Court has an additional and deeper problem: Member States have long refused to increase its budget, so that carrying out investigations with limited resources has become an issue as well. With currently twenty-one cases and eight country situations under consideration, plus several other requests for referrals or investigation, it is manifest that The Hague-based Office of the Prosecutor (OTP) does not have an easy job. As it has recently harshly stated, 'the lack of resources is the most critical factor to ensure that the Office will successfully face the new challenges and the demand on the Office' (OTP Strategic Plan: 8). It is at this point that we might turn the coin on the other side again: peacekeeping operations, with their peacebuilding components and human rights investigation teams, might be very advantageous partners.

Cooperation between UN peacekeeping operations and the International Criminal Court

While peacekeeping operations run by regional organisations are growing in number and importance, for the purposes of this paper, we will focus on the cooperation between the UN and the ICC. The privileged nature of the relationship between the UN and the International Criminal Courts lies at the origins of the drafting of the Rome Statute. Indeed, the first proposal to establish a criminal court with universal jurisdiction was brought to the UN General Assembly. After extensive negotiations, the Court was eventually established as a separate organisation, outside the UN system. Nevertheless, a special relationship has been clearly enshrined in the article 2 of the Rome Statute: 'The Court shall be brought into re-

lationship with the United Nations through an agreement to be approved by the Assembly of States Parties'. Pursuant to this article, a Relationship Agreement was signed in 2004, providing the legal basis for different forms of institutional cooperation.⁴ Subsequently, in a decade of practice, several agreements, arrangements and memorandums of understanding have been signed by the Prosecutor and the Registrar of the ICC, on one side, and the UN and its entities, organs or field offices on the other (Cummings-John, 2014: 225-226).

As for peacekeeping operations, it is well-known that their mandates are drafted and approved by the UN Security Council (UNSC), in which five States are permanent members and can exercise veto power. Therefore, the possibility for these missions to enter in a cooperative relationship with the ICC will depend on the agreement among such members. And, despite the unresolved political debate on the legitimacy of the ICC,⁵ an agreement has been reached with regard to two situations: the Democratic Republic of Congo, and more recently Côte d'Ivoire.

Cooperation in the Democratic Republic of Congo

The self-referral of the situation of the Democratic Republic of Congo (DRC) to the ICC was made by the Government in 2004, triggering the opening of several investigations. The MONUSCO (formerly named MONUC) peacekeeping operation had been deployed in the country since the year 2000, to monitor the peace process resulting from the Second Congo War. Along with the human rights components of its mandate, the 1565/2004 UNSC resolution decided that MO-

1 Rome Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 3, entered into force 1 July 2002 (hereafter: 'Rome Statute').

2 Rome Statute, Art. 1.

3 One exception is for the cases referred by the UN Security Council under art. 13(b) of the Rome Statute, but evidently this one depends on the agreement of its Members, and in particular of the Five Permanent Members with veto power.

4 Negotiated Relationship Agreement between the International Criminal Court and the United Nations, ICC-ASP/3/Res.1, entered into force on 22 July 2004

5 It might be here recalled that the USA had a long-standing opposition to the ICC, and after having participated to the negotiations and having signed the Rome Statute, refused to sign it. More recently, the Obama administration partially softened this position. Lastly, the debate on the referral of Syria saw the vetoes opposed by Russia and China to the draft resolution proposed in May 2014. See: http://www.un.org/apps/news/story.asp?NewsID=47860#U4s7kfl_uSo

NUC would '[...] continue to cooperate with efforts to ensure that those responsible for serious violations of human rights and international humanitarian law are brought to justice, while working closely with the relevant agencies of the United Nations'.⁶ Despite the lack of specific language authorising it to cooperate with the ICC, the wording was deemed broad enough to enable the mission to adopt a Memorandum of Understanding (MOU) with the ICC, signed in 2005.⁷ The MOU essentially describes roles, duties and prerogatives of the two entities with regard to three areas of cooperation: 'Services, facilities and support', 'Cooperation and legal assistance', and 'Security'. Finally, in March 2013, recognising the growing importance of this cooperation, the 2098 UNSC resolution mandated MONUSCO to take all necessary measures to '[...] Support and work with the Government of the DRC to arrest and bring to justice those responsible for war crimes and crimes against humanity in the country, including through cooperation with States of the region and the ICC'.⁸ This language has subsequently been repeated in the 2147/2014 UNSC resolution, extending the mandate until March 2015.

The impact and effects of the cooperation have been majorly publicly apparent with regard to the Lubanga, Ngudjolo Chui and Katanga cases - the only individuals for which a final judgement has been issued by the ICC. The Trial Chamber of the ICC issued its final judgement for the Lubanga case in March 2012, and found the former rebel guilty of the war crimes of enlisting and conscripting of children under the age of 15 years, and using them to participate actively in hostilities. In the judgement, MONUC/MONUSCO was acknowledged for its critical contribution to investi-

gations, and in particular for its support in logistics, security issues, and for the testimony of some of its members from the human rights division.⁹

However, the cooperation also entailed difficulties. In particular, during the whole Lubanga trial, the OTP investigative policy was repeatedly criticised by the Trial Chamber¹⁰. The evidentiary troubles experienced in the course of DRC investigations have considerably affected the related trials and can explain, at least partially, by the final decisions of the Trial Chambers. They can be so summed: third party evidence in the Lubanga judgement was considered largely unreliable, and Ngudjolo Chui was acquitted. More recently, and significantly in this regard, Katanga was convicted, but on different charges than those alleged by the Prosecutor. It is opinion of this author that a clearer and more structured cooperation with MONUC/MONUSCO would at least have avoided some of these troubles (Melillo, 2013: 778).

Cooperation in Côte d'Ivoire

The UNOCI peacekeeping operation was established in 2004, to monitor the implementation of the 2003 ceasefire signed at the end of the Ivorian Civil War. It was afterwards confirmed after the outbreak of the violent clashes resulting from the 2010 presidential elections opposing Laurent Gbagbo to Alassane Ouattara. Following the same events, the ICC opened its investigation in 2011, pursuant to the acceptance of jurisdiction that Côte d'Ivoire had lodged in 2003 under article 12(3) of the Rome Statute.

Similarly to the DRC, UNOCI was not directly mandated to cooperate with the ICC, but in the UNSC resolution 2000/2011 it was called upon '[...] where consistent with its existing authorities and responsibilities, to support national and international efforts to bring to justice perpetrators of grave violations of human rights

and international humanitarian law in Côte d'Ivoire'.¹¹ Importantly, in the preamble it was also acknowledged that ICC investigations were taking place: 'Taking note that the Prosecutor of the International Criminal Court has requested authorisation from the Pre-trial Chamber to open an investigation into war crimes and crimes against Humanity in Côte d'Ivoire since 28 November 2010 [...]'. On this basis, UNOCI concluded in January 2012 a MOU with the ICC.¹² Its drafting draws from the experience in the DRC, as 'in the light of the issues identified [in the Lubanga case], the provisions of the articles on access to documents and information, and likewise on interviews of members of the mission, were substantially re-written' (Cummings-John, 2014: 229).

Subsequent UNSC resolution 2062/2012 openly mentions cooperation with the ICC in the text. Yet, it 'encourages' the Government, rather than the peacekeeping, to continue doing it.¹³ Resolution 2112/2013 repeats the same wording, thus remarkably substituting 'encourages' with 'urges'.¹⁴ This language may seem less strong than the one used in 2013 and 2014 resolutions with regard to the DRC, where the UNSC directly mandated the peacekeeping operation to cooperate. One possible explanation might be that, despite the acceptance of the jurisdiction of the ICC, the Government proved reluctant in cooperating. A clue may be found in one of the UN Secretary General reports, in which, after praising the Ivorian Government for the surrender to the ICC of former President Gbagbo, it is affirmed: 'While the present Government has indicted a number of individuals associated with the former regime, it has been slow in addressing violations committed by its own forces, which has been perceived as winner's justice by parts of

6 UNSC 1565/2004, para 5(g).

7 *Memorandum of Understanding between the United Nations and the International Criminal Court concerning cooperation between the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the International Criminal Court*, 1 UNTS 331, signed on 8 November 2005.

8 United Nations Security Council resolution (hereafter: 'UNSC') 2098/2013, para 12(d).

9 For a more complete account, see Melillo, M. (2013) 'Cooperation between the UN Peacekeeping Organization and the ICC in the Democratic Republic of Congo', *Journal of International Criminal Justice*, 11 (4): 763-782.

10 For an analysis, see Verrijn Stuart, H. (2008), 'The ICC in trouble', *Journal of International Criminal Justice*, 6 (3): 409-417.

11 UNSC 2000/2011 para 12.

12 *Memorandum of Understanding between the United Nations and the International Criminal Court concerning cooperation between the United Nations Operation in Côte d'Ivoire (UNOCI) and the Prosecutor of the International Criminal Court*, Registration No. II-1358, signed on 20 and 23 January 2012 (hereafter: 'MOU UNOCI').

13 UNSC 2062/2012 para 12.

14 UNSC 2112/2013 para 15.

the population',¹⁵ and then that 'I am confident [...] that independent and impartial investigations will continue and that further cases will be brought before the Court, irrespective of the political affiliation of the accused'.¹⁶

The language 'irrespective of status or political affiliation' is indeed reported in the above-mentioned 2062/2012 and 2112/2013 resolutions encouraging and urging the Ivorian Government to promote accountability and cooperate with the ICC. Such reluctance to cooperate ultimately also hinders the whole UNOCI/ICC cooperation, as the MOU often provides that assistance of UNOCI to the ICC shall be implemented 'at the request of the Prosecutor and with prior written consent by the Government'¹⁷, or directly at the request of the Government.¹⁸

So far, three cases have been opened in the course of the investigations in Côte d'Ivoire: former President Laurent Gbagbo, his wife Simone Gbagbo and former political leader Charles Blé Goudé. As none of them has yet been concluded, it is too early to assess the impact of the cooperation. Surely, cooperation between UNOCI and the Prosecutor is taking place, as affirmed by the UN Secretary General in its report.¹⁹ Moreover, the report of the ICC to the UN positively stated that 'UNOCI has facilitated the Court's operations in the country. In particular, exchanges between UNOCI and the Court in relation to its activities around the case of Mr. Laurent Gbagbo have benefited both organisations'.²⁰

Conclusions: balancing positive and negative effects

As little as we know about the ICC/peacekeeping cooperation, it is hard to make a full appraisal of its concrete implementation. Clearly, it has proven paramount to DRC's investigations.

However, as shown, it has created difficulties as well. i. Nonetheless, the developments in Côte d'Ivoire show a purposeful willingness to address such complications and strengthen the relationship. Time, and presumably the next ICC judgements, will help us in understanding whether it worked.

Thus, at this stage we might still ponder over the possible implications for both entities of enduring the cooperation. As anticipated, the Court has a lot to gain, for it lacks resources to carry out arrests and investigations, and peacekeeping operations have valuable capabilities in both areas. At the same time, it might be questioned whether such a cooperation could also hinder its work. As every court, and even more, the ICC needs to preserve its impartiality, independence and credibility. Unfortunately, more and more often, peacekeeping operations are accused of abuses, and total lack of accountability. This concern seems more true, as it is reported that the Prosecutor is about to appeal the UN Secretary General to conduct inquiries over serious allegations against UNAMID joint UN/African Union operation in Sudan.²¹

From the point of view of peacekeeping operations, some other concerns come forth. There is indeed a very important issue at stake: the long-lasting 'peace and justice dilemma', redressed and reproduced in this context, in the same 'peacekeeping and international criminal justice' idea. The dilemma has been interpreted and solved in very different ways by different scholars and with different formulas, from 'peace versus justice', 'peace through justice', and 'peace with justice'.²² In a nutshell, criminal justice, especially of internationalised nature, has not always been considered the best way through the attainment of peace. Detractors of the 'peace

through justice' idea indeed maintain that indicting specific individuals may hamper peace talks between political leaders. At the same time, adjudicating guilt would more generally hamper reconciliation among the confronting ethnic, religious or political groups. For these (and probably also other) reasons, some countries have chosen other ways to address post-conflict situations, and we now have a wide range of non-judicial, quasi-judicial and reconciliation mechanisms.²³ As much as this article is concerned, the fundamental point is that the equation *justice equals more peace* should not be taken for granted. By cooperating, peacekeeping operations have certainly the possibility to be better engaged in the mentioned peace-building components of their mandate. Nevertheless, in order to implement the peacekeeping components of their mandates, it should not be forgotten that their main task is to remain impartial and neutral. As said, unfortunately transitional justice mechanisms are often not perceived as neutral agents. The remarks by the UN Secretary General on the need to indict individuals 'irrespective of their status or political affiliation' in Côte d'Ivoire are a good example in this regard.

Technically speaking, cooperation is definitely important and mutually beneficial. Both entities have an interest in enhancing it, in order to achieve their own objectives. From a more political (or speculative) viewpoint, instead, the caution of the UNSC in openly endorsing the cooperation is understandable. A point of balance should therefore be sought. Nevertheless, such a prudence should not hamper the concrete implementation of the cooperation: as affirmed with regard to the outcome of the cases in DRC, lack of clarity in the procedures might eventually be more damaging than no cooperation at all. In this regard, the improvements of the MOU with UNOCI in Côte d'Ivoire allow optimism.

15 UN doc. S/2011/807 para 22.

16 UN doc. S/2011/807 para 80.

17 MOU UNOCI Artt. 12, 13, 14.

18 MOU UNOCI Art. 15.

19 UN doc. S/2012/506, para 44.

20 Report of the Court on the status of ongoing cooperation between the International Criminal Court and the United Nations, including in the field, ICC-ASP/12/42, para 7.

21 See Foreign Policy, 17/06/2014, available at: http://thecable.foreignpolicy.com/posts/2014/06/16/icc_to_un_investigate_the_mess_you_made_in_darfur?utm_content=buffer43f1d&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer

22 For an in-depth analysis, see Kerr R. and Mobekk E. (2007) *Peace & justice*, Polity Press.

23 See the examples provided in: No Peace Without Justice (2010) *Closing the gap*, available at: <http://www.npwj.org/sites/default/files/documents/ClosingTheGap120510Web.pdf>

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AMISOM and Somali Army Liberate Key Town of Qoryooley - The Somali National Army and troops from the African Union Mission in Somalia (AMISOM) successfully executed a joint operation in the Lower Shabelle Region of Somalia today, capturing the key town of Qoryooley from the extremist group Al-Shabaab. The capture of Qoryooley is also critical for AMISOM future operations to liberate the port city of Baraawe, one of the remaining sources of illicit revenue for extremist group. A Ugandan AMISOM soldier keeps a lookout during the joint operation's march towards Qoryooley.

22 March 2014, UN Photo | Tobin Jones

STABILISING SOMALIA: COULD THE UN SECURITY COUNCIL HAVE DONE BETTER WITH RESOLUTION 2124?

UN SECURITY COUNCIL RESOLUTION 2124 ESTABLISHED A TRUST FUND TO STRENGTHEN AMISOM MILITARY AND PROVIDE SUPPORT TO SOMALI NATIONAL ARMY. THE RESOLUTION HOWEVER, FAILED TO INCREASE THE NUMBER OF AMISOM POLICE NOR DID IT OFFER ANY SUPPORT TO THE SOMALI POLICE FORCE, THEREBY CREATING A SECURITY GAP WITHIN LIBERATED SOMALI COMMUNITIES.

by Benjamin Agordzo

AMISOM Head of Training

Introduction

The departure of the United States and the United Nations Forces¹ from

1 July 1992 following a ceasefire signed by opposing clan factions United Nations military observers were sent to Somalia. In August 1992 Operation Provide Relief (UNOSOM-I) officially began to unsuccessfully provide humanitarian relief for the people of Somalia. In December 1992, 25,000 U.S. troops were deployed to Somalia to support UN (Operation Restore Hope). March 1993 the U.N. officially took over the operation, naming this

Somalia in 2005 left the country at the mercy of war lords; intensified the clan based armed conflict in the country that eventually led to the in-

mission UNOSOM-II (1993-1995). All the three interventions were aimed at creating a secure enough environment for humanitarian operations to be carried out in the increasingly lawless and famine-stricken country. Unfortunately resistance from war lords and massive casualties from the UN forces among other factors compelled the UN to fold up.

cupation and the eventual birth of the Islamist terrorist group Al Shabaab.²

2 Al Shabaab meaning "The Youth", or "The Youngsters", is a jihadist group based in Somalia waging jihad against "enemies of Islam", and is engaged in combat against the TFG and the African Union Mission to Somalia (AMISOM). Al-Shabaab's troop strength as of 2013 was estimated at 4,000 to 6,000 militants. Group members have reportedly intimidated, kidnapped and killed aid workers and has been designated a terrorist organization by several



Between 2005 and 2007, the world seemed to have remained silent as Somali war lords battled for the soul of the country to the detriment of ordinary Somali with the situation deteriorating into one of the world's worst humanitarian and security crises. In the midst of this, the lone African ranger Ethiopian military intervened from December 2006 against the Islamic Courts in Somalia but it failed to achieve the desired result. It was against this background that the African Union initiative led by Uganda entered Mogadishu under African Union Mission in Somalia (AMISOM) with troops fighting their way through attacks from war lords even before the aircraft landed. The Ugandan troops were later joined by Burundian troops to secure parts of Mogadishu. Both forces paid heavy prizes in terms of direct confrontation and sniper shots; but with determination, the troops managed to establish their presence in Mogadishu. Other African countries currently contributing to AMISOM force include Djibouti, Ethiopia, Kenya and Sierra Leone. While AMISOM may not be the first AU Mission,³ its uniqueness lies in the fact that it is the first one to intervene in terrorist backed armed conflicts. AMISOM is currently having to engage in asymmetric warfare with a faceless Al Shabaab which is posing serious threat to AMISOM troops and innocent citizens especially women and children. Peace in Somalia, therefore, means eliminating the threat of Al Shabaab. It is to achieve this target that Security Council Resolution 2124 was unanimously adopted.⁴

Western governments and security services. In early August 2011, the TFG's troops and their AMISOM allies managed to capture Mogadishu from the Al-Shabaab militants who retreated from the major cities, but imposes strict forms of Sharia law in some rural regions. The group has also been suspected of having links with Al-Qaeda in Islamic Maghreb and Boko Haram.

3 The African Union Mission in Sudan (AMIS) was the first African Union (AU) peacekeeping force performing peacekeeping operations related to the Darfur conflict from 2004 to 2007. Began with a force of 150 troops, by mid-2005, its numbers were increased to about 7,000. AMIS was the only external military force in Sudan's Darfur region until it was finally replaced by UNAMID on December 31, 2007.

4 United Nations Security Council Resolution 2124 of November 2013.

Uniqueness of UNSCR 2124

Undoubtedly, UN Security Council Resolution 2124 was received with broad smiles especially by AMISOM Military Component and the Somalia National Army. The reasons for such ecstasy are not far-fetched. Apart from extending the mandate of AMISOM until 31 October 2014, the resolution also increased "AMISOM's force strength from 17,731 to a maximum of 22,126 uniformed personnel"⁵ for a period of 18 to 24 months. In addition, the resolution expands UN financed logistical support package to cover the additional troops as well as emphasizing the critical need for AMISOM force enablers and multipliers such as helicopters.⁶ Finally, resolution 2124 requests the UN Support Office for AMISOM (UNSOA) to provide the Somalia National Army (SNA) with non-lethal support to be financed from a trust fund of voluntary contributions.⁷

While the increase of the number of troops is laudable, the most significant thing about resolution 2124 lies in the call for a direct support for SNA for the first time. This is certainly a morale booster for the SNA who for years had been fighting alongside AMISOM without any direct support in terms of logistics and remuneration. Strengthening SNA to fight alongside the AMISOM is critical to opposing Al Shabaab that continues to attack targets in Somalia.

The overall objective of resolution 2124 is to intensify the military campaign against Al-Shabaab in order to enable troops recover more territories thereby expanding government authority to the recovered areas. Recovery of more territories for the FGS is expected to facilitate the political process culminating in the finalization and adoption of a federal Constitution and holding of elections.⁸

5 Ibid. paragraph 4

6 Ibid. paragraph 14

7 Statement by Chairperson of the Commission of African Union Dr. Nkosazana Dlamini Zuma following the adoption of UNSCR 2124 in a *Press Release* on 13 November 2013: available on <http://www.peaceau.org/en/article/the-african-union>

8 Operation Eagle was a counter-insurgency assault against Al Shabaab carried

Consequent upon Resolution 2124, AMISOM troops supported by SNA adopted an aggressive military offensive code named "Operation Eagle"⁹ resulting in the recovery of many towns in Somalia. The current military offensive is the most significant and geographically extensive since AMISOM was created in 2007 resulting in Somali Federal Government reclaiming 10 towns so far.

A "Short Sighted" Resolution?

Unfortunately, the gains in the recovery of towns in the renewed military offensive have not necessarily translated much into arrest of members of Al Shabaab. It is an undeniable fact that Al Shabaab cannot withstand the combined forces of AMISOM and SNA in terms of numbers, skills and equipment. The result is that members of Al Shabaab flee upon approach of AMISOM and SNA forces and therefore the various recovered towns are taken with little or no resistance. The fleeing Al Shabaab members easily end up taking shelters in relatively safe towns and cities such as Mogadishu, Baidoa and Beletweyne among others which have already been recovered. This development has become possible due to the unforeseen security gap¹⁰ created by UNSCR 2124 which failed to empower AMISOM Police and Somali Police Force to put in place a mechanism to track and arrest the Al Shabaab either before or after they enter those towns and cities. Resolution 2124 failed to increase the number of AMISOM Police; neither did it give support for the Somali Police Force (SPF). The potential impact of AMISOM Military and SNA military offensive to Somali communities especially on areas that had already been liberated was underestimated. Resolution 2124 did not make provision for AMISOM Police and SPF because it probably or intentionally failed to recognize or accept that al-

out by AMISOM cum SNA forces between March and April to recover many territories from Al Shabaab.

9 Agordzo, B (2009) 'Filling the "Security Gap" in Post-conflict Situations: Could-Formed Police Units Make a Difference?', *International Peacekeeping*, Vol.16, No. 2, 2009,

pp.287-94.

10 FGS has developed the Mogadishu Security Strategy to contain the situation.

though military approach is vital, that alone cannot achieve sustainable peace building and state building. It appears that in its determination to pursue and defeat Al Shabaab, the UN Security Council failed to realize that the fight against Al Shabaab could only be successful by pursuing the increase in military approach alongside increase in the number of AMISOM Police and sustainable support to the SPF.

The challenges facing Somalia today is that it is a country still struggling with terrorist threats and in transition from counter insurgency orientation to one that requires satisfying the broad needs of Somalia society. This transition will not be easy as Somalia is a nation living with both war and peace where the need to respond to threats from established terrorist attacks remain a priority. But at the same time there is growing recognition that communities living in relative peace need to be policed and protected from being infiltrated by fleeing Al Shabaab members who are using suicide attacks, kidnapping and targeted killings such as sniper killings to put fear into the population.

The security situation in Mogadishu, for instance, has deteriorated since the military offensive against Al Shabaab, due to the fact that the security gap has not been taken care of. This is evident in the increasing number of attacks in Mogadishu. In the month of February 2014, a suicide attack was carried out on a UN convoy; a sophisticated attack was launched on the Presidential compound in Villa Somalia and another suicide attack near the National Intelligence Headquarters. In May 2014 a deadly suicide attack was launched on Somalia Parliament House. Worst of all, the risk of further attacks against Somali government and international targets especially in Mogadishu remain very high. While such attacks are not new, the rapid and sophisticated nature of the new attacks may be attributable to the absence of AMISOM Police and SPF which Al Shabaab is taking advantage of. The FGS and AMISOM have stepped up security operations to prevent and contain the attacks.¹¹

11 Joint AU-UN Benchmarking Exercise in Somalia, 27 August 2013 – 5 September 2013.

But to the extent that Resolution 2124 failed to foresee and make provision to increase AMISOM Police strength in terms of FPU as well as support the SPF to police the liberated areas by tracking down and arresting the fleeing Al Shabaab makes the entire objective of the resolution short sighted to say the least.

Needless to say that the assessment exercise¹² that preceded the Resolution 2124 recommended among other things six additional Formed Police Units (FPUs)¹³ to support SPF police the recovered areas as the military advanced. Unfortunately, resolution 2124 failed to approve the proposal thereby leaving most of the recovered areas without SPF and AMISOM Police presence.

Considering the fact that the current strength of the SPF is only slightly above 5,000, an increase in the strength of the FPUs would have gone a long way to keep security in the new and future recovered areas. Before the recovery of the ten new towns, SPF was deployed in Mogadishu only, with sparse presence in Baidoa, and Beletweyne among others. All other areas including some recovered areas are being policed by militias with little or no basic police training. Similarly, AMISOM Police¹⁴ presence is currently limited to Mogadishu with very insignificant numbers in Baidoa, Beletweyne and Kismayo.

But the FGS, following the recovery of ten (10) towns from Al Shabaab, has started deploying Care Taker Administrators and SPF personnel in the

12 One FPU comprises 140 police personnel who are well drilled in public order management skills. This implies that six (6) FPUs added to the existing two (2) would have constituted 1,120.

13 The strength of AMISOM Police component as of January 2014 was 540. This was made up of two (2) FPUs comprising 280 and 260. However, AMISOM strength is being reconfigured following the adoption of Security Council Resolution 2124 which made no provision for additional AMISOM Police. The reconfiguration of the current AMISOM Police requires that the current strength of 260 IPOs is being reduced to 120 whilst the rest of the 140 is converted to one (1) FPU to be stationed in Kismayo.

14 This writer was part of an a Police assessment team to Baidoa on 20 June 2014 and can report that even in Baidoa, the SPF cannot operate freely because of Al Shabaab presence in town. Indeed the fear of Al Shabaab attack is so real that almost 6 out of 10 men openly carry AK47 Rifles around town.

newly recovered areas such as Jalalasi, Marka, Joha, and Afgoye, among others. The SPF are also deploying in those towns alongside the Care Taker Administrators without the necessary equipment and support. One wonders the SPF could repel organised attacks from the Al Shabaab in those recovered areas considering the strategic and sporadic nature of Al Shabaab attacks.¹⁵ AMISOM Police who are expected to advise, mentor, and train the local police are unable to deploy with them due to their limited number. Worse of all, the current AMISOM FPUs, as they are constituted, cannot be of help to the SPF in the newly recovered areas unless their numbers are increased. The SPF is also facing capacity challenges in their bid to deploy in the newly recovered areas due to lack of sustainable support for training and re-equipping the SPF. Undoubtedly, the SPF lacks almost every basic police equipment including training materials and ammunitions even for training purposes. One of the SPF Senior Officers expressed frustration at this development when he said:

“The institutional needs of the SPF are numerous but the deliverables from AMISOM and the international community are meagre. Unfortunately the Security Council Resolution 2124 made provisions for non-lethal support in the form of food, fuel and other expendables for only the Somali National Army. Yet there is growing expectation for us to expand to newly recovered areas? We’re not happy with this development and we’ve complained to the SRCC about this.”¹⁶

Indeed this is where the additional six FPUs could have made a difference while Individual Police Officers (IPOs) continue to assist in building the capacities of the SPF and other law enforcement personnel through mentoring, training and retraining programmes. In the midst of these, it is difficult to appreciate why Security Council failed to provide support to

15 This was during a meeting with senior leadership of the SPF at the Somali National Police Headquarters. The SRCC is Special Representative of the Chairperson of the Commission and is the Head of AMISOM.

16 UN Security Council Resolution 2085 of 20 December 2012

the SPF and increase Police numbers including the FPU's.

Politics of Resolution 2124 Trust Fund

The UN Security Council Resolution 2124 requests the United Nations Support Office for AMISOM (UN-SOA) to support the SNA with "food and water, fuel, transport, tents and in theatre medical evacuation." The support for SNA is supposed to come from United Nations Trust Fund hence the UN encourages Member States to make contributions to the Trust Fund. Whilst this initiative is commendable, the possibility that it might affect the ongoing funding of the entire AMISOM activities is high. This is because the same international partners who have been contributing in support of the entire AMISOM activities for the three components – military, police and civilian – ever since the inception of AMISOM, are likely to be the same to make contributions to the trust fund in question. The most likely effect is a decrease in direct contributions to AMISOM activities. Unfortunately, given that the trust fund in question is to support AMISOM military and SNA, it is likely to leave the Police and Civilian components desperately searching for alternative funding to execute their separate mandates; and indeed, the effect is already being felt as funding for AMISOM activities have not been forthcoming since the beginning of 2014.

Seeming Contradictions

Ironically, the African-led International Support Mission in Mali (AFISMA) which transferred authority to the UN Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA)¹⁷ and the African-led International Support Mission in Central African Republic (AFISM-CAR)¹⁸ are both having four FPU's each, which is the minimum requirement, with the possibility of increasing the numbers in

the near future.¹⁹ Considering the dynamics in the two peacekeeping theatres compared to Somalia, one wonders what yardsticks and principles went into maintaining only two FPU's in Somalia in the midst of the high insecurity that has characterised Somalia for more than 20 years.

Winning the Fight against Al Shabaab

Clearly, Al Shabaab has been driven out of its strongholds in Somalia thanks to a joint SNA-AMISOM military offensive. It is, however, obvious that winning the fight against Al Shabaab is not a one sided venture; but goes beyond military strength.²⁰ The ongoing peacebuilding process must therefore be intensified to reduce asymmetrical threat posed by Al Shabaab in the short term, with a view to ultimately eliminating them.

There is the need to go back in history to deal with the root of terrorism in Somalia. It is not enough to destroy the branches of Al Shabaab. There is also the need to pull the terrorist tree down by the roots. This requires intensifying the ongoing peacebuilding process, restoring the rule of law, instituting justice sector reform and galvanizing international, regional and community support. It is the only way to win the war against Al Shabaab. This is because Al Shabaab has changed tactics and their attacks have become strategic. Apart from joining the Al Qaeda network, Al Shabaab has also declared support for Boko Haram in Nigeria. Kenya is currently facing one of the most delicate security threats on the continent of Africa due to Al Shabaab activities in that country.

The problem with Al Shabaab is that it cannot be contained in one geographical area. This is because Al Shabaab has a widely scattered network that makes it hard to attack. This is why it requires community, national, regional and international support to contain it. The fundamental truth is that military power alone does not

stop terrorism.²⁰ Current efforts to mobilise Somalis at community levels by individuals and other stakeholders to augment the work of security agencies are commendable. Unfortunately, such efforts lack the desired support in terms of logistics and funding.

Conclusion

The root cause of Somalia's many troubles – terrorism, piracy, periodic famine and constant streams of refugees – is collapse of effective governance, with resulting chronic conflict, lawlessness and poverty. The most effective and durable solution to these ills is to build gradually an inclusive and more federal government structure that most clans can support. Otherwise, any terrorist group such as Al Shabaab will exploit the situation. Al-Shabaab, though weakened, is far from a spent force. Its militant jihadi ideology is radicalising young Somalis at home and abroad. Therefore, the challenge in Somalia is not only about driving the militants out of major cities and towns, but rather how to secure peace thereafter.

Increasing AMISOM's force strength and supporting the SNA may be laudable; but what is equally important is to ensure that community safety measures are put in place to facilitate the political process. This requires providing resources for other components to support institutional building and reforms to facilitate the said processes. In other words, the military offensive must be accompanied by a political strategy to win the support of local clans and social groups.

But for this to succeed requires the maintenance of law and order as a prerequisite for a thriving rule of law, strong enough to enhance the ongoing peacebuilding process. By skewing Resolution 2124 completely in favour of AMISOM Military and the SNA to receive support from the UN Trust Fund, and requesting other components to fall back on their traditional support system, the Security Council seems to be given preference to military solutions which in the long run may not resolve the problem in Somalia. The cases of Iraq and Libya which are falling back into chaos are good examples that overdependence

17 AU Peace and Security Council 385th Meeting Communiqué dated 19 July 2013 in Addis Ababa and UN Security Council Resolution 2149 dated 10 April 2014.

18 See the "Open Debate on New Trends in UN Peacekeeping" accessible at What's In Blue homepage: www.whatsinblue.org.

19 See paragraph 12 of Resolution 2124.

20 Woodhouse, T. and Duffey, T. (2008) *Peacekeeping and International Conflict Resolution*; Harvey J. Langholtz (ed): London: Peace Operations Training Institute.

on military solutions and the failure to adopt a holistic approach may be counterproductive in the long run. History must guide the next UN Security Council Resolution to assist Somalia achieve sustainable peace.



Launched from UN 12 vessel, members of MONUSCO Uruguayan Riverine Company, URPAC along with FARDC Navy, patrol small islands on the DRC side of Tanganyika Lake

17 October 2012, MONUSCO Photo | Sylvain Liechti

HUMAN RIGHTS DUE DILIGENCE POLICY: ORIGIN, DEVELOPMENT AND CHALLENGES TO IMPLEMENTATION IN THE DRC

THE IMPLEMENTATION OF THE HUMAN RIGHTS DUE DILIGENCE POLICY IN THE DRC MAY GAIN NEW MOMENTUM FOLLOWING THE ADOPTION OF RESOLUTION 2147 (2014). MONUC AND MONUSCO GAVE AN ESSENTIAL CONTRIBUTION TO ITS DEVELOPMENT IN 2009-2011. MAINTAINING THE DRC PRIMACY IN THIS DOMAIN WILL REQUIRE RENEWED EFFORTS AND A STRONG PARTNERSHIP AMONG UN ENTITIES IN 2014-2015.

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()The views and interpretation reflected in this document are those of the author and do not necessarily reflect an expression of opinion on the part of the United Nations Mission in the Democratic Republic of the Congo.*

Background

Following the signing of the Lusaka Ceasefire Agreement between the Democratic Republic of the Congo (DRC) and Angola, Namibia, Rwan-

da, Uganda and Zimbabwe in July 1999, by resolution 1279 of 30 November 1999 the United Nations Security Council (UNSC) established the Unit-

ed Nations Mission in the Democratic Republic of the Congo (known by its French acronym MONUC). The mission was initially tasked with observ-



ing the ceasefire and disengagement of forces and with maintaining liaison with parties to the Ceasefire Agreement; MONUC mandate was later progressively expanded by the Council through a series of resolutions adopted from 2000 to 2014.¹

On 21 December, 2007, the Council adopted resolution 1794, authorising MONUC to 'support the FARDC² integrated brigades with a view to disarming the recalcitrant foreign and Congolese armed groups'³ while emphasizing that 'operations by the FARDC should be planned jointly with MONUC and in accordance with international humanitarian, human rights and refugee law and should include appropriate measures to protect civilians'.⁴ While MONUC had previously been mandated to support the Congolese Army in the conduct of operations against armed groups and had extensively supported the FARDC since at least the end of 2004, resolution 1794 explicitly required that support be conditioned to joint planning and respect for international humanitarian, human rights and refugee law by Congolese forces. The reports of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo show the systematic character of the serious human rights violations committed by the Congolese Army in 2005-2007 and highlight the serious deficiencies that affected the FARDC in the areas of command and control, availability of logistic, material and financial resources, and planning capacity, questioning their ability to conduct effective operations against armed groups without MONUC support.

In the course of 2008, MONUC continued to support the Congolese Army, while the deficiencies observed in previous years persisted. Serious

human rights violations committed by FARDC elements also continued to be reported. UNSC resolution 1856 of 22 December, 2008 reiterated the need for FARDC-led operations supported by the mission to be 'planned jointly with MONUC and in accordance with international humanitarian, human rights and refugee law'⁵ and 'include appropriate measures to protect civilians'.⁶ The Council also identified the protection of civilians (POC) as MONUC's first mandated priority.⁷ POC prioritization in the use of MONUC capacity and resources was also reaffirmed by the Council. At the end of 2008, MONUC was facing an unprecedented situation in UN peacekeeping, with a mandate that simultaneously called upon the mission to prioritise the protection of civilians and support military operations against armed groups, in a context where the national army was among the main perpetrators of human rights violations in the country.

Elaboration of the policy

Starting early 2009, significant changes occurred in the context in which the mission provided support to the FARDC, when the Congolese Government and several armed groups, including the *Congrès national pour la défense du peuple* (CNDP), reached an agreement which led to the integration of former combatants into the Congolese Army.⁸ The FARDC and MONUC launched a joint operation against the Democratic Liberation Forces of Rwanda (FDLR), known as Kimia II, in North Kivu (2 March, 2009) and South Kivu (12 July, 2009). Serious human rights violations by

the Congolese Army continued to be reported, with a marked increase in their numbers after the beginning of operation Kimia II.⁹ The integration of former armed groups' members into the FARDC raised grave concerns due to their previous involvement in the perpetration of serious human rights abuses. MONUC continued to provide support to the Congolese Army, while the constraints previously identified with regards to its capacities continued to be observed.

A technical assessment mission that visited the DRC from 23 February to 6 March, 2009 noted with concern continued reports of grave human rights violations by FARDC units, and recommended that that be taken into consideration by MONUC prior to providing support to specific units of the Congolese Army. The mission also recommended that effective vetting processes be put in place to ensure that children be separated from combatants and that key positions in the army and police not be occupied by individuals who had been responsible for serious human rights violations. On 1 April, 2009, in a confidential note to DPKO,¹⁰ the Office of Legal Affairs, while acknowledging that participation in FARDC-led operations against the FDLR and the provision of support to the Congolese Army were fully consistent with the mission mandate under resolution 1856, stressed that MONUC could not participate in joint operations or provide support to such operations 'if there were substantial grounds for believing there to be a real risk of them violating international humanitarian, human rights law or refugee law in the course of the operation'.¹¹

5 UNSC resolution 1856, paragraph 3 (g).

6 UNSC resolution 1856, paragraph 14.

7 While the protection of civilians had been part of MONUC mandate before, and the Council had previously insisted on the need to prioritise POC in decisions about the use of available capacity and resources, resolution 1856 clearly introduced a priority order in the tasks attributed to the mission by the Council.

8 The accelerated integration of former members of Congolese armed groups into the Army started on 26 January and officially ended on 18 April 2009. According to the FARDC, at the end of this process 12,074 elements from nine different armed groups had been integrated into the Army. High numbers of children were integrated into the Congolese Army as a result of this process.

9 In his report to the Human Rights Council on his mission to the Democratic Republic of the Congo from 5 to 15 October 2009, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, noted that elements of the Congolese Army committed both individual killings and large-scale targeted massacres of civilians in the Kivus during operation Kimia II. An increase in FARDC misbehavior was also reported in Haut Uele district, Orientale province, following the deployment of newly integrated FARDC units. Population displacement also increased dramatically in the wake of the launch of operation Kimia II.

10 The note was leaked and its content is publicly available.

11 Note to Mr. Le Roy, MONUC – Op-

1 For more information on MONUC, see <http://www.un.org/en/peacekeeping/missions/monusco/index.shtml>.

2 The *Forces armées de la République démocratique du Congo* (FARDC) were established in 2003, at the end of the Second Congo War (1998-2003). The FARDC resulted from the integration of the troops belonging to the different warring factions.

3 UNSC resolution 1794, paragraph 5.

4 UNSC resolution 1794, paragraph 7.

Throughout 2009, discussions continued on establishing conditions for MONUC support to the FARDC, in a context characterised by increased criticism and pressure by both human rights organizations and some UN entities to immediately suspend military operations in eastern DRC and withdraw support to the Congolese Army. In particular, critics questioned whether, in light of the serious human rights violations committed by the FARDC, MONUC was truly acting in accordance with its mandate to protect civilians and in line with its obligations under international law.

In an effort to address these concerns and adhere to the provisions contained in resolution 1856 (2008), MONUC developed a policy paper setting out the conditions under which the mission would provide support to FARDC units. The policy, aiming at operationalizing paragraphs 3 (g) and 14 of resolution 1856¹² entered into effect in November 2009 and became known as the 'conditionality policy'. The policy specified that MONUC would not participate in or support operations with FARDC units if there were substantial grounds for believing that there was a real risk that such units would violate international humanitarian, human rights or refugee law in the course of the operation. The mission would also participate in or support only those operations that would fully comply with international humanitarian, human rights and refugee law, and that were jointly planned.¹³ In parallel, MONUC established a series of mechanisms and procedures for the implementation

and operationalization of the policy within the mission and worked with the FARDC to obtain the release of children still present within its ranks. On 1 November, 2009, the mission withdrew its support to a unit of the Congolese Army responsible for the targeted killing of at least 62 civilians in Lukweti area, North Kivu.

Challenges related to implementation

Concerns were raised with regards to MONUC actual capacity to implement the conditionality policy. The close monitoring of FARDC conduct during operations appeared problematic, since military operations were conducted in remote areas and access was restricted for security reasons. The lack of human resources and logistics to monitor and investigate incidents was also a source of concern. Being the mission a party to the conflict, its capacity to independently and effectively investigate allegations of serious violations by the Congolese Army or by its own forces was questioned. The specific DRC context represented a source of additional concern, due to the presence of individuals well-known for being responsible of serious human rights abuses¹⁴ as well as to the existence of parallel chains of command within the Army. Internally, some MONUC officials questioned the actual impact of the policy in light of its potentially counterproductive effect on FARDC behaviour.¹⁵

UNSC resolution 1906 of 23 December, 2009 reflects the debate that surrounded MONUC involvement in, and support to, FARDC-led operations in eastern DRC. Paragraph 22 of resolution 1906 reiterated the provisions contained in resolution 1856

(2008), but made them more stringent, stressing that MONUC support had to be 'strictly conditioned' on FARDC's compliance with international humanitarian, human rights and refugee law and on 'effective' joint planning.¹⁶ The Council also required that MONUC military leadership confirm 'prior to providing any support to such operations' that sufficient joint planning had been undertaken, especially regarding the protection of the civilian population¹⁷ and that the mission 'intercede with the FARDC command if elements of a FARDC unit receiving MONUC's support are suspected of having committed grave violations' as well as to withdraw support from FARDC units 'if the situation persists'.¹⁸

Operation Kimia II officially ended on 31 December, 2009. In 2010, the FARDC launched a new operation against the FDLR, entitled Amani Leo, aiming at consolidating the military gains of operation Kimia II and restoring State authority in areas freed from armed groups. The operation was jointly planned with MONUC¹⁹ and, starting February 2010, received support from the mission. MONUC developed a standard operating procedure (SOP) on the provision of support to the FARDC in the Kivus and performed the screening of the commanders of the FARDC battalions designated to participate in joint operations. MONUC also continued to support the FARDC in Ituri and Haut-Uele districts, Orientale province, and extended its support to the Congolese Army and Police (the PNC) in Equateur province. Human rights violations by the FARDC, including in the context of joint operations, continued to be reported and remained a source of concern. On 8 June, 2010, MONUC suspended its support to a FARDC

eration Kimia 2, paragraph 7.

12 UNSC resolution 1856 of 22 December, 2008 reiterated the need for FARDC-led operations supported by the mission to be planned jointly with MONUC and in accordance with international humanitarian, human rights and refugee law and include appropriate measures to protect civilians; the resolution also identified the protection of civilians as MONUC's first mandated priority.

13 On the basis of the policy, MONUC would also immediately intercede with the FARDC command if the Mission had reason to believe that elements of a unit receiving its support was committing grave violations of human rights, international humanitarian law or refugee law, and it would suspend support for a unit if FARDC would take no action against those responsible or if the elements of the unit nevertheless continued to commit violations.

14 See for instance Annex 124 to the 2009 Final Report of the Group of Experts on the Democratic Republic of the Congo, containing a list of FARDC commanders, including some deployed in operation Kimia II, with an established record of human rights abuses; see also A/63/785-S/2009/158, paragraphs 39, 41 and 46-47, and S/2010/369, paragraph 83, as well as the List of individuals and entities subject to the travel ban and asset freeze administered by the Sanctions Committee established pursuant to resolution 1533 (2005).

15 Some MONUC officials argued that regular pay and the distribution of rations to soldiers tended to reduce abuses.

16 UNSC resolution 1906, paragraph 22.

17 UNSC resolution 1906, paragraph 22.

18 UNSC resolution 1906, paragraph 22.

19 In December 2009, MONUC and the FARDC adopted a joint operational directive for operation Amani Leo, stating that joint planning and military operations would have taken place in line with President Kabila's zero-tolerance policy with regard to indiscipline within the FARDC and with the mission's 'conditionality policy'.

unit in Orientale province, due to the serious human rights violations committed by some of its members.

The implementation of the conditionality policy remained under scrutiny in the course of 2010. A new technical assessment mission that visited the DRC from 22 February to 5 March, 2010 noted that 'the analytical, early warning and decision-making capacity of MONUC [...] should be strengthened' and that structural weaknesses and lack of capacity still affected the Congolese Army.²⁰ From 2 to 12 May, 2010, an inter-agency assessment mission was deployed to the DRC to conduct an assessment of measures taken by MONUC to adhere to the conditions established by the Council in resolution 1906 (2009).²¹ The mission acknowledged efforts made by MONUC in the implementation of the conditionality policy but also noted a number of serious challenges, including with regards to communications of the policy, adequate screening and monitoring of FARDC units receiving support, and consistent application across the country.

The new phase: MONUSCO

On 28 May, 2010, the UNSC adopted resolution 1925, replacing MONUC with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) effective 1 July, 2010 and extending the mission's mandate until 30 June, 2011. The Council mandated MONUSCO to support the efforts of the Congolese Government to conclude military operations against armed groups 'in compliance with international humanitarian, human rights and refugee law and the need to protect civilians, including through the support of the FARDC in

20 In particular, the mission highlighted how 'successive waves of integration of armed groups have resulted in poor loyalty, discipline, and disruption of the chain of command' compounded by 'inadequate budget, a lack of equipment and garrisons, major weaknesses in the pay system, a weak military justice system and insufficient measures to address and prevent indiscipline and human rights violations'.

21 In his report of 4 December 2009, the Secretary-General had announced his decision to deploy a mission to the Democratic Republic of the Congo 'to assess the policy and related issues'.

jointly planned operations'.²² Following the adoption of resolution 1925, MONUSCO focused on enhancing the implementation of the policy. On 11 November, 2010, the mission issued a new standard operating procedure for the provision of support to the Congolese Army and Police, aiming at ensuring a common understanding and a consistent implementation of the policy throughout the mission, and extended the screening of unit commanders beyond North and South Kivu, which resulted in the suspension of support to two FARDC units in Orientale province. The mission also enhanced communication on the policy with Congolese authorities. MONUSCO continued to support FARDC-led joint operations in North and South Kivu²³ and Orientale, while human rights violations by the FARDC, including in the context of military operations,²⁴ continued to be reported. The incomplete integration of armed groups into the Congolese Army as well as its structural deficiencies continued to represent a source of concern.

Criticism with regards to MONUSCO support to operations conducted by the Congolese Army continued to be voiced. Critics considered that military operations against the FDLR did not bring any decisive success and that the conditionality policy had failed to produce an improvement in FARDC behaviour. The challenges related to the implementation of the policy persisted, including those pertaining to the specificities of the DRC context, in particular the presence, within the Armed Forces, of individ-

22 UNSC resolution 1925, paragraph 12 (h).

23 Operations in the Kivus slowed down in the course of 2011, due to the reconfiguration of the FARDC which started in the first months of the year.

24 According to a UNJHRO report, units of the Congolese Army participating in joint operation 'Hatua Yamana' committed serious human rights violations, including mass rapes, in the villages of Bushani and Kalam-bahiro, North Kivu province, on 31 December, 2010 and 1 January, 2011. On 1 April, 2011, MONUSCO Force Commander issued an additional instruction to all MONUSCO Brigades stipulating that rations should be handed over to the eligible and screened battalion commanders and deputy commanders only after confirmation of their identities when receiving support during joint operations.

uals well-known for being responsible of serious human rights abuses as well as the existence of parallel chains of command within the Congolese Army and Police. The fact that the screening was limited to battalion commanders and no screening of the units as such was performed also raised some concerns, as decisions on the provision of support were taken on the basis of the commanders' human rights records only.²⁵ The constraints faced by the mission with regards to its operational capabilities, including its actual capacity to monitor the distribution of support to the FARDC became of serious concern. Moreover, critics noted that, while the policy had been successful in preventing the mission from being associated to serious violation, the exclusion of commanders from support²⁶ did not address the problem of their removal from the chain of command nor the broader question of their accountability for the human rights violations and abuses attributed to them or to elements under their command. Internal criticism of the policy continued. On 28 June, 2011, the UNSC adopted resolution 1991, which extended MONUSCO mandate, including the provisions related to conditionality, until 30 June, 2012.

The Human Rights Due Diligence Policy

Based on MONUC and MONUSCO experience in implementing the conditionality policy, the United Nations developed the Human Rights Due Diligence Policy on UN support to non-UN security forces (HRDDP), which was issued as Secretary-Gen-

25 Critics argued that determining the eligibility of entire units for UN support based on their commanders' individual human rights background was neither fair nor effective in preventing human rights violations, as the units as a whole were not subject to background checks. It was also noted, however, that the procedure established to implement the conditionality policy depended on the availability of accurate information on individuals, including their possible involvement in the perpetration of human rights violations and abuses). Moreover, the actual capacity to perform such background checks would have also been an issue, due to the number of FARDC troops receiving support (16,000 during operation Kimia II).

26 According to the policy, MONUC/MONUSCO would only provide support to officers not previously involved in human rights violations.

eral's decision 2011/18 on 13 July, 2011. MONUSCO continued to support FARDC-led operations in eastern DRC in compliance with the HRDDP,²⁷ which was applied through the SOP adopted in November 2010.²⁸ The security situation in the country deteriorated in 2012, as a result of a wake of desertions of former armed groups' elements from the Congolese Army. Joint operations were temporarily suspended and the FARDC re-deployed units to North Kivu to fight against the insurgents, with MONUSCO support. FARDC-led operations in Orientale province continued. Human rights violations by Congolese forces, mostly committed during military operations against armed groups, continued to be reported. In February 2013, MONUSCO initiated the procedure for the suspension of support to the 41 and 391 FARDC battalions,

²⁷ For instance, in South Kivu province, MONUSCO coordinated with humanitarians to ensure that protection concerns were taken into account in the planning of operation Amani Kamilifu; the mission also established innovative mechanisms, such as the Joint Command Posts, to conduct a joint monitoring of military operations and assess their protection implications for civilians.

²⁸ The HRDDP was formally introduced into MONUSCO's mandate by UNSC resolution 2098 of 28 March, 2013, paragraph 12 (b), referring to operations to be conducted by the newly established Force Intervention Brigade (FIB) 'either unilaterally or jointly with the FARDC'. UNSC resolution 2053 of 27 June, 2012 contains no reference to the policy and extended MONUSCO mandate as set out in resolution 1925 (2010) until 30 June, 2013.

involved in serious human rights violations, including mass rape, in South Kivu province.

The wake of desertions that occurred in 2012 partially addressed the existence of parallel chains of command within the FARDC and the presence of individuals known for being responsible of serious human rights violations and abuses in positions of command, as a number of former armed groups' members, which had integrated the FARDC in 2009, deserted. The logistic constraints faced by the mission were also partially addressed by the deployment of additional air assets in 2012. However, a number of challenges remained to be addressed, including the fact that the screening process continued to focus on battalion commanders and that the mission's actual capacity to monitor the distribution of supplies continued to be limited; the issue of accountability for individuals responsible for human rights violations and abuses and excluded from MONUSCO support also remained a concern.²⁹ While

²⁹ The conditionality policy was developed as a protection tool and not as a tool to combat impunity. However, the policy produced some results in terms of accountability, as there were instances where Congolese judicial authorities took action based on the outcome of the screening process conducted by the mission. For example, in April 2012 MONUSCO supported judicial investigations concerning three FARDC officers accused of serious human rights violations who were identified

challenges persisted, MONUSCO pioneering role in the elaboration of the policy was broadly recognised, and the mission was highly solicited to share its experience with other UN entities outside the DRC.³⁰

Future perspectives with regards to HRDDP implementation in the DRC: resolution 2147

UNSC resolution 2147 of 28 March, 2014 identifies three main axes with regards to the implementation of the Human Rights Due Diligence Policy in the DRC in 2014-2015. First, the Council called upon MONUSCO to continue to implement the HRDDP in the context of military operations conducted by the Force Intervention Brigade (FIB) against armed groups. Second, resolution 2147 reiterated the obligation to apply the HRDDP in the context of the Army and Police reform. Third, it stressed the need, for the UN system in-country, to adopt a 'joint and uniform approach regarding HRDDP implementation'.³¹

through the screening process.

³⁰ In 2012, MONUSCO participated in the Initial UN planning team mission in Bamako to assist ECOWAS/AU in planning for an international military force to be deployed to Mali. MONUSCO also participated in a Forum on the HRDDP organised by the United Nations Political Office for Somalia. In December 2013, MONUSCO representatives participated in an Expert Dialogue on 'Robustness, Cooperation with Local Forces and the UN Human Rights Due Diligence organized by the Centre for International Peace Operations (ZIF)'.
³¹ UNSC resolution 2147, paragraph

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The Human Rights Due Diligence Policy on UN support to non-UN security forces

The HRDDP was adopted on 13 July, 2011 as Secretary-General's decision 2011/18.

The policy was developed by a Review Group co-chaired by the Office of the UN High Commissioner for Human Rights (OHCHR) and the Department of Peacekeeping Operations (DPKO) and composed of the United Nations Development Programme (UNDP), the Department of Political Affairs (DPA), the United Nations Office on Drugs and Crime (UNODC), the Office for the Coordination of Humanitarian Affairs (OCHA), the Office of Legal Affairs (OLA), the Office of the United Nations

High Commissioner for Refugees (UNHCR), the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG/CAAC), the United Nations Children's Fund (UNICEF) and the Peacebuilding Support Office (PBSO).

The policy sets out principles and measures to mainstream human rights in support provided by UN entities to non-UN security forces globally, in order to ensure that such support is consistent with the Organization's Purposes and Principles in the Charter and its obligations under international law to respect, promote and encourage respect for in-

ternational humanitarian, human rights and refugee law. UN support should help recipients progress to a stage where compliance with these bodies of law becomes the norm, ensured by the rule of law.

For the full text of the policy, refer to the identical letters dated 25 February 2013 from Secretary-General Ban Ki-moon addressed to the President of the General Assembly and to the President of the Security Council (A/67/775-S/2013/110).

With regards to the conduct of operations against armed groups, as previously mentioned the mission has supported the Congolese Army since at least the end of 2004 and has applied the conditionality policy and the HRDDP to the provision of support in the context of military operations since 2009. MONUSCO disposes of internal mechanisms and procedures specifically designed to this aim. Despite the many challenges discussed above, this falls among the activities which have been regularly performed by the mission.

Regarding HRDDP implementation in the context of security sector reform, while little progress has been registered with regards to the Army reform, including the Rapid Reaction Force, some results have been achieved in the area of Police reform. The provision of support to the Congolese Police will represent a very important issue in the months to come. On 26 May, 2014, the Independent National Electoral Commission published the calendar for the local, municipal and urban elections, scheduled to take place in the course of 2015. The presidential and legislative elections are also scheduled for the end of 2016. In light of the upcoming electoral cycle, it will be essential to build the capacities of the Police in order to prevent future human rights violations and to strictly apply the HRDDP to all forms of support provided by the UN system in-country to the Congolese Police,³² given the serious violations which were committed during the previous electoral cycle.

Finally, with regards to HRDDP implementation by the United Nations

Country Team (UNCT),³³ it should be noted that several UN entities provide support to non-UN defence and security forces which may fall under the scope of the policy. The HRDDP requires that UN entities report on implementation; however, public reports by UN entities having presences in the DRC contain no information regarding the HRDDP. Through resolution 2147, the Council indirectly acknowledged the fact that the policy is currently being implemented in an uncoordinated and inconsistent manner in the Democratic Republic of the Congo. Despite the particular character of MONUSCO support to the FARDC, the fact that other UN entities do not implement the HRDDP could undermine MONUSCO's position in its interactions with national counterparts in the long run. The ongoing handover of tasks to the UNCT and MONUSCO reconfiguration and possible drawdown may result in a situation where the support provided by the UNCT becomes more relevant than the one provided by the mission. Should such a scenario materialise, it would become increasingly difficult for MONUSCO to implement the HRDDP with respect to Congolese counterparts if other UN entities continue to not apply the policy. It is therefore essential that the UNCT boosts HRDDP implementation in the months to come.

Conclusions

The implementation of the Human Rights Due Diligence Policy can contribute to the protection and promotion of international humanitarian, human rights and refugee law and prevent UN entities from being associated with the perpetration of serious violations. In the case of the DRC, the development of the policy has helped the mission implement a Security Council mandate which had no precedents in the history of peacekeeping. The actual impact of the policy in

33 The UNCT encompasses all the entities of the UN system that carry out operational activities for development, emergency, recovery and transition in a given country. It ensures inter-agency coordination and decision-making at the country level. The main purpose of the Country Team is for individual agencies to plan and work together to ensure the delivery of tangible results in support of the development agenda of the Government.

terms of improved recipients' behaviour remains to be assessed. However, the progressive acceptance of the idea that UN support can (and should) be conditioned and the substantial change this idea has provoked in the way the mission has engaged with national counterparts represent very important achievements of the HDRRP so far. The policy has also produced a substantial change in the way mission components interact with each other, fostering synergies and cooperation between civilian and uniformed personnel. Today, it is increasingly evident that successful implementation at country level requires strong cohesion within the UN system, transparency and open dialogue with national authorities, and partnerships with other actors such as civil society and member States. While the DRC has been considered for several years the most advanced example of HRDDP implementation in the world and it is today among the countries where implementation is more advanced, maintaining such primacy in the years to come will require renewed efforts by the UN system in-country and a strong partnership between MONUSCO and the UNCT.

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33.

32 The screening procedure was specifically developed in the framework of the provision of support to the Congolese Army in the context of military operations and has been progressively extended to the Congolese Police and to other forms of support provided by MONUSCO to the Congolese defense and security force. As of today, the screening constitutes MONUSCO's risk assessment procedure under the HRDDP. While the screening procedure takes into account all the elements identified in the policy, the risk assessment could eventually be adjusted to better adapt to categories of support other than the one provided in the context of military operations (for instance, capacity-building and financial support).

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Contingent of Nepalese Peacekeepers Arrives in Juba from Haiti - Over two hundred Nepalese peacekeepers arrive in Juba from the UN Stabilization Mission in Haiti (MINUSTAH), to reinforce the military component of the UN Mission in South Sudan (UNMISS). The contingent's arrival follows an advance team of 25 Nepalese troops who arrived in the country in January from MINUSTAH to support UNMISS, after an outbreak of violence in mid-December between pro- and anti-government forces.

4 February 2014, Juba, South Sudan, UN Photo | Isaac Billy

UNLAWFUL CONDUCT OF UN PEACEKEEPERS: WHO IS TO BLAME - THE CONTRIBUTING STATE OR THE UN?

UNDER INTERNATIONAL LAW, THE UNLAWFUL CONDUCT OF UN PEACEKEEPING TROOPS – INCLUDING VIOLATIONS OF THE HUMAN RIGHTS OF THE LOCAL POPULATION – GIVES RISE TO INTERNATIONAL RESPONSIBILITY AND TO LIABILITY FOR COMPENSATION. WHETHER THIS LEGAL RESPONSIBILITY LIES WITH THE UN OR WITH THE STATE WHO CONTRIBUTED A MILITARY CONTINGENT TO THE MISSION CAN BE A COMPLEX MATTER TO DECIDE. THE PRESENT PIECE INTENDS TO BRIEFLY ILLUSTRATE THE RELEVANT INTERNATIONAL LAW RULES TO THEN DESCRIBE HOW THEY HAVE BEEN APPLIED BY DUTCH COURTS IN A RECENT CASE CONCERNING THE 1995 MASSACRE OF SREBRENICA.

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Introduction

Since the end of the Cold War, UN peacekeeping underwent a transformation from a tool to prevent the

resuming of hostilities between former foes to a mechanism aiming at facilitating the rehabilitation of States

emerging from violent conflict. One of the consequences of the changing nature of Peacekeeping Operations

(PKOs) is that the national contingents deployed are increasingly coming in contact with the civilian population of the territories placed under their protection. While in the majority of instances Blue Helmets have been lauded for their work, in a number of cases allegations have been made against them for committing or being accomplices in human rights abuses. Peacekeepers, and especially the military component, are rarely held accountable for these offences. The main reason for this state of affairs is that UN contingents are bestowed jurisdictional immunity vis-à-vis the courts of the host State under international agreements concluded prior to their deployment. However, even if individual peacekeepers are rarely brought to justice, the UN as an organization possesses international legal personality and might be held responsible under international law for the unlawful acts of individuals and entities acting on its behalf.

The legal complexities surrounding PKOs, however, make it sometimes difficult to determine to which entity the unlawful conduct of peacekeepers should be attributed. Litigations in national and international tribunals bear witness to this. The intricacy of the subject derives, on one hand, from the composite legal regime regulating the employment of peacekeeping forces deployed under the auspices of the UN, and on the other from the peculiar legal status of the military personnel involved. These remain soldiers in the service of the respective States, while at the same time acquiring an international status, as they act in pursuance of UN Security Council (UNSC) resolutions and in accordance with agreements that place them under UN command and control. It is thus interesting to assess under what circumstances internationally wrongful acts perpetrated by UN peacekeeping contingents can be attributed to the UN, to the Troop Contributing State (TCS), or to both, and thus to establish who should bear international responsibility for their unlawful conduct.

The Rules on Attribution of Conduct in the Framework of UN PKOs

It is a recognized principle of interna-

tional law that when a violation of the law occurs this makes the legal entity to whom the violation can be attributed legally responsible. As early as 1949, the International Court of Justice (ICJ) has made it clear that an International Organization (IO) possesses a legal personality under international law distinct from the personality of the organization's member States.¹ The rise of IOs as influential and autonomous actors has logically brought up the question of their legal accountability. This prompted the UN International Law Commission (ILC) to start a codification exercise in 2002, by including the topic of 'responsibility of international organizations' into its program of work. In 2011 the ILC adopted the *Draft articles on the responsibility of international organizations* (DARIO).² According to Draft Article 4, an internationally wrongful act materializes "when conduct consisting of an action or omission: (a) Is attributed to the international organization under international law; and (b) Constitutes a breach of an international obligation of that international organization." It is hence key to determine not only if a certain conduct represents a violation of an organization's international obligations, but also whether that specific conduct *can be attributed* to the IO in the first place.

When it comes to Blue Helmets, there are two main theories to explain how their actions or omission can be linked to the UN and engage its responsibility. One possibility is to consider UN Peacekeepers *as organs of the UN*; the second is to view them *as organs of their respective States* that were put at the UN's disposal. In the first case, attribution of conduct should be performed on the basis of the criteria set out in Draft Article 6, which establishes that "[t]he conduct of an organ or agent of an international

organization in the performance of functions of that organ or agent shall be considered an act of that organization under international law." Draft Article 8 then specifies that the conduct of organs or agents of IOs acting in their official capacities and within the overall functions of their organization will be attributed to the latter "even if the conduct exceeds the authority of that organ or agent or contravenes instructions." So, basically, if UN Peacekeepers were considered organs of the UN, the latter would be responsible for all unlawful acts committed by them in the performance of their duties.

Draft Article 7, on the other hand, is concerned with the conduct of organs or agents of States or IOs that are *placed at the disposal* of an IO. It stipulates that the conduct of such organs or agents shall be attributed to the receiving organization "if the organization exercises *effective control* over that conduct." As the ILC's commentary to this article states, the test for attribution of conduct to either the contributing or the receiving legal entity is based "on the factual control that is exercised over the specific conduct taken by the organ or agent placed at the receiving organization's disposal."³ So, if we consider UN contingents as organs of the TCS put at the disposal of the UN, it needs to be assessed whether the UN exercised *effective control* over the specific unlawful conduct at issue.

But which test is the correct one? The first hypothesis seemed to be supported by the practice of the UN, which has characterized UN-run operations as "subsidiary organs" of the organization. According to the UN Legal Counsel: "[a]s a subsidiary organ of the UN, an act of a peacekeeping force is, in principle, imputable to the Organization, and if committed in violation of an international obligation entails the international responsibility of the Organization and its liability in compensation."⁴ In conformity with this approach, the UN acknowledged

1 ICJ, *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion of April 11, 1949, ICJ Report 1949, pp. 174-189.

2 ILC, Draft articles on the responsibility of international organizations, in Report of the International Law Commission, Adopted at its Sixty-third session (26 April-3 June and 4 July-12 August 2011), General Assembly Official Records Sixty-sixth Session, Supplement No. 10, UN Doc. A/66/10, p. 70 ('DARIO - ILC 2011 Report').

3 Ibid., pp. 87-88.

4 Letter by the United Nations Legal Counsel to the Director of the Codification Division, UN Doc. A/CN.4/545, sect. II.G, 3 February 2004.

its international responsibility for the conduct of its peacekeepers on several occasions, such as with respect to the actions of contingents participating in the UN operations in the Congo and in Cyprus.

However, the ILC was not persuaded that Blue Helmets are to be considered as UN organs and instead maintained that they should be regarded as organs of the TCS put at the disposal of an IO, and that the relevant rule to decide issues of attribution is the one contained in Draft Article 7. According to the ILC, only the conduct of State organs that are “fully seconded” to an IO can be imputed to the organization on the basis of Draft Article 6. Draft Article 7, on the other hand “deals with the different situation in which the seconded organ or agent still acts to a certain extent as organ of the seconding State or as an organ or agent of the seconding organization. This occurs for instance in the case of military contingents that a State places at the disposal of the UN for a peacekeeping operation, since the State retains disciplinary powers and criminal jurisdiction over the members of the national contingent.”⁵ In other words, the ILC did not subscribe to the view that secondment to the UN could turn national troops into organs of the receiving organization. By virtue of the organic link the military contingents still maintain with the sending States, it can never be said that they are *fully* seconded to the UN. After having reviewed existing practice, the ILC’s Special Rapporteur thus concluded that, in the case of UN peacekeepers, the decisive question in relation to attribution of a given conduct appears to be who had *effective control* over the conduct in question. It should be stressed, at this point, that in the vast majority of cases national contingents deployed in UN PKOs operate under the exclusive command and operational control of the UN, which hence retains effective control over their conduct. Yet circumstances might arise where the national authorities interfere with the UN chain of command, or where the UN is no longer able to exercise its control over peacekeepers. In such

cases, attribution of conduct (and hence of responsibility) to the UN is no longer obvious.

In sum, it can reasonably be argued that the UN generally bears responsibility under international law for acts or omissions of its Blue Helmets. However, exceptions to this rule exist where a given conduct is performed outside the UN’s factual command and control. This implies that the PKO’s status as organ of the UN has limited bearing on attribution, and can at most establish a (rebuttable) legal presumption in favor of attribution to the UN.⁶ If a specific conduct is performed by peacekeepers outside of the organization’s effective control, it has to be imputed to the entity that exercised effective control over it, which, in most cases, will be the TCS.

The Rulings of the Dutch Courts in the Mustafić and Nuhanović Cases

In July 2011, the Court of Appeal of The Hague rendered two twin judgments,⁷ ruling that the State of the Netherlands had acted unlawfully and was liable, under Dutch law, for evicting Bosnian nationals from the compound of Dutchbat in Srebrenica on 12 July 1995. Dutchbat was a Dutch battalion part of the United Nations Protection Force (UNPROFOR), the first UN peacekeeping force in Croatia and in Bosnia and Herzegovina during the Yugoslav wars. UNPROFOR’s mandate had been extended by UNSC resolution 819 (1993) to include the protection of Srebrenica and its surroundings “from any armed attack or any other hostile act.” The decisions originated from civil suits filed by Hasan Nuhanović and by the relatives of Rizo Mustafić and reversed previous judgments of the District Court in The Hague.

The first case concerned the killing

6 See K. M. Larsen, *The Human Rights Treaty Obligations of Peacekeepers*, Cambridge University Press, 2012, p. 120.

7 Gerechtshof ‘s-Gravenhage (Court of Appeal of the Hague), *Mustafić-Mujić et al v. The Netherlands*, BR5386, Judgment (English translation available at <http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=BR5386>) and *Nuhanović v. The Netherlands*, BR5388, Judgment (English translation available at <http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=BR5388>), both issued on 5 July 2011 (*Court of Appeal Nuhanović*).

of three of Mr. Nuhanović’s relatives, who were forcefully removed from the Dutchbat camp, taken away by Bosnian Serb militias and subsequently killed. The second case concerned Mr. Mustafić himself, an electrician who had worked for the Dutch contingent but was evicted from their camp and later deported and killed by the forces besieging Srebrenica. In both instances the crucial question was whether the impugned conduct was attributable to the Netherlands or to the UN, especially as in those days the UN chain of command had almost collapsed and the situation in the region was extremely volatile.

In 2008, the District Court of The Hague had held that, given that Dutchbat was part of UNPROFOR, the contested conduct “should be attributed strictly, as a matter of principle, to the United Nations.”⁸ The Court explained that, by virtue of the UNSC’s exclusive responsibility for the preservation of international peace and security and considering the Chapter VII foundation of UNPROFOR, the Dutch troops that had joined the operation were under the *operational command and control* of the UN. The Court declared itself ready to accept that in following instructions coming from the national authorities (i.e., in acting under the TCS’s effective control), Dutchbat would have been no longer acting on the UN’s behalf and the relevant acts were to be attributed to the Netherlands. However, the judges did not find that the evidence supported this view and decided that the unlawful conduct was attributable to the UN.⁹

In its 2011 judgments, the Court of Appeal handled the issue of attribution differently. After determining that the correct criteria for attribution of conduct was that of *effective control* – in line with the work of the ILC – it dismissed the *operational com-*

8 Rechtbank ‘s-Gravenhage (District Court of the Hague), Case Number 265615, Judgment (English translation available at http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=BF0181&u_ljn=BF0181) and Case Number 265618, Judgment (English translation available at http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=BF0182&u_ljn=BF0182), both issued on 8 September 2008, paragraph 4.11.

9 Ibid., paragraph 4.16.5.

5 DARIO – ILC 2011 Report, p. 87, emphasis added



mand and control standard used by the District Court. The Court of Appeal also explained what it meant by *effective control*, highlighting that it is not only dependent on the issuance and execution of specific instructions by the State or the UN, but can materialize even in the absence of such instruction, when either entity “had the power to prevent the conduct concerned.”¹⁰ In essence, if evidence showed that the Netherlands were in a position to prevent the eviction of Nuhanović’s relatives and of Mustafić from the camp, their removal (i.e. the alleged unlawful conduct) should be imputed to the TCS.

Emphasizing the particular phase UNPROFOR was undergoing and the fact that Dutchbat was about to withdraw, the Court noted that during the relevant period the formal authority of the Netherlands over its troops increased significantly, as evidenced by the fact that “[t]he Dutch Government participated in that decision-making at the highest level.”¹¹ The judges also noted that the conduct in question was directly linked to the decisions and instructions of the Dutch authorities. It was them who had decided to evacuate Dutchbat and the refugees, and Dutch commanders had been heavily involved in the process. What was relevant, in the Court’s eyes, is that in the circumstances ruling at the time the Dutch authorities were so directly engaged in the evacuation of the refugees that their orders would certainly have been executed by Dutchbat. In the light of all these elements, the judgment concludes that the Netherlands had *effective control* over the conduct of Dutchbat and, therefore, that such conduct had to be attributed to the State. In September 2013 the Dutch Supreme Court dismissed a further appeal by the State and ruled that the Court of Appeal reached the right decision when it based attribution of conduct on the criterion of *effective control*.¹² The judgment also

made clear that dual attribution of conduct between a State and an IO is not precluded under international law, as *effective control* does not necessarily have to be *exclusive* and can instead be shared between more than one entity.¹³

Conclusions

The Supreme Court’s judgment represents a significant step towards the consolidation of the ILC’s approach on attribution of conduct. The concurrent application of the context-driven *effective control* test and the full endorsement of the dual attribution paradigm also appear to serve the interest of international justice and of the victims of the human rights abuses committed by peacekeepers. Allowing for an assessment based on factual elements would significantly reduce the risk that States will shield themselves behind the “organizational veil” to escape responsibility for what, in truth, are their own initiatives. Also, shifting responsibility exclusively towards IOs may have adverse effects on the victims’ prospects of obtaining redress for the harm suffered as there are currently hardly any enforcement mechanisms available to hold IOs liable for their breaches.

These difficulties are well exemplified by another recent decision of the Dutch Supreme Court in the case *Mothers of Srebrenica v. The Netherlands and the UN*.¹⁴ Upholding the rulings of two lower courts, the judges maintained that the relatives of the Srebrenica massacre could not sue the UN before the Dutch courts as “the UN enjoys the most far-reaching immunity from jurisdiction, in the sense that the UN cannot be summoned to appear before any domestic court in the countries that are party to the Convention [on the Privileges and

Immunities of the United Nations].”¹⁵ To avoid this sort of legal pitfalls, TCSs responsible for wrongful acts should be held to account, as more mechanisms are indeed available to this purpose, as the *Nuhanović* and *Mustafić* litigations clearly show.

15 Ibid., paragraph 4.2. The Supreme Court’s decision to recognize the UN’s immunity before Dutch courts was upheld by the European Court of Human Rights in the case *Stichting Mothers of Srebrenica and Others v. the Netherlands*, Admissibility Decision, Application No. 65542/12, June 11, 2013. The Court rejected the complaint as manifestly ill-founded, finding that the granting of immunity to the UN served the legitimate purpose of ensuring the functioning of the United Nations in complete independence, and that therefore the restriction of the applicants’ right of access to court was justified.

documents/20130909T125927-Supreme%20Court%20Nuhanovic%20ENG.pdf) issued on 6 September 2013.

13 Ibid., paragraph 3.11.2.

14 Supreme Court of the Netherlands, First Division, *Mothers of Srebrenica v. The State of the Netherlands and the United Nations*, Judgment, 10/04437, EV/AS, (English translation available at <http://www.rechtspraak.nl/Organisatie/HogeRaad/Supreme-court/Summaries-of-some-important-rulings-of-the-SupremeCourt/Pages/Ruling-Dutch-Supreme-Court-Mothers-of-Srebrenica.aspx>), issued on 13 April 2012.

10 *Court of Appeal Nuhanović*, paragraph 5.7.

11 Ibid., paragraph 5.12.

12 Supreme Court of the Netherlands, *Netherlands (Ministry of Defence and Ministry of Foreign Affairs) v Nuhanović*, Final appeal judgment, ECLI/NL/HR/2013/BZ9225, ILDC 2061 (NL 2013), 12/03324, (English translation available at <http://www.asser.nl/upload/>





UN Day Celebrations in South Sudan - Traditional dancers perform during a ceremony marking UN Day in Juba, South Sudan. Celebrations for the annual observance were held under the theme, "One South Sudan, One UN".

24 October 2013, Juba, South Sudan, UN Photo | Martine Perret



INCREASING LOCAL POPULATION AWARENESS ABOUT, AND IMPROVING RELATIONS WITH, UNMISS MANDATE

MAIN CHALLENGES OF UNMISS' OUTREACH STRATEGY.

by Evelien Vleeshouwers (*)

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()The views expressed in this article are entirely those of the author, and do not necessarily represent the views of UNMISS or the broader UN community in South Sudan.*

The importance of outreach

The United Nations Mission in South Sudan (UNMISS) was established on 9 July, 2011 through Resolution 1996 at the request of the Government of South Sudan. The southern part of Sudan had just become an independent country after 98,83% of the population voted for independence in a referen-

dum held in January of the same year. UNMISS replaced the former United Nations Mission in the Sudan (UNMIS), a mission that had been set up to oversee the Comprehensive Peace Agreement (CPA) between the Government of the Sudan and the Sudan People's Liberation Movement/Army

(SPLM/A). The main objectives of the new peacekeeping mission were support for peace consolidation, support for the Government in performing its responsibilities when it comes to protection of civilians and conflict prevention, and help build up the capacity in sectors such as security and rule



of law (SC/Res/1996(2011). After one year, when the mandate got renewed in Resolution 2057 (2012), outreach was included. Paragraph 11 of the resolution reads:

“Welcomes the UNMISS initiative to launch an outreach campaign throughout the country, and encourages the Mission within existing resources to further develop its communication with local communities to improve understanding of the Mission’s mandate[...].”

In order to carry out the tasks set out in the resolutions on the peacekeeping mission in South Sudan¹, it is important that the local community knows what can be expected from the mission. Working in a negative environment can be counter effective: it can create resistance within the host community to participate in activities organised by the mission (such as capacity building trainings and workshops) and it can lead to hostile conditions for staff members, endangering their safety. Numerous examples can be found where UNMISS staff has been harassed or work has been compromised². Therefore, the aim of outreach activities is to improve the understanding of the UNMISS’ mandate among the host community and thus creating a better relationship with them. This task is assigned to Public Information Officers, working in the Public Information Office (PIO) under the Outreach Unit.

Outreach is done in different ways. An important tool is presentations, in which the mandate of the mission is being explained. These presentations can be given during activities organised by other UNMISS sections, such as a peace conference or a human rights workshop, but outreach can also be the main event. Small teams made up out of civilians, police and military can for example visit schools to explain to the children the mandate of the mission and what it entails to be a peacekeeper, or UNMISS staff can visit religious houses to tell more about the mission. Apart

from presentations, the celebrations of international days are also key moments for outreach to be conducted. Most important days for UNMISS are the International Day of the United Nations Peacekeeper (29 May) and United Nations Day (24 October). The organisation of these events is being done together with local counterparts, and the work of UNMISS can be displayed. Other ways of getting the message about UNMISS to the population is the use of local media and posters, and giving speeches during local events (such as SPLA Day or Independence Day).

Several challenges are encountered when improving the awareness among the population about the UNMISS mandate. Since the conflict started in December 2013 (see ‘New situation in South Sudan’, below) additional problems have arisen. In this article I will discuss these challenges and problems, as well as some of the solutions.

Challenges

First, the lack of visibility of the work of UNMISS constitutes a problem. As can be found in the mandate of Resolution 1996, UNMISS worked³ on capacity building, monitoring of human rights, support for peace consolidation and other tasks which are not directly noticeable to the local population. Capacity building is mainly being done through trainings and workshops, held either in an UNMISS compound or a conference room. During peace forums UNMISS prefers to work merely as a facilitator, underscoring “national ownership and national responsibility” (SC/Res/1996(2011). For this reason, it is for participants not always clear what the level of involvement of UNMISS is, and therefore missing out on some of the work the mission does. In addition to this, results take time to come into effect. The build-up of capacity and the accompanied change of mind-set are things that do not happen overnight, making it more difficult to see direct results. Combined

with a low education level⁴ and high illiteracy⁵ in South Sudan, it is even harder to explain or show what UNMISS does.

The next challenge is the prevailing misconception about what the mission is tasked to do. A big part of the population expects humanitarian assistance and development aid from UNMISS. People ask for food, restoration of government buildings, provision of fuel or directly for money. There can be several reasons for this misconception. First, also other UN agencies⁶ are at work in South Sudan. Some of these agencies are humanitarian in nature, and do provide food and other materials to the population. For the local community it can be difficult to understand the difference between one and another. Second, UNMISS was mandated to support and assist the government in fulfilling its obligations. Meant was through facilitation, capacity building and other sorts of advisory activities. But sometimes “support” is interpreted in other ways. If the government for example cannot provide fuel for their cars, this will limit their movement and possibly hinder them in performing their duties. It therefore happens that the government requests fuel from UNMISS, arguing that this is a way for UNMISS to support them.

Because it is occasionally necessary to provide additional support in order to carry out the mandate, UNMISS conducts Quick Impact Projects (QIPs) through the Recovery, Reintegration and Peace-building Section (RRP). The aim of the QIPs is to improve “the environment for effective mandate implementation”. It also builds confidence in the mandate among the local population, therefore contributing to outreach objectives. Examples of QIPs are the building of community resource centres where peace conferences can be held, or building

1 Resolution 1996 (2011), 2057 (2012), 2109 (2013) and 2155 (2014).

2 See for example the UNMISS press release of 22 May, 2014: *UNMISS concerned over continued disruption of operations and security threats to staff*.

3 On 27 May 2014 a restructured mandate was adopted by the Security Council through Resolution 2155. When I refer in the article to the mandated tasks however, I will use Resolution 1996 (2011), 2057 (2012) and 2109 (2013). Only when it is specifically mentioned I will base my analysis on Resolution 2155 (2014).

4 “The completion rate in primary schools is less than 10 per cent” (<http://www.unicef.org/southsudan/Education.pdf>).

5 Only 27 percent of the adults can read and write in South Sudan (<https://www.cia.gov/library/publications/the-world-factbook/geos/od.html>).

6 FAO; ILO; IOM; UNAIDS; UNDP; UNESCO; UNEP; UNFPA; UN Habitat; UNHCR; UNICEF; UNIDO; UNMISS; UNOCHA; UNOPS UN Women; WFP; WHO; World Bank.

roads for better access to remote areas. Unfortunately, the conduct of QIPs also leads to problems when it comes to creating awareness about the mandate. As a peacekeeping mission, UNMISS is not tasked with development projects or humanitarian assistance. Since our mandated tasks are lacking visibility among the population, as mentioned before, QIPs are sometimes the only thing the population can see being carried out by UNMISS. This increases the misconception about what UNMISS should do. It is difficult to make the population understand that QIPs are not merely development aid, but they are being conducted in support of the mandate.

South Sudan: a new situation

Since 15 December 2013 South Sudan is engaged in an internal conflict. What started as a dispute within the barracks of the presidential guards in Juba has spread to other parts of the country, and turned into a power struggle between President Salva Kiir Mayardit and former Vice-President Riek Machar Teny. Although the conflict is in origin a political one, it has developed along ethnic lines, with the Nuer and Dinka tribe opposing each other. Several agreements have been signed⁷, but the fighting still continues, mainly in Upper Nile State and Unity State where the oil fields of South Sudan can be found.

Conflict situations make the work of international organisations more difficult. Security threats limit the movement outside of the compounds and new problems occur, leading to a shift of priorities. In the case of UNMISS, the influx of more than 100,000 IDPs changed the role of the mission. The Security Council therefore adopted a new, restructured mandate to handle the new situation. The four main tasks as of 1 July 2014 until 30 November 2014 are protection of civilians, monitoring human rights, creating conditions for delivery of humanitarian assistance and supporting the implementation of the Cessation of Hostilities

7 IGAD 23 January 2014, *Agreement on cessation of hostilities between the Government of the Republic of South Sudan (GRSS) and the Sudan People's Liberation Movement/Army (In Opposition) (SPLM/A In Opposition)*; IGAD 5 May 2014, *Recommitment on Humanitarian Matters in the CoH Agreement*; IGAD 9 May 2014, *Agreement to Resolve the Crisis in South Sudan*.

ties Agreement (SC/Res/2155(2014), paragraph 4).

The Security Council also adopted a resolution on South Sudan right after the conflict started, increasing the number of uniformed troops from 7,000 up to 12,500. Rapid deployment was desperately needed. With violence erupting around the bases and the direct attack on the Akobo County Support Base (CSB) in Jonglei state (UNMISS Press Release 19 December 2013, *UNMISS deploras attack on its base in Jonglei State County of Akobo*), UNMISS was with the current manpower at that time not able to adequately protect its staff or the civilians who were seeking protection within its bases. As of 30 April 2014, 8,975 uniformed troops have been deployed in South Sudan.

One of these extra deployed troops is the Ghana Battalion (GhanBatt). Before coming to South Sudan they were serving in Ivory Coast, working for the United Nations Operation in Cote d'Ivoire (UNOCI). Upon arrival in South Sudan the battalion was sent to Rumbek (Lakes State), from where they would proceed to Bentiu (Unity State). Also their equipment and belongings were being sent to Rumbek. As a security measure during the crisis UNMISS sends all arms and ammunition for battalions by air, not by road. Other items can be transported by road. In March 2014 a convoy of 13 trucks left Juba for Rumbek, carrying medical equipment, engineering supplies and other belongings of GhanBatt, all described in the accompanied waybill. Upon arrival in Rumbek the convoy was stopped at a security checkpoint. When the security personnel started checking the containers, weapons and ammunition were found. During the investigation it turned out that some of the boxes from GhanBatt had been wrongfully labelled during the move from Ivory Coast to South Sudan, which led to the accidentally transport of weapons and ammunition by road instead of air.

UNMISS was accused of smuggling weapons to a rebel-controlled area. Even though the mission tried proactively to limit the damage by explain-

ing the errors that have been made through letters to the government and press releases⁸, negative publicity came out. The national Minister of Information and Broadcasting, Michael Makuei Lueth, said in a press conference given on 8 March in Rumbek that "there is no guarantee that [...] these materials were not going to other direction other than UNMISS". Such statements made by high-ranking government officials can carry a lot of weight among the population, therefore contributing to a negative opinion about UNMISS. In relation to this, on 11 March 2014 a demonstration was held in Rumbek town against the leadership of UNMISS, the Special Representative of the Secretary-General Hilde Johnson⁹. In the petition handed over the UNMISS by local civil society organisations, the SPLM and other political parties stated that "the whole world has never experienced the most respected body, the UN smuggling weapons of destruction [...]" (Petition 11 March 2014, *Scandalous Act of Criminality*).

Solutions

This leads me to my first solution to overcome challenges in increasing population awareness about the UNMISS mandate and improving relations with them. First of all, what becomes clear through the incident described above is that good relations with the local authorities are of vital importance, especially since the aim of UNMISS was to support the nation, therefore supporting the state actors. These government officials can further use their authority to influence the population in a positive way, and support UNMISS in conducting outreach activities (for example by joining them).

Related to this is visibility in the communities. This doesn't necessarily have to be through mandated activities. Simply interacting with them in an unofficial way can also

8 See UNMISS Press Release 6 March 2014, *The UN will investigate error in transport of weapons for new contingent*; UNMISS Statement 11 March 2014, *Statement of Major General Delali Johnson Sakyi UNMISS Force Commander*.

9 SRSG Hilde Johnson decided not to renew her contract, therefore as of 9 July 2014 a new SRSG will be appointed (UNMISS Press Release 30 May, 2014, *Hilde F. Johnson to complete her term as SRSG in July*).



contribute a great deal. Outreach is not only done through official activities, where speeches or presentations about the mandate are given. One-on-one interaction in which UNMISS staff can explain what they are doing can sometimes be far more effective. One must think for example about participating in local events. In many towns in South Sudan, at the end of the day, football or volleyball matches are played at the main square in town. Showing UNMISS presence during such events and interacting with the crowd can be a very simple and effective way to improve relations.

Interaction is in any case important when it comes to outreach. Outreach activities should not just constitute a presentation on the mandate. Dialogues with the target groups can increase their willingness to work together with UNMISS and can improve relations. In Rumbek a lot of negativity about UNMISS was prevalent after the conflict started. During a dialogue session with representatives of civil society organisations in the state a lot of their misconceptions could be taken away during a question round. It also shows that the organisation is not just interested in telling their own message, but also wants to include the local actors in their work and values their opinion.

It is also important to show active UNMISS presence in any activity organised or facilitated by the organisation. This does not merely constitute attending the activities; better would be the display of UNMISS material (such as banners or flags) and a slot designated to UNMISS to say a few words about the organisation and the role the mission plays in the event. To spread the work of UNMISS even further then only the participants of these events, local media should always be invited to attend any activity organised or facilitated by the mission. In this way more people can be reached.

Furthermore, when implementing QIPs and conducting the handover ceremonies of these projects, attention should be given to outreach. As said before, QIPs can lead to misconception among the population

about what UNMISS does. Through outreach this misunderstanding can be limited or taken away. Speeches given during the handover ceremony should state clearly the reasons behind the QIP. Also, since QIPs are being conducted by other actors (UN agencies or INGOs), this should be made clear.

Lastly, but most important, is that a Public Information Officer, or any staff for that matter, should always keep the target audience (the local population) in mind when conducting activities. The UN peacekeeping mission is in South Sudan by invitation of the government. UNMISS is there to help the local population. In addressing them and building up relations with them, their culture, language, education level and expectations should always come first.



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The ITPCM

Next Events & Trainings

For complete info about trainings, research & on going projects please refer to www.itpcm.dirpolis.sssup.it

Trainings/Education	When	Application Deadline	Info & Contacts
HOSTILE ENVIRONMENT AWARENESS TRAINING COURSE V, VI	22 - 26 September 2014	1 September 2014	heat@sssup.it www.itpcm.sssup.it
	3 - 7 November 2014	1 October 2014	
TRAINING COURSE ON CIVILIAN PEACE SUPPORT OPERATIONS - CAMEROON	1 - 5 September 2014	15 July 2014	fpeaces@gmail.com pso_training@yahoo.com
PRE-DEPLOYMENT COURSE LIBYA - PISA	September 2014	TBD	itpcm@sssup.it www.itpcm.sssup.it
PRE-DEPLOYMENT COURSE FOR CSDP MISSIONS STAFF - BRUSSELS	8 - 10 October 2014	not open for application	itpcm@sssup.it www.itpcm.sssup.it
PHD IN POLITICS, HUMAN RIGHTS AND SUSTAINABILITY	from October 2014	open	www.sssup.it/phdapplicationonline www.sssup.it
WORLD FOOD PROGRAMME: IT EMERGENCY MANAGEMENT TRAINING	3 - 14 November 2014	not open for application	itpcm@sssup.it www.itpcm.sssup.it
TRAINING ON COURSE ON CIVILIAN ASPECTS OF CRISIS MANAGEMENT - ROME	24 - 28 November 2014	not open for application	itpcm@sssup.it www.itpcm.sssup.it
THE MASTER IN HUMAN RIGHTS AND CONFLICT MANAGEMENT	from January 2015	2 July 2014, non EU 17 September 2014, EU	humanrights@sssup.it www.humanrights.sssup.it

MEPA - Master in Electoral Policy & Administration

I EDITION, 2015 - 2016



www.mepa.sssup.it

DESCRIPTION

MEPA is a one-year, post-graduate programme in comprehensive advanced learning on electoral processes for current and aspiring election professionals. The Programme, delivered with the support of **International IDEA**, is especially beneficial for practitioners operating in developing democracies or post-conflict situations. It involves Election Management Bodies (EMBs) as hosts of the internships and it draws from an international faculty. The Programme has three fundamental objectives: 1) to provide an academic and practitioner experience for those individuals already working or seeking careers as electoral professionals; 2) to establish a source of professional education in electoral administration; 3) to reduce the gender gap in electoral administration.

KEY FACTS

Type of Course	Post-graduate professionalizing MA
Venue	Scuola Superiore Sant'Anna, Pisa, Italy – Residential phase; Dedicated EMBs – Internship
Length	1 year
Dates	2 March 2015 – Spring 2016
No. of Participants	28 (50% positions reserved for females)
Language	English
Weekly Commitment	30 hours per week
Academic Credits	Minimum 60 – Maximum 67
Tuition Fee	15.000 Euro ¹
Application Deadline	15 January 2015
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FURTHER INFO: mepa@sssup.it; tel. +39 050 882667

HEAT - Hostile Environment Awareness Training Courses

HEAT V, 22 - 26
September 2014

HEAT VI, 3 - 7
November 2014

heat@sssupsup.it

BACKGROUND

Hostile environment awareness plays an important role in the effectiveness and impact of crisis management missions; it is also a chief responsibility that each seconding or contracting actor has vis-à-vis its deployed personnel ("duty of care"), so as to further address the issue of their protection while operating in high risk operational theaters.

Hostile environment awareness is essential to coping with internal and external security threats on the ground and is conducive to: a) enhancing the resilience of personnel when working in hazardous environments; b) increasing the understanding of proactive security and of basic field measures; c) providing personnel with the basic tools and techniques needed to avoid potentially dangerous situations or to cope adequately with actual endangering ones in the field. This course has been designed and developed jointly by the Scuola Superiore Sant'Anna and the Carabinieri Corps General Headquarters, precisely with the aim to address such needs.

ENTRi CERTIFICATION

This is the first HEAT course to have obtained the "C3MC" label which proves that the Course is coherent with the minimum standards requested by ENTRi/EU*. Through the certification process, ENTRi aims at ensuring harmonisation of training standards among training providers working on civilian crisis management training.

TARGET GROUP

The target group for this training is EU and Member States personnel working or likely to be deployed in low/middle/high risk missions, who have preferably already attended a general introductory course on crisis management operations or gained relevant experience in international field operations.

TRAINING OBJECTIVES & MODULES

HEAT is an intensive 40-hours course that aims at training personnel of EU Missions and of Member States to deal with risk-associated and emergency/critical situations. The course addresses their security and safety needs when deployed in hostile environments - including "high" and "critical" risk mission areas - a preparation that, at EU and Member States level, is likely to become a compulsory pre-condition prior to deployment, in accordance with the "duty-of-care" principles. The training is expected to improve participants' understanding of the best behavioural requirements when working as team members/leaders of international field operations, irrespective of their national or professional background. The two primary objectives are: 1. To improve participants' awareness of multiple threats while providing them with the necessary knowledge and skills to effectively deal with such threats; 2. To rehearse and practice safety and security procedures according to threats typology.

The Course content is clustered in **five modules**: EU personnel deployed in hostile environments; Situational training exercise (STX); Medical training: health maintenance on mission; Orientation, communications & 4-wheel drive; Field training exercise (FTX).

APPLICATION DEADLINE

HEAT V, 1 September 2014; HEAT VI, 1 October 2014

FEE

The fee is € 900.00 and includes tuition, full board at the basic facilities (shared rooms, breakfast not included) of the 1st Carabinieri Paratrooper Regiment "Tuscania", Livorno (LI) - Italy, reference material and public liability insurance. Those opting for independent solutions will be provided with a list of possible accommodations next to the training premises.

FURTHER INFO: heat@sssupsup.it; tel. +39 050 882655

THE ITPCM

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the ITPCM venue in Pisa, archive photo

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