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Separating ex-combatants and refugees in Zongo, DRC: peacekeepers and UNHCR's “ladder of options”

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Introduction

In October and November 2001 a group of Central African Republic soldiers (FACA) and their family members, totaling 1,220 people,¹ were separated from a larger group of 25,000 refugees who had fled the Central African Republic (CAR). To prevent infiltration of armed elements into the refugee population, the ex-FACA and their dependents were relocated to a second site prior to encampment. This separation took place in the town of Zongo in northwestern Democratic Republic of the Congo (DRC) and was led by the UNHCR with the support of the UN peacekeeping mission in the DRC (MONUC). This paper recounts what occurred in Zongo and analyzes whether and to what degree cooperation between UNHCR and UN Department of Peacekeeping Operations (DPKO) would be possible in similar situations.

This case study highlights the imperative of preserving the humanitarian nature of refugee camps and explores the legal and operational dilemmas that arise from attempts to do so. It examines whether peacekeepers can or should be used in this type of operation, concluding that while Zongo should be considered a success, the lessons to be gleaned are piecemeal.

Information on the operational aspects of this separation was gathered from internal UNHCR documents and emails, in-person and telephone interviews, and email communications with a number of field and desk personnel from the UNHCR, MONUC and DPKO.

Preserving the humanitarian nature of refugee camps

The internal strife characteristic of today's armed conflicts has brought greater challenges and complications to refugee protection. Not only has the number of displaced people been growing, but the process of identifying bona fide refugees amongst those who are fleeing conflict is increasingly difficult. The phenomenon of "mixed populations"² has become more common as those escaping conflict are not only civilians, but also persons belonging to regular armed forces, paramilitary or militia groups or dissident armed bands.³ Militarized camps present several obvious problems to the international community; they threaten the physical safety of refugees, compromise the neutrality of aid work, pose a security threat to the host state and surrounding countries, and challenge the institution of asylum.⁴

While in some cases armed elements are willing to lay down their weapons and be considered for refugee status in the receiving state, others may wish to return to their country of origin to continue their fight. Those bent on returning to war may view refugee camps as a place to gain

¹ There is a discrepancy over this figure of how many individuals were relocated to Bokilio. The UNHCR figures claim 2,500 people were moved, while MONUC has said they moved 1,220 people. Attempts to reconcile this difference proved unsuccessful.

² That is, the presence of combatants and criminals among a refugee population (Jacobsen 1999: 5).

³ Because combatant status does not apply to situations of internal armed conflict, for the purposes of this analysis, those belonging to regular armed forces, paramilitary or militia groups as well as members of dissident armed bands will be referred to as 'armed elements' (Beyani: 251).

⁴ Militarization refers to non-civilian attributes of refugee populated areas, including inflows of weapons, military training and recruitment. It also includes actions of refugees and/or exiles who engage in non-civilian activity outside the refugee camp, yet who depend on assistance from refugees or international organizations.

rest and respite between attacks, or as a recruiting and/or training ground. Additionally, the presence of armed elements close to the border may encourage cross-border reprisals, or make a target of the entire refugee (and surrounding) population.

Although political violence among refugee populations has, according to one analysis, been decreasing since the end of the Cold War the presence of armed elements amongst civilians in need of aid remains a serious problem for the humanitarian community (Lischer: 3). Most recently, the presence of *interhamwe* and other *genocidaires* in Rwandan refugee camps in Zaire and Tanzania and the lingering problem of militia intimidation of the refugee population in West Timor have brought greater public attention to the problems of militarized refugee populations.

Insofar as states have a ‘security imperative’ that mandates a guarantee of state security before a country will be willing to grant asylum, preserving the civilian character of refugee camps is essential for the protection of the institution of asylum (Milner: 10). Asylum is meant to be a peaceful, humanitarian and friendly act. As stated in the *World Refugee Survey*:

Demilitarization of refugee camps is the absolute *sine qua non* for real asylum. The international community cannot tolerate arms or armies in refugee camps. Armed or criminal elements cannot be allowed to control the distribution of relief supplies. Refugee camps cannot be situated virtually astride the borders of countries from which the refugees originated. The civilian nature of all refugee camps must be restored, and they must be positioned at a proper distance from borders, with physical protection from coercion and legal/political protection from abuse by governments or others.⁵

Approaches to demilitarizing camps

Some commentators have suggested the logical solution to demilitarize camps is to physically separate armed elements from refugees.⁶ The complex political and legal issues involved in attempts to demilitarize refugee settlements require a consistent principled response to what are invariably different contexts. While preliminary screening may identify some armed elements, the lack of clear markers on militia members or other irregular forces makes it nearly impossible to differentiate between combatants and bona fide refugees. In cases where combatants can be clearly identified, unless they are willing to give up their arms, unarmed border guards or UNHCR Protection Officers will be ineffective in preventing camp militarization. These practical difficulties, along with the UNHCR’s lack of a mandate to demilitarize camps, indicate that a partnership with those that do have the resources and capacities for such action should be fostered. The former High Commissioner for Refugees Sadako Ogata made her concerns on the

⁵ Cited by Karen Jacobsen (2000) “A Framework for Exploring the Political and Security Context of Refugee Populated Areas” *Refugee Survey Quarterly* 19 (1).

⁶ Physical separation is just one aspect of the multi-faceted approach to preserving the civilian character of asylum and refugee settlements. For an outline of some of the legal dimensions, including a discussion of separation versus exclusion, see the Global Consultations on International Protection, Statement on behalf of NGOs, delivered by Deirdre Clancy, Lawyers Committee for Human Rights, <http://www.icva.ch/parinac/docs/doc00000346/en/view>.

need to develop such partnerships explicit when she called for a graduated ‘ladder of options’ to clarify and conceptualize diverse approaches to refugee security needs.⁷

In recent years, the UNHCR has endeavored to creatively operationalize this ladder of options. Such measures include the implementation of a ‘security package’ in western Tanzania and the movement of refugee camps further from the border in Guinea to protect refugees from attacks by Sierra Leonean rebels and Guinean retaliations. While these actions have created a more secure space for the refugees at hand, they have not always dealt directly with the militarization problem in camps.⁸

Some have argued that the only way to keep unwilling armed combatants out of refugee settlements is with military force (Jacobsen 2000: 8). The UN Secretary-General Kofi Annan recognized there might be the need for such a force in his report on the Protection of Civilians in Armed Conflicts. In this report he recommended, inter alia, that the Security Council “deploy international military observers to monitor the situation in camps for internally displaced persons and refugees when the presence of arms, combatants and armed elements is suspected. If such elements are found and national forces are unable or unwilling to intervene, consider the range of options . . . [including] deploying regional or international military forces that are prepared to take effective measures to protect civilians. Such measures could include compelling disarmament of the combatants or armed elements.”⁹

The use of international force

In addition to the Secretary General’s acknowledgement that an international force may be necessary to secure refugee settlements, local and regional authorities may seek assistance in providing refugee security. It is a well-established principle in international law that the host state has primary responsibility for the physical protection of refugees and for maintaining the humanitarian and civilian character of refugee camps and settlements.¹⁰ Ideally, those who are bearing arms and who do not qualify for international protection would be disarmed by the host State’s security services using minimal force. Where warranted, state action and capacities must be facilitated and augmented by the international community either via assistance or direct intervention. Such intervention might include deployment of regional or international police and/or military forces. The use of international peacekeepers is one option. Yet, within the

⁷ The “ladder of options” is described in the document “Security and the Civilian and Humanitarian Character of Refugee Camps and Settlements” EC/49/SC/INF.2.

⁸ For example, in the UNHCR’s evaluation of the Tanzania security package, it is noted that the package has generally met with little success in the separation of armed elements and other exiles from the bona fide refugee population.

⁹ See also the Secretary General’s report on the protection of humanitarian assistance for refugees in conflict situations (S/1998/833).

¹⁰ For more information on responsibilities for refugee protection, see UN Doc. No.A/AC.96/904, 7 September 1998, “International Solidarity and Burden-Sharing in All its Aspects: National, Regional and International Responsibilities for Refugees.”

debate on the use of the military in humanitarian operations the presence of peacekeepers in and around refugee settlements raises serious concerns.¹¹

For humanitarian aid agencies, the presence of armed peacekeepers is anathema to their work's mandate. Particularly in the context of Chapter VII, or peace enforcement, operations there has been concern that the use of the military for humanitarian activities compromises their impartiality and neutrality, affects their ability to assist victims on all sides of the conflict and can provoke increased violence against humanitarian personnel. In addition to concerns about violating humanitarian principles, another obstacle to deployment is the political reality that national governments are generally reluctant to volunteer forces for coercive action. Clearly there is a need to establish a means of segregating armed elements from civilians while such a separation is still politically and operationally feasible.

The Zongo emergency provided the unique opportunity to engage in such an operation. After a summary and analysis of the separation operation, the feasibility of using peacekeepers in similar situations will be examined.

Refugee/combatant separation in Zongo

In May 2001 General Andre Kolingba, former president of the CAR, launched a coup attempt against democratically elected President Ange-Felix Patasse. The gradual economic decline of the country, coupled with the failure of the government to pay military and civil servant salaries, had prompted a series of attempted coups in 1996 and 1997. It is believed that similar grievances, exacerbated by ethnic tensions, were behind the May 2001 attempt. While he was in power, Kolingba had consistently favored people of the Yakoma ethnic group in employment and with public benefits. Those behind the coup attempt appear to be predominantly Yakoma and thus they were targeted for reprisals in the aftermath.¹²

An estimated 60,000 to 80,000 residents of the CAR capital Bangui fled their homes following the coup attempt and subsequent retaliations against the Yakoma people. Of those who fled, 25,000 made their way across the Oubangui River into the northwestern Equateur Region of the DRC, congregating in Zongo town and the surrounding area.

The situation in Zongo

The refugees and ex-combatants settled amongst the locals, some finding accommodation in public buildings and others in private homes. The local authorities in Equateur Province, the MLC, were the first to notice that members of the CAR armed forces, some of whom were wearing uniforms, were present among the civilians. At the time the MLC believed some 1,000

¹¹ See Jane Barry with Anna Jeffrys (2002), "A Bridge too Far: Aid Agencies and the Military in Humanitarian Response," Humanitarian Practice Network Paper No. 37. It is argued that impartial humanitarian assistance responses and peace operations with their inevitably partial and political mandates must be kept separate.

¹² It should be noted that the coup was put down with the help of Libyan forces and rebels from the Front for the Liberation of Congo (MLC/FLC) fighting the war in the DRC. The MLC/FLC, as the local authority in Zongo, would later facilitate the movement of ex-combatants from Zongo to Bokilio.

combatants were in the Zongo area and suggested there might be as many as 30,000 other ex-FACA in MLC-controlled territory. Concerned about the presence of foreign armed forces in the area under his control, and noting that the MLC did not have the means to separate the ex-combatants without assistance, MLC president Jean-Pierre Bemba wrote a letter to the Secretary General's Special Representative (SRSG) to the DRC, Kamel Morjane, requesting the Secretary-General's help with the separation of the ex-combatants from the refugees.

Prima facie refugee status was granted to those approximately 25,000 asylum-seekers under Article I (2) of the 1969 OAU Convention which states that such status will be granted to those compelled to flee due to events seriously disturbing public order in part of their country of origin or nationality. In addition, those who were involved either directly or indirectly in any of the mutiny attempts, persons of the Yakoma ethnic group who were members of Gen. Kolingba's political party or had links with anyone involved in the upheavals were at risk of persecution if they returned to CAR. As such, these asylum seekers were seen as having a well-founded fear of persecution and would in principle qualify for refugee status under Article 1 A (2) of the 1951 UN Convention, Article I (1) of the 1969 OAU Convention and may be considered as mandate refugees under Chapter II 6 A (ii) of the UNHCR Statute.¹³

A UNHCR Emergency Response Team reported that although the roughly 1,000 ex-combatants appeared to be unarmed, it was believed they had weapons hidden in arms caches. While not all those believed to be ex-FACA were wearing uniforms, they clearly remained in a military hierarchy, refusing to move until they received orders from their superiors in Gbadolite. Since they had not sought asylum nor handed over their arms caches, they remained ineligible for refugee status. Because the separation of combatants from civilians and the provision of humanitarian aid to combatants fall outside the mandate of the UNHCR, the agency undertook discussions in Kinshasa to identify an organization that could take over this responsibility. This search failed when it turned out the ICRC was unable to participate and no other organizations with the will and capacity to provide assistance were in the area.

The chosen solutions

In search of assistance from within the UN system, High Commissioner for Refugees Ruud Lubbers wrote a letter to the Secretary-General expressing his concerns that if the CAR armed forces and militiamen were not identified and separated prior to encampment, they could pose a threat to the safety of refugees as well as the local population. There was also fear among the MLC that the presence of mutineers so close to the border of the country of origin could provoke an attack by the government of the CAR.¹⁴ With Security Council Resolution 1296 (2000) in mind, High Commissioner Lubbers suggested considering whether the mandate of MONUC might include oversight of the identification, separation, disarmament and encampment of the ex-FACA.¹⁵

¹³ Internal UNHCR email, 17 Aug 2001.

¹⁴ The OAU Refugee Convention states that "for reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin."

¹⁵ In paragraph 14 of Security Council Resolution 1296 (2000) the Security Council "invites the Secretary-General to bring to its attention situations where refugees and internally displaced persons are vulnerable to the threat of

In response to the High Commissioner's request, MONUC sent a team to Gbadolite, Bangui, Zongo and Bokilio to assess the situation. The MONUC reconnaissance concluded that a separation was not necessary. According to the MONUC mandate and the Lusaka agreement, such an operation would not be considered a main task because those involved were not a party to the Congolese war.¹⁶ It was also a concern that the MONUC mandate did not grant the peacekeepers the ability to use force to coercively disarm soldiers.¹⁷ MONUC is mandated, *inter alia*, to monitor a cease-fire.¹⁸ As such, MONUC would be powerless to forcefully engage the ex-FACA if they met resistance during the movement.

The advocacy of SRSR Morjane for the operation resulted in MONUC's agreement to participate in a limited capacity. The operation would be ad hoc in nature and would not require a mandate expansion, i.e., they would not ask for nor receive permission to coercively disarm or engage the ex-FACA. Rather, the five military observer teams were to check that the ex-FACA were without weapons, speak with the MLC authorities, monitor the situation and assist in escorting the UNHCR-organized movement from Zongo to Bokilio.¹⁹

The MLC had identified a site at Bokilio, 150 kilometers away from the CAR border, to establish the camp for the ex-FACA and their dependents. In a parallel operation, the 24,000 civilians would be transported to the refugee camp site at Mole, 45 kilometers from Zongo.

On 13 October MONUC arrived in Zongo to secure a list of people to be moved and to begin the transportation of the ex-FACA members to Bokilio. Initially the ex-FACA refused to move. They claimed they were owed months of unpaid salaries by the CAR government and would not move until their backpay was taken care of. They asked MONUC to negotiate with the CAR government to recoup these wages and also requested that MONUC liaise with the ex-FACA leaders in Gbadolite. It is unclear what came of these negotiations, as an observer has commented that they were not particularly well-structured.²⁰ Eventually the ex-soldiers agreed to end the negotiations but they were still unwilling to move.

MONUC was unable to facilitate any kind of movement and consequently withdrew from the operation after two weeks. The UNHCR in New York brought this issue to DPKO and got MONUC to redeploy after they had been withdrawn for 36 hours.²¹ Thereafter there was some movement on the ground, largely because of the presence of the MLC. As the local authority, the MLC was concerned about maintaining law and order throughout the operation and it was

harassment or where their camps are vulnerable to infiltration by armed elements and where such situations may constitute a threat to international peace and security.

¹⁶ Brigadier General Roberto Martinelli, Deputy Force Commander of MONUC, email correspondence with author, 18 March 2002.

¹⁷ Captain Mark Prendergast, MONUC Military Observer, interview with author, 27 May 2002.

¹⁸ According to its mandate, MONUC has Chapter VII enforcement powers to "take the necessary action, in the areas of deployment of its infantry battalions and as it deems it within its capabilities, to protect United Nations and co-located JMC personnel, facilities, installations and equipment, ensure the security and freedom of movement of its personnel, and protect civilians under imminent threat of physical violence."

¹⁹ Brigadier General Roberto Martinelli, Deputy Force Commander of MONUC, email correspondence with author, 18 March 2002.

²⁰ Interview on file with the author.

²¹ Pierre Bertrand, UNHCR Liaison Office Deputy Director, telephone interview with author, 14 March 2002.

largely their threat of violence that got people moving.²² While there were no official reports of physical abuse of the ex-FACA, some involved have stated there was the occasional resort to violence.²³

After the ex-combatants were transported, their families were also moved from Zongo to bring the total number of people encamped in Bokilio to 1,220. The UNHCR, unable to find an agency capable of taking on the task of providing humanitarian relief to the ex-combatants, agreed to temporarily provide assistance to those at Bokilio on extraordinary humanitarian grounds. On 21 November, MONUC left Bokilio having completed their part of the mission.

Was the Zongo operation a success?

Operationally, Zongo was successful in that it provided protection for a prima facie refugee population by effectively sequestering and encamping armed elements at a separate site. The problems associated with militarized populations identified earlier, such as fears of refugee intimidation, child soldier recruitment and attacks on the refugee population, were avoided.

This operational success is the result of multiple factors, namely; (1) the mixed population was identified as such before encampment, (2) local authorities were involved in the exercise and provided the necessary access (3) family unity was maintained and (4) the advocacy of the SRSG, which facilitated the ad hoc involvement of DPKO. However, this operation should not be used as a precedent, as its success was, in part, the result of unusual and unanticipated circumstances. Nevertheless, there is much to be learned from this operation and these aspects should be examined as part of a solution for similar emergencies that may transpire in the future.

Identifying a mixed population

The local authorities in Equateur Province noticed the presence of armed elements amongst the refugee population soon after their arrival in the DRC. The identification of a combatant presence before the population was encamped circumvented the legal dilemma that would have come with distributing aid to a population that included combatants. It also pre-empted the operational complications that would have been required to physically separate the combatants from civilians after encampment. It is notoriously difficult to separate combatants from bona fide refugees once they have been encamped together. Such a situation would also require a longer, more complex and, depending on the permissiveness of the environment, more aggressive operation to separate the groups.²⁴

²² Captain Mark Prendergast, MONUC Military Observer, interview with author, 27 May 2002.

²³ Lieutenant Colonel Maname Wade, MONUC Land Operations Coordinator, telephone interview with author, 11 May 2002.

²⁴ Such was the case in the camps of Zaire in 1996 where UN and Zairian officials determined that the only way to persuade the Rwandan refugees to return home was to remove the militiamen, ex-soldiers and former Rwandan politicians from the camps. As quoted in an article in the 18 November 1994 Washington Post, a report from the UN technical mission stated that "the separation of the militiamen and the politicians from the rest of the camp population is imperative" and "would require a large number of troops in a complex operation and would likely attract the attention of the world press and the censure of liberal governments."

As it is generally not politically feasible to obtain the mandate needed to separate armed elements from civilians, the UNHCR should strengthen its capacity to identify situations of mixed flows before the process of encampment begins. Since refugee influxes following major political events are often spontaneous, the UNHCR should strengthen overall emergency preparedness and response, including the development of a surge capacity to ensure rapid deployment in emergencies.

Engaging the local authorities and negotiating access

One of the complexities involved with protecting civilians in armed conflict is gaining access to vulnerable populations. In order to do this humanitarian organizations may have to engage with those who are party to a conflict which can be armed groups or non-State actors. Because of the war in the DRC, the northwest part of the country is under the control of Jean-Pierre Bemba's MLC. This required that the UNHCR work with a non-state entity to secure both encampment sites. As the authorities responsible for local law enforcement, the MLC were also on hand to assist and maintain order during the transportation of the ex-combatants.

In his report to the Security Council on the protection of civilians in armed conflict, the Secretary General wrote, "Negotiating and obtaining access to [vulnerable] populations therefore requires engagement of [armed groups and other non-State actors]. Whereas Governments are sometimes concerned that such engagements might legitimize armed groups, these concerns must be balanced against the urgent need for humanitarian action" (UNSC: paras. 19-21). By keeping the government in Kinshasa informed of what was happening in Zongo the UNHCR successfully avoided the problem of appearing to legitimize the MLC in the region.

Preserving family unity

A common dilemma faced by humanitarian personnel is defining who should be separated from a refugee population given that combatants often flee with their family members. These family members may be bona fide refugees with a legitimate claim to humanitarian aid. However, separating them from combatant family members is itself a human rights violation and it may put the entire refugee population in danger as combatants determined to be with their families may return to civilian sites. The preservation of family unity was therefore central to the success of the operation. In similar emergencies in the future, the UNHCR must be vigilant in ensuring that those family members, themselves civilians, are not put in danger by their inclusion with ex-combatants.

Getting peacekeepers involved: advocacy by the SRSG

The involvement of peacekeepers was essential as the UNHCR was not mandated to separate ex-combatants and civilians. The presence of international military observers was also reassuring

for the ex-FACA, who may have feared reprisals from the MLC.²⁵ The High Commissioner's direct appeal to the Secretary General pushed the issue of MONUC involvement forward and the advocacy by the SRSG who was in the field and able to make an assessment based on first-hand knowledge was also central.²⁶ The ad hoc nature of the MONUC involvement also bypassed the bureaucracy and delay a mandate expansion would have required. In an operation such as this, that owes much of its success to a time sensitive response, the involvement of the Security Council would have likely caused detrimental delays.

Other factors for success

While these actions were key to the success of the operation, it must be noted that unintended and unanticipated circumstances were also necessary for the successful separation.

Arrangements in Zongo town were conducive to separation as the ex-combatants and their families were de facto separated from the rest of the population. Those who had fled to Zongo, civilian and military alike, had lived in the same town, Bangui, in CAR. Because there was not a separate barrack facility for the FACA, they had lived with their families in Bangui. Once in Zongo, the ex-FACA remained with their family units and maintained this separation from the rest of the population.

Lack of tension from the shared ethnic identity of those fleeing CAR and those who received them in the Zongo also facilitated the separation. If refugees are perceived as 'one of us' by a host population, they will receive a more generous reception than if they are seen as an 'out-group' (Milner, 20).²⁷ Both populations were of the Yakoma ethnic group. Consequently, the influx of 25,000 people into the area did not create as much tension and urgency as there would have been without that shared identity.²⁸

This operation was also made easier by the fact that the ex-combatants did not appear to have weapons. Despite initial reports that the ex-FACA were armed and had hidden arms caches, none were found. The team of MONUC military observers did not seize any weapons nor were they asked to engage in disarmament, demobilization or arms destruction.²⁹ The ex-FACA's lack of weapons gave the MLC, who were armed, the upper hand in convincing the ex-combatants to move. In other situations of mixed flows, it is possible that ex-combatants would be armed and would thus be able to put up more resistance to attempts to move them. If a peacekeeping force lacked a mandate to coercively disarm a group of ex-combatants, as was the case in Zongo, they would be essentially powerless against such armed elements.

²⁵ Snezana Sazdic, UNHCR DRC Desk Officer, interview with the author, 7 March 2002.

²⁶ Both Pierre Bertrand, Deputy Director of the UNHCR Liaison Office and Chrys Ache, former Special Representative for the Great Lakes Region, have spoken of the vital role SRSG Morjane played in advocating for MONUC involvement in this operation. Interviews on file with the author.

²⁷ Loescher has also argued that "... in the Third World, the remarkable receptivity provided to millions of Afghans in Pakistan and Iran, to ethnic kin from Bulgaria in Turkey, to Ethiopians in the Sudan, to Ogadeni Ethiopians in Somalia, to southern Sudanese in "Uganda, to Issaq Somali in Djibouti and to Mozambicans in Malawi has been facilitated by the ethnic and linguistic characteristics they share with their hosts" (1992: 42)

²⁸ Snezana Sazdic, UNHCR DRC Desk Officer, interview with author, 7 March 2002.

²⁹ Internal UNHCR Memorandum, 10 October 2001, on file with author.

One of the drawbacks of this operation is the extent to which force by the MLC was needed to move the ex-combatants to the second site at Bokilio. Bemba was quoted as saying, “The refugees refused to leave Zongo for reasons I am unaware of, and we had to shift them by force.”³⁰ One military officer involved in the operation argues that the presence of the MLC and the threat they posed to the ex-FACA was essential in moving them to the Bokilio site. He recounts that it was only because of fear of the MLC that the ex-FACA moved.³¹

The problem of appropriate mandates

While on the ground this operation succeeded, it posed a number of problems for those in Geneva and Kinshasa. Success in the field must be reconciled with the issue of whether the actions taken were appropriate for the mandates of the agencies involved.

The UNHCR does not have the mandate or the expertise to separate armed elements from bona fide refugees. Therefore, it was necessary and appropriate for the UNHCR to seek outside help for this part of the operation. As a humanitarian organization, combatants are “persons of no concern” to the UNHCR and the agency is prohibited from providing assistance to such persons. However, as there was no other agency on the ground willing to take on this responsibility, the UNHCR decided to provide assistance temporarily to the population of ex-combatants and their dependents.

While Zongo can be considered a success, as one UNHCR staff member said, “it was success at a price in that we had to overlook our own rules on not giving assistance to armed elements.”³² This was given on exceptional humanitarian grounds with the intention that the UNHCR would seek out other agencies that could eventually take over this task. The assistance was to be provided to those persons at Bokilio until February 2002, at which point it was hoped another agency would be able to replace the UNHCR. While this analysis was being written, the ex-combatants decided to renounce their military status, enabling the UNHCR to protect and assist them as refugees.³³

MONUC’s mandate was restrictive in a different manner in that it prevented the peacekeepers from being as effective as they could have been. As stated earlier, the unarmed MONUC military observers had the power only to observe, report and assist in the transport to Bokilio. Consequently, when no progress was being made and MONUC was unable to force them to move, MONUC temporarily withdrew from the operation. It was an unanticipated circumstance that armed members of the MLC were on hand to intimidate the ex-FACA into moving when they would not move voluntarily. When the occasional act of physical violence was carried out by the MLC against the ex-FACA, MONUC was without authority to intervene. Indeed, had the environment been even slightly hostile, MONUC was left without a mandate to forcefully coerce

³⁰ As quoted by Agence France-Presse, “DR Congo Rebels Move Central African Refugees Away from Border” 26 October 2001.

³¹ Two of the military personnel involved with this operation said that the MLC would beat and/or threaten to beat the ex-FACA to get them to move. Interviews on file with the author.

³² Interview on file with the author.

³³ Snezana Sazdic, forwarded email correspondence, 15 April 2002.

the combatants to move to Bokilio. If the ex-FACA had been in possession of weapons as was originally believed, the MONUC military observers were without power to confiscate those weapons. It is therefore surprising that MONUC agreed to participate in the capacity they did as there was significant potential for the operation to go wrong.³⁴

Peacekeepers and the ladder of options

In remarks at a meeting on refugee issues in the Great Lakes, Secretary-General Kofi Anan said, “humanitarian agencies should not be expected to address and resolve problems that require political and military responses, such as the separation of refugees from armed elements and terrorists.”³⁵ Indeed, in operations that require contact with potentially hostile military personnel, the use of a military force is not only appropriate, it is necessary. Peacekeepers played an important role in the Zongo operation but their involvement prompts the question of the extent to which military forces can or should be used in humanitarian operations.

UNHCR and DPKO cooperation

The UNHCR and DPKO have recognized that securing a peaceful environment is necessary for, if not the point of, their operations. In pursuit of a more peaceful global order, former High Commissioner for Refugees Ogata identified two security priorities: the need to build an effective law enforcement capacity everywhere, and the need to provide systematic support to regional peacekeeping.³⁶ DPKO has similarly recognized the need to cooperate with their counterparts in the UNHCR.

In a letter to High Commissioner Ogata, Undersecretary-General for Peacekeeping Operations Bernard Miyet welcomed the UNHCR’s interest in working with DPKO to ensure refugee security, but stopped short of supporting “preventive deployment” and instead endorsed the concept of “reconnaissance” or “assessment” missions. While assessment missions would add to the store of expertise in the evaluation of an insecure refugee settlement, taking action to protect refugees in a non-permissive environment would require more than reconnaissance. Engaging a population of ex-combatants who are likely to be armed would require a mandate of coercive disarmament.³⁷

New responsibilities under expanding mandates

The hesitation to volunteer peacekeepers for more robust activities is understandable given the politics of peacekeeping mandates. Although the proliferation of “multidimensional” peacekeeping operations has resulted in peacekeepers being given tasks beyond the “traditional”

³⁴ Captain Mark Prendergast, MONUC Military Observer, interview with the author, 27 May 2002.

³⁵ Remarks by Secretary General Annan, Kampala, Uganda 9 May 1998.

³⁶ Sadako Ogata, United Nations High Commissioner on Refugees, briefing to the UN Security Council on 13 January 2000.

³⁷ Matt Vaccaro, US Department of Defense, Director of Peacekeeping, telephone interview with the author, 10 May 2002.

role of observing cease-fires, the deployment of missions with coercive disarmament mandates is still rare. Many of the new responsibilities given to peacekeepers overlap with tasks that have traditionally been in the humanitarian sphere.³⁸ It is therefore inevitable that military and humanitarian actors will have to adopt an integrated approach to deal with conflict and the humanitarian suffering that inevitably accompanies it.³⁹

However, in adopting this integrated approach, both military and humanitarian personnel must ensure they are appropriately trained and mandated for the tasks at hand. In this view, a *modus operandi* to separate civilians and combatants must use the skills of peacekeepers in the proper context. For example, one of the responsibilities of peacekeeping operations, including MONUC, is the disarmament, demobilization, resettlement and reintegration of armed groups. While some in the humanitarian aid community might see this as a basis for involving peacekeepers in refugee-combatant separation, the military may take a different view.

DRP not a basis for separation authority

MONUC has noted that what happened among the refugee population in Mole is quite different from the traditional demobilization and reintegration (DRP) programs.⁴⁰ DRP would require a secure space in which those who can show they are combatants and are willing to give up their combatant status agree to disarm and demobilize. In a number of phases, usually agreed to as part of a negotiated peace settlement, the soldiers would be demobilized after being cantoned and encamped together. Demobilization usually comprises massing, registering, disarming and discharging the combatants or disbanding the army (Gleichmann: I).

After demobilization, the discharged combatants are supported in their efforts to reintegrate in all areas of civilian society. These reintegration programs may include health care, special needs assistance, counseling, education and training or resettlement (Bonn International Centre for Conversion: 20). The success of such programs is dependent on early planning and long-term investment in the fate of the demobilized (Ball: 92). Consequently, DRP is a very task different from what MONUC would have needed to do to actively protect refugees.

DRP requires long-term involvement, both before during the planning phase and after the actual disarmament and demobilization takes place. In contrast, it is not possible to engage in such long-term planning in the refugee context during which influxes are unpredictable and

³⁸ Some of these tasks include: ensuring uninterrupted delivery of humanitarian aid and assistance; protecting the local population; undertaking demining operations; human rights monitoring; disarming, cantoning and demobilizing of armed factions; and elections monitoring.

³⁹ As Sergio Vieira de Mello, UN Assistant High Commissioner for Refugees said at the Second International Workshop on Low Intensity Conflict, "The three facets, - political, military, and humanitarian, which invariably constitute the pillars of international response to emergency situations - must be integrated both structurally and temporally in a ratio proportional to the complexity and intensity of any given conflict. Precisely because the causes as well as the symptoms of the problems are multi-dimensional, the response from the international community requires a multi-faced, integrated approach, which covers the different aspects of the crisis," National Defence Academy, Stockholm, 6 June 1997.

⁴⁰ Depending on the context, DRPs are also sometimes called disarmament, demobilization and reintegration (DDR), disarmament, demobilization, resettlement and reintegration (DDRR) or disarmament, demobilization and durable solutions (DDD).

settlements spontaneous. Humanitarian actors thus need to capitalize on those responsibilities peacekeepers are able to carry out on short-term notice, like monitor and provide logistical support, as they did in Zongo. However, the Zongo emergency has also shown that, in addition to this monitoring and logistical support, there needs to be an entity with coercive powers and authority involved.

Conclusion

Some have commented that the “only truly effective way to secure camps is by means of a force trained in issues of refugee protection with the mandate and capability to use armed force” (Jacobsen 1999: 8). This may indeed be the case, but there is no currently established mechanism to provide such a force. Discussions between the UNHCR and DPKO have set the groundwork for future cooperation efforts between the two offices. However, until there is political will to give peacekeepers more aggressive mandates, an international military force will be relegated to simply monitoring and providing logistical support in refugee separation operations.

The Zongo operation was an example of a successful coordination between the UNHCR and DPKO that accomplished its task of protecting refugees. The early identification of a mixed population, the assistance of local authorities in securing transport and the two encampment sites, preserving family unity and involvement of the SRSG were essential to the operation’s success. One must be cautious in using this operation in its entirety as a template for future exercises. There were a number of unintended or unplanned circumstances on the ground that made the separation relatively easy. It would be impossible to anticipate these same conditions in other situations.

The Zongo mission makes clear the need to reconcile the humanitarian mandate of protection with the military’s capacity (or lack thereof) to provide such protection via separation of civilians from armed elements. Although the goal of protecting refugees was achieved, the principle of non-assistance to combatants had to be compromised. It was also with a bit of luck that MONUC was not required to forcefully engage the ex-FACA. Had the MLC not been there to engage the ex-combatants themselves, they would not have moved and the mission would not have been successful. Unless it is known that combatants are without weapons and are willing to move without force, protecting refugees from armed elements will usually require a military force mandated with coercive disarmament powers. Since the mandates handed to peacekeepers usually do not give them such powers, there is a need to identify institutions with the capacities and resources to consistently partake in similar refugee protection operations.

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