

THE USE OF FORCE AS A MECHANISM FOR CONFLICT RESOLUTION: THE CASE OF THE GREAT LAKES CONFLICT

*O USO DA FORÇA COMO MECANISMO DE
RESOLUÇÃO DE CONFLITOS: O CASO DO CONFLITO
DOS GRANDES LAGOS*

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Abstract

This work seeks to demonstrate to what extent the Brahimi Report was a turning point for the issue of the use of force in the Great Lakes conflict, namely in the Democratic Republic of Congo (DRC). Through a qualitative analysis of the conceptual evolution of these two theoretical frameworks, and in the context of rebuilding the DRC, we propose to examine the continuity of the conflict and the constant attempts to bring it to a successful conclusion, as well as the mechanisms adopted by the United Nations (UN) to achieve that goal in its stabilization mission in the country. The creation and implementation of an intervention brigade to fight armed groups such as the March 23 Movement is one of the mechanisms recently adopted by the UN for establishing safety zones in both the DRC and in the Great Lakes region, in order to secure enduring peace throughout the region.

Keywords: Use of force, Brahimi Report, United Nations, Peacekeeping Operations, Intervention Brigade.

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Resumo

Este trabalho pretende demonstrar até que ponto o Relatório Brahimi constituiu um ponto de viragem na questão do uso da força no caso do conflito dos Grandes Lagos, mais especificamente na República Democrática do Congo (RDC). Através da análise qualitativa da evolução conceitual destes dois marcos teóricos e no quadro de reconstrução da RDC, propõe-se avaliar a continuidade do conflito e as suas constantes tentativas de resolução, bem como os mecanismos adotados pela Organização das Nações Unidas (ONU) para a concretização desse fim, no âmbito da sua missão de estabilização no país. A criação e implementação de uma brigada de intervenção para combater grupos armados, como o Movimento de 23 de março, revela um dos mecanismos recentemente utilizados pelas Nações Unidas com vista à instauração de zonas de segurança tanto na RDC como na região dos Grandes Lagos, por forma a garantir a paz sustentável em toda a região.

Palavras-chave: Uso da força, Relatório Brahimi, Nações Unidas, Operações de Paz, Brigada de Intervenção.

1. Introduction

The Great Lakes conflict, in which Rwanda, Burundi, the Democratic Republic of Congo and Uganda are directly involved, has become an increasingly complex issue due to the proliferation of armed groups from the Congo wars, still ongoing in the eastern region of the country. The United Nations have been in the area since 1960, attempting to put an end to the conflict and to foreign presence and influence in the DRC through their successive peace missions. It was the case of the United Nations Mission in the Democratic Republic of Congo (MONUC), which was constrained by its limited operational capability, leading to diverging opinions on the use of force in the United Nations (Reynaert, 2011, pp. 17-19).

The Report of the Panel on United Nations Peace Operations (Brahimi Report), drafted in 2000, which was chiefly concerned with the problems found by peacekeeping missions in Africa, evaluated the faults in the system in place and made specific recommendations for institutional changes in the organization, triggering a more robust evolution of operations. For that effect, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the most recent mission in the country, adopted, in 2013, the implantation of an intervention brigade specialized in neutralizing armed groups and in asserting authority and civilian safety in the DRC, without this setting a precedent or without any prejudice to the peacekeeping principles agreed upon.

The aim of this paper is to understand whether the effects of the Brahimi Report on the use of force by United Nations peacekeeping operations represent a paradigm shift in the implementation of peacekeeping operations in the Great Lakes region. For that effect, it is necessary to clarify the concepts that support a paradigm shift, such as those of preventive and robust operations, also a focus of the Brahimi Report. The concept of preventive operations

concerns the preventive use of force by United Nations military units to avoid attacks against civilians and to disrupt the military abilities of illegal armed groups, which has proven a rather controversial subject both within and outside the organization, but which in essence serves as a determining dissuasive element in preventing the continuity of armed group activities. The second concept, robust operations, concerns the need for a robust doctrine and strategy for peacekeeping operations where the United Nations peace forces must be capable of defending themselves, their mandate and the other components of the mission, clearly specifying an operation's authority to use force as another credible dissuasive element.

The sources for this analysis were the official document of the Report of the Panel on United Nations Peace Operations (United Nations, 2000) and the Nairobi Declaration (SADC, 2013), as well as the reports on the UN peace missions involved in the conflict and resolutions of the Security Council, specifically resolutions 1856, 2098 and 2147. This paper is divided in two core parts: the first part, titled "The Use of Force as a Peacekeeping Mechanism for the United Nations", begins by broadly conceptualizing the term "use of force" within the framework of International Law, then presenting the Brahimi Report as a reference document for the changes made to the conduct of peacekeeping operations with regard to the use of force; and the second part, titled "From the Great Lakes conflict to the Democratic Republic of Congo conflict", outlines a brief historical background of the conflict in the region and analyzes the specific issue of the Democratic Republic of Congo and the United Nations peace missions in the country throughout the conflict, looking at the UN decision of authorizing the use of force to defeat armed groups in the eastern part of the country.

2. The use of force as a peacekeeping mechanism in the united nations

2.1 The use of force in the framework of International Law

One of the most emblematic aspects of the uniqueness of International Law has been the issue of the use of force and its acceptance or prohibition in international relations. Up until the early 20th century, there was an atmosphere of acceptance of the use of force in international relations, and International Law was based on the basic dichotomy between *ius ad bellum* and *ius in bello*. The first represented the area of International Law that established the terms and conditions to decree a state of war, defining the necessary formalities and the parties who could declare it, thus establishing a State's right to resort to force within international relations; and the second concerned the rules that regulated armed conflicts, in the belief that there would be a normative order amidst the chaos inherent to a military conflict (Gouveia, 2012, pp. 759-765). Notably, the 20th century was the defining period for the assertion of an international legal ban on the use of force, which progressed along four moments in history: the prohibition of the use of force in the collection of contract debts; the moratorium on war in the context of the Covenant of the League of Nations¹; the general

¹ The moratorium on war was the first procedural restriction on the use of war included in the Treaty of Versailles, which would seal the end of World War I. While not exactly a prescription, it imposed a three-month delay on the use of force, to wait for the opinion of the Council of the League of Nations and to make the belligerent parties reach an agreement, accepting the use of force solely as a coercive measure or in self-defense (Gouveia, 2012, pp. 767-768).

prohibition of the use of force in the Kellogg–Briand Pact²; and the general prohibition in the Charter of the United Nations (*idem*, p. 766).

At the end of World War II, aware of the horrors and excesses seen during the war, international society was willing to broadly define the prohibition of the use of force (Pereira, 2009, p. 211). In 1945, the UN organization was created under this banner, with representatives from 51 states vowing to “save succeeding generations from the scourge of war”. The authors of the Charter of the United Nations attempted to lay out a normative order that would severely restrict the use of force. The terms of Article 2 (4) of the Charter determine that States were to “refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.” There were only two exceptions to this prohibition in the Charter: the use of force authorized by the Security Council, and in self-defense. Article 39 states that the Council may determine the existence of a possible “threat to the peace, breach of the peace, or act of aggression”. If the Security Council so determines, it may authorize the use of force against an aggressor State as defined in Article 42 (Arend, 2003, pp. 91-92). As for the second exception, Article 51 states:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

(GDDC, 2014a).

While the broad strokes of this Article may seem simple, their effects on the customary law³ of preventive or anticipatory self-defense are not at all clear. Upon examination of the academic literature on this disposition, legal expert opinions seem divided into two camps. On the one hand, there are those who assume a restrictive interpretation where traditional methods of treaty interpretation are focused on the common understanding of terms. Therefore, these state that the intent of Article 51 is to explicitly restrict the use of force in

² The General Treaty for Renunciation of War of 1928, commonly known as the Briand-Kellogg Pact in honor of its proponents, the French Minister of Foreign Affairs and the North-American Secretary of State, respectively, was an agreement in which the contracting parties accepted that the use of force would no longer be an aspect of their respective international legal capacities, as had been accepted from ancient times, renouncing war as an instrument of international politics and accepting it only as an *ultima ratio* measure. This was a historic moment, the first instance of a general prohibition of the use of force in international relations, ending the “discretionary competence” to enforce war. While fundamentally prohibiting the use of force, it did not lay down any sanctioning mechanisms to punish non-compliance, which happened before long with World War II (Gouveia, 2012, pp. 768-769).

³ Customary or consuetudinary law is unwritten law, which translates into a set of rules not dictated by public powers, resulting from a general and enduring use and from the conviction that the practice is in agreement with the law (GDDC, 2014b).

self-defense solely to situations of an effective armed attack. This logic dictates that the literal aspect of the document “if an armed attack occurs” prevents the use of force in any preventive action, rendering that use illegal. Although this Article referred to an “inherent right” to self-defense, in the view of these academics that right may only be exercised after an openly armed attack (Arend, 2003, p. 92).

Other scholars, however, reject this interpretation, stating that the teleology of the Charter is not meant to restrict the pre-existing customary law of anticipatory self-defense, because in this perspective it is not necessary to wait for an effective attack by the opponent, as it would suffice that the intention of an attack was undisputedly proved for States to be able to carry out self-defense actions. The mention of an “inherent right” represents the continuity of an extensive customary law prior to the Charter of the United Nations, establishing the right to self-defense. Both the event of an “armed attack” and its imminence are circumstances that allow the injured State to act in self-defense. In the words of the North-American judge of the International Court of Justice (ICJ), Stephen Schwebel, Article 51 does not state “if, and only an armed attack occurs”. For this group of legal experts, the Article does not explicitly restrict the exercise of self-defense to the event of an armed attack (*idem*, pp. 92-93).

In spite of this statement by Schwebel on preventive self-defense, neither the ICJ nor the UN Security Council managed to determine the precise meaning of the referred Article. In result, the text of the Charter clearly allows both interpretations on the admissibility of preventive force (*idem*, p. 93). However, most authors draw attention to the arbitrary and mutable aspects of such a notion, which is liable to open the door to abusive claims of an existing threat (Machado, 2003, p. 477).

The creation of International Law is dependent on the consent of States. Underlying that understanding is the assumption that States are sovereign and consequently cannot be restricted by any rules without their consent. Therefore, States can legitimately act in any way they desire, unless they have consented to a specific rule that restricts their behavior. The Permanent Court of International Justice, predecessor to the current ICJ, noted that:

International law governs relations between independent States. The rules of law binding upon States therefor emanate from their own free will as expressed in conventions or by usages generally accepted as expressing principles of law and established in order to regulate the relations between these co-existing independent communities or with a view to the achievement of common aims. Restrictions upon the independence of States cannot therefore be presumed.

(Arend, 2003, p. 93).

This notion, based on the consent of International Law, has crucial significance for an examination of the UN’s post-Charter practices regarding the use of force. Bearing in mind that the charter is sufficiently ambiguous on this issue, and that there were pre-existing regulations of customary international law that allowed for anticipatory self-defense,

according to Anthony Arend (2003, p. 93), the recognition of a rule of customary law that allows States to use force preventively is not required for that use to be legitimate.

The legitimacy of the use of force is, therefore, in this sense, an equally valid and important argument for the discussion of the circumstances in which force may or may not be used by States in the event of an armed conflict. The problematic of legitimacy has been acknowledged throughout the history of stabilization operations, but the difficulties in implementing it in specific contexts of intervention is still quite apparent nowadays, due to the complexity and diversity of the actors, the difficulty in measuring “success” and the complications in establishing specific goals and priorities as a means to achieve that success (Aoi, 2011, p. 1).

2.2 Peacekeeping operations and the Brahimi report

An equally important field for UN activities has been that of peace operations, which have been enacted virtually since the organization was created. However, the Charter of the United Nations does not mention the possibility of the UN determining those activities, which imply the use of military resources for the enforcement of peace, without the direct use of force. The solution has been a broad interpretation of the powers literally predicted in chapters VI and VII of the Charter, supported on the preamble and on its main goal of international peacekeeping and safety (Gouveia, 2012, pp. 780-781).

The notion of peacekeeping operations was created by Dag Hammarskjöld, the second United Nations Secretary-General, with the purpose of mobilizing a peacekeeping operation for the Suez Crisis in 1956. In a few days, Hammarskjöld implemented the first United Nations military force for peace missions - the United Nations Emergency Force (UNEF) – and formulated the principles of impartiality, of non-interference in the internal affairs of the host country and of the refusal to use force, except in self-defense, which have ruled UN peace operations to this day (Gama, 2009, pp. 15-16).

A series of events has profoundly altered the premise of UN peacekeeping since the Suez Crisis. The end of the Cold War created interstate conflicts caused by politics, ethnicity and religion, setting the stage for a new approach to peacekeeping operations. For that purpose, in 1962, *An Agenda for Peace* by former United Nations Secretary-General Boutros Boutros-Ghali advocated a preventive diplomacy in which peacekeeping now played a prominent role. This report, drafted at the request of the Security Council, consisted in a recommendation for future reforms meant to strengthen the entire peacekeeping process for conflicts in the post-Cold War world. The document put forward the idea that, by merging previously separate institutional mechanisms (preventive diplomacy, peacemaking and peacekeeping), the UN would be capable of responding to the ambiguity of the “new world order”. The centrality of the notion of “post-conflict peacebuilding” introduced by Boutros-Ghali and defined as the “action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict”, attempted to contribute to the building of “bridges” between UN bodies and their often overlapping duties (Gama, 2005, p. 77; Gray, 2008, pp. 272-273).

Peacekeeping, one of the United Nations' most important tools for action, proved to be a different form of intervention by a third party with the goal of avoiding an outbreak or the resurfacing of violence between belligerent factions. Thus, field operations usually implied the involvement of military staff armed with light equipment, tasked with controlling violence by means other than enforcement or counter-violence. To this end, peacekeeping activities would be guided by three closely linked principles: consent by the belligerent parties; minimal use of force, except in self-defense; impartiality as a determining factor of operational activities (Berdal, 1999, p. 47). However, the rise in civil wars during the 1990s and the failure of some operations, with regard to the UN's inability to prevent disasters like the genocide in Rwanda in 1994 or the Srebrenica massacres in 1995 in Bosnia and Herzegovina, contributed to the acknowledgement of the deep incoherencies and restrictions demonstrated by the peace missions implemented until then, which proved insufficient to ensure a lasting peace (Durand, 2012).

In this respect, and in compliance with the *Agenda for Peace*, the Report of the Panel on United Nations Peace Operations, drafted in August of 2000 by a group of 10 experts⁴ with vast experience in the fields of peacekeeping, peacebuilding, humanitarian aid and development, had the purpose of conducting a full review of the UN's peace and safety activities and the presentation of a clear set of specific recommendations and practices, to assist the UN in improving such activities in the future (United Nations, 2000, p. i). Essentially, the Brahimi Report, named after Algeria's former Minister of Foreign Affairs Lakhdar Brahimi, who presided over the panel at the request of former Secretary-General Kofi Annan, was aimed at "reforming the proposed reform" (Gama, 2005, p. 79) in 1992, in order to renew the credibility and legitimacy of the UN's international performance. Consequently, this document has become a reference by suggesting substantial changes to the conception, planning and operation of UN post-conflict peacekeeping and peacebuilding (Durch, et al., 2003), not only in terms of policy and strategy, but also in operational and organizational terms (United Nations, 2000, p. viii).

The Report presents the key conditions for the success of future complex operations: political support (the cooperation of States on a common purpose), the quick implementation of a peace operation with a robust force stance and a clear peacebuilding strategy. Each recommendation on this report is, in one form or another, meant to ensure compliance with those three conditions. The need for these changes was also justified by the recent events in Sierra Leone⁵ and by the expected expansion of the UN operation in the DRC⁶ (idem, p. 1).

⁴ In addition to Lakhdar Brahimi, this Panel was composed by: north-American diplomat John Brian Atwood; Ambassador Colin Granderson from the Republic of Trinidad and Tobago; New Zealand diplomat Ann Hercus; Richard Monk from England; German General Klaus Naumann; Hisako Shimura from Japan; Russian Ambassador Vladimir Shustov; General Philip Sibanda from the Republic of Zimbabwe; and Doctor Cornelio Sommaruga from Switzerland.

⁵ The Sierra Leone Civil War began in 1991, with the Revolutionary United Front fighting to overthrow the country's central government. In 1999, world leaders attempted to create peace in the country through talks with both parties, which resulted in the Lome Peace Agreement. In May of 2000, the rebels marched on the capital once again, causing the British government to intervene through the deployment of a combat force to rescue the UN mission and to reestablish order in the country.

⁶ That was even expanded at that time, due to the complex background of the conflict (see topic 2.1. on the MONUC).

The first part of the document defines the conflict prevention mechanisms comprising the core actions of the United Nations peace operations: peacemaking, peacekeeping and peacebuilding. Conflict prevention addresses the structural sources of the conflict in order to build a solid foundation for peace. This measure is aimed at avoiding an escalation of the conflict into violence or at preventing its rekindling through diplomatic initiatives, stated in Article 33, Chapter VI of the Charter of the United Nations, such as preventive diplomacy, mediation, negotiation and conciliation. Those preventive actions are, by definition, low profile activities, as when they are successful they may even go unnoticed. Peacemaking, however, despite employing the same range of options, addresses ongoing conflicts while attempting to influence a cessation of hostilities, also employing legal measures such as establishing peace or cease-fire agreements (idem, p. 2; Fernandes, 2011).

The third line of action involves giving logistic, military, financial and humanitarian aid to conflicting countries seeking a transition towards peace. This requires the use of effective tools such as peace support operations, which are, according to Marrak Goulding “operations conducted by the United Nations, with the consent of the interested parties, to help control and solve the conflicts between them, under the command and control of the UN, paid for collectively by the member-States and integrating military personnel and other, as well as equipment supplied voluntarily by them, acting impartially towards the parties and using the minimum necessary force.” (Viana, 2002, p. 104). The three principles presented here – consent of the parties, impartiality and minimum use of force – formed the basic guidelines known as the Holy Trinity. Peacekeeping operations, the chief instrument for the promotion of peace, security and stability, can be simpler when conducted under a favorable political environment, but they can also take place in non-permissive environments, and staff must be prepared to deal with various situations like the use of force, humanitarian disasters or extremely violent massacres (Fernandes, 2011).

Finally, peacebuilding defines activities undertaken on the far side of conflict to rebuild the foundations for peace and to provide the tools for building on those foundations something more than just an absence of war. Thus, peacebuilding includes, but is not limited to, reintegrating former combatants into civilian society; education and awareness campaigns against infectious diseases; strengthening the rule of law; improving respect for human rights through the monitoring, education and investigation of past and existing abuses; supporting the struggle against corruption; implementing humanitarian programs; providing technical assistance for democratic development; promoting conflict resolution and reconciliation techniques (United Nations, 2000, p. 3).

After this conceptualization, the panel agreed that “consent of the local parties, impartiality and use of force only in self-defense should remain the bedrock principles of peacekeeping” (idem, p. ix), emphasizing nonetheless that in the context of intra-State conflicts, consent may be manipulated by the local parties, calling attention to the fact that impartiality does not imply neutrality, as equal treatment of aggressors and victims may

amount to a kind of appeasement⁷, and recommends that the United Nations military units, once deployed, must be capable of defending themselves, as well as the mission's mandate and other components, enabling a response to attacks on UN troops or on the civilians under their protection⁸. This means that mandates must be clear and achievable, and must specify if an operation is authorized to use force, which implies larger and better equipped forces representing a more credible deterrent. Furthermore, the rules of engagement must be sufficiently robust to enable UN contingents to withstand initiatives by their attackers (idem, pp. 9-10).

Another important recommendation of the Report is the absolute need to quickly and effectively implement field operations, for which member-States should be encouraged to form partnerships among themselves, forming several coherent brigade forces and allowing their effective implantation after the approval of a Security Council resolution, to better answer the need for more robust peacekeeping forces, which the Panel has defended (idem, p. xi and 20). The matter of the political support of States is crucial to this Report, as it affects a mission's likelihood of success. The Report defends both a restructuring and a strengthening of the UN Secretariat, in particular of the Department of Peacekeeping Operations (DPKO) (GCSP, 2004, p. 5).

Thus, the Brahimi Report, which represents a new peacekeeping doctrine, was described as "frank and loyal" by Secretary-General Kofi Annan (idem). Nevertheless, the panel acknowledged that a reform will not be possible unless member-States are truly committed. The member-States must acknowledge that the United Nations are the sum of its parts and must accept that the greater responsibility for these reforms falls on them. The failures of the United Nations were largely due to the Security Council and the member-States drafting and supporting ambiguous, inconsistent and under-financed mandates, endangering the credibility of the organization (United Nations, 2000, p. 44; Gray, 2008, p. 308).

As Hammarskjöld commented, regarding the United Nations as a whole, the document acknowledges that peacekeeping is an imperfect tool, but one essential to the international community (United Nations, 2000, p. 44; Gray, 2008, p. 308).

3. From the Great Lakes Conflict to the Democratic Republic of Congo conflict

The Great Lakes Conflict in Africa concerns a series of fights between the two major ethnic groups in the region – Hutu and Tutsi – originating in the post-colonial period, although the conflict only captured international attention in 1994 with the Rwanda genocide. The Rwanda genocide, considered one of the most severe humanitarian crises of the 20th century, consisted on the escalation of violence by Hutu extremists against Tutsi and Hutu moderates, causing a massive displacement of the population to refugee camps in neighboring countries, especially the eastern area of Zaire (now the Democratic Republic of Congo).

⁷ On this issue, the panel recalls the example of the Rwanda genocide, where the international community was unable to use or reinforce the field operation to fight the extremists (United Nations, 2000, p. 9).

⁸ A reference to Protection of Civilians.

The situation worsened with the flow of armed groups of Hutu Rwandans into what was then Zaire, supported by Congolese president Mobutu Sese Seko, and with the presence of Ugandan, Burundian and Angolan rebel forces in the territory. It was then that the First Congo War exploded, in 1996, carried out by opposition forces to Mobutu's dictatorial government, with the support of neighboring countries, mainly Uganda, and of Tutsi troops from the Rwandan Patriotic Front. After Mobutu's deposition, Laurent Kabila proclaimed himself president and changed the name of the country to Democratic Republic of Congo. The strong Tutsi presence in the new DRC government and its apparent dependency on Rwandan military power were a cause for discontent, forcing Kabila to break with his former allies and expel them from the country. As they were already profiting from the exploration of Congolese natural resources, and unwilling to abandon that source of wealth, their angry reaction was expressed by a new invasion, this time against Kabila's regime, invoking the defense of the Tutsi populations living in the eastern area of the DRC. In 1998, troops from Rwanda, Uganda and Burundi, with the help of two opposition armed groups, occupied the DRC in an attempt to overthrow the new government (Silva & Diallo, 2013, p. 23; United Nations, 2008). At that time, the conflict was no longer solely ethnically motivated and became a conflict driven essentially by matters of economic interest.

The conflict, known as the Second Congo War or Great War of Africa, evolved to a war of vast regional dimensions when Angola, Namibia, Zimbabwe, Chad and Sudan gave military support to President Kabila. Intense negotiations and diplomatic talks were conducted. In addition to the efforts of the United Nations, the political process had a regional path, led by the Organization of African Unity (OAU), and a sub-regional path, coordinated by the Southern African Development Community (SADC). In the Security Council, however, the complexity of the Congolese conflict, due to the participation of a high number of state and non-state actors and to the lack of control by the central government in certain areas of the territory, made the situation unbearable, leading the Council to consider a more active involvement by the UN in the DRC, coordinating with the OAU to help implement a cease-fire and a negotiation process that could determine a political solution (United Nations, 2008).

In 2001, Congolese president Laurent Kabila was murdered and was succeeded by his son, Joseph Kabila, which redrew the guidelines of the conflict. One year later, a peace agreement was reached, mediated by South Africa, which was only formally signed in 2003. However, during the following transitional period, the atmosphere of conflict remained due to the rise in militias who viewed armed power as currency (Valenzola, 2013, pp. 67-68; Silva & Diallo, 2013, p. 23).

3.1 The United Nations peace missions throughout the Democratic Republic of Congo conflict

The first UN peace mission in the DRC took place in 1960, when the country gained independence from Belgium, due to the intervention of Belgian troops in the country without the consent of the Congolese government. This reaction by Belgium was caused by Congolese

military insurgence against Belgian citizens in the context of decolonization. However, the situation worsened with the problem of Katanga, the richest mining province in the Congo, also seeking independence through secession and supported by the Belgian government. For that reason, the United Nations Operation in the Congo (ONUC) was established to ensure the withdrawal of Belgian troops and to help the Congolese government to restore law and order in the country. Later, the duties of the ONUC were modified to include the maintenance of territorial integrity and the political independence of the Congo, and were authorized to use force, if necessary, to prevent a civil war and to ensure the withdrawal of all foreign armed forces (United Nations, 2001).

In 1963, the Katanga province was reintegrated into the Congolese national territory, and the last ONUC forces were withdrawn the following year, although the country continued to receive civilian aid in what was the largest assistance program conducted to date by the organization (*idem*).

The use of force by the ONUC had important repercussions for general United Nations peacekeeping, even though the goals of the mission were achieved, as the change in mandate with the authorization of the use of force came as an answer to an untenable situation, which should have ultimately served to protect civilians and that failed in that purpose. The UN has recognized that the ONUC became involved, due to unavoidable circumstances, in a highly complex internal situation due to its interference in political issues, and that it had to take on certain duties that went beyond normal peacekeeping duties (Macedo et al., p. 6). Like the example of Katanga, which was controversial, as in the terms of Article 2 (7) of the Charter of the United Nations, the UN cannot “intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement” (GDDC, 2014a). Therefore, as the first intervention by the organization in an intra-State conflict, the Security Council showed difficulty in coordinating the mission, and the impartiality of the organization was called into question.

The second UN peace mission in the DRC, and the longest to date was implemented in 1999, following attempts to end the Second Congo War that resulted in the Lusaka Agreement. This agreement consisted in a cease-fire and in the withdrawal of foreign troops, as well as in the establishment of a peacekeeping force in the country. While this treaty has been constantly broken, the MONUC was created with the purpose of executing peacekeeping actions to monitor compliance with the agreement (Valenzola, 2013, p. 67). Meanwhile, due to the complex background of the conflict, the Security Council expanded the role of the operation through the implementation of peacebuilding and peace enforcement⁹ measures, with the purpose of stabilizing the eastern area of the country, identifying protection of civilians as the mission’s main priority (United Nations, 2009, p. 241).

⁹ Peace enforcement involves the application of a series of coercive measures including the use of military force. It requires the explicit authorization of the Security Council, and is used to restore international peace and security in situations where the Council has chosen to act in response to a threat to peace, a breach of peace or an act of aggression. The Council may use, whenever necessary, regional organizations and agencies for a coercive action under their authority, in compliance with the Charter of the United Nations (United Nations, s.d.a.).

Nevertheless, in 2002, more than 180 people were killed by a rebel group near a UN base in Kisangani, an event which led to the first talks on civilian protection as a UN military mission. The Kisangani massacre reveals, according to Reynaert (2011, p. 15), the gap between the MONUC mandate and the ability to carry that mandate through, and also the tendency by the UN to tone down the protection of civilians whenever the use of force is perceived to offend the parties involved in the peace process.

In the following years, 2003 and 2004, the MONUC suffered two severe crises, in the cities of Bunia (the capital of the Ituri province) and Bukavu (capital of the South Kivu province), respectively. While the mission mandate was to “protect civilians under the imminent threat of physical violence”, peace forces once again failed to protect the population, resulting in the first anti-MONUC protests. However, both crises were useful, as the international community understood that the first democratic elections, since the country’s independence, predicted for 2006, would not take place unless the mission mandate was swiftly adapted (Reynaert, 2011, p. 14).

As a result, from 2005 to 2007 the MONUC strategy went from a reactive to a more proactive stance with the creation of several robust operations to prevent possible spoilers¹⁰. The Secretary-General argued that the situations in which the MONUC could use force as a means to stop dissident elements from using violence to preclude the political process must be clearly defined, particularly regarding control of weapons embargos and the strengthening of their capacity to disarm, demobilize, repatriate, reintegrate and resettle foreign combatants. This new approach, compliant with the Brahimi Report, was in place until the 2006 elections. During the elections, in spite of several attempted attacks and violent actions in numerous cities, the MONUC was able to ensure the protection of the population and the expansion of the authority of the Congolese government in the national territory. The transition stage was formally ended when the first legitimate DRC government was established. This stage had certain political implications, and from that moment on Congolese authorities held the primary responsibility for the protection of civilians. As a result of the new political context, the role of the MONUC was restricted, as was its mission, which automatically led to a more reactive stance by the UN (*idem*).

Nonetheless, in 2008, the MONUC faced once again serious threats by rebels near Goma (the capital of the North Kivu province), resulting in the death of civilians. According to General Diaz De Villegas (2010 cit. by Reynaert, 2011, p. 17), Commander of the MONUC force, the mission suffered from restricted operational capacities, therefore the protection of civilians was only possible in major cities and along the main roads; outside those locations, the MONUC could only protect itself. Thus, the Security Council approved Resolution 1856 (December 2008), issuing a briefing note broaching the topic of the Kivu conflict and making the protection of civilians a maximum priority, whilst ensuring that the MONUC would in no

¹⁰ Groups of actors, or their activities, that actively seek to prevent, delay or harm the resolution of a conflict through a variety of means and for a number of reasons. Usually, these actors are directly involved in the conflict and are opposed to its peaceful resolution, sometimes using violence to interrupt the peace process in pursuit of their goals and interests (United Nations University, 2006).

way replace the Congolese authorities. Regarding the use of force, the briefing note states that:

“1856 is not a resolution about making war: it is about creating conditions for and supporting peace efforts. (...) Chapter VII does not just refer to the use of force, but to a range of measures aimed at maintaining or restoring peace and ensuring that the Council’s decisions are respected. It authorizes the use of force, but does not prescribe it. (...) But the Resolution does not give MONUC the responsibility, the authority or the capacity to impose peace.

(Reynaert, 2011, p. 18).

In contrast to the briefing note, Resolution 1856 clearly states that the MONUC is authorized to carry out the preventive operations deemed necessary to avoid attacks on civilians and to disrupt the military capacity of the illegal armed groups who continue to resort to violence in the region. The somewhat ambiguous differences between the resolution and the briefing note show the differing opinions within the system of the United Nations regarding the use of force (idem, pp. 18-19).

To this day, the protection of civilians is still a contentious issue, as was evidenced in 2010, when the MONUC faced a new crisis in the North Kivu region. Due to the political context and the growing criticism of the government, the MONUC was changed into the MONUSCO. This new mission mainly focuses on peace stabilization and peacebuilding, while also keeping the protection of civilians a primary priority (idem, p. 14).

3.2 The Exception of the eastern part of the Democratic Republic of Congo

While significant progress has been made in the DRC since the implementation of the United Nations peacekeeping operation, and although the situation in many parts of the country has been stabilized, the eastern part of the country went on being tormented by recurrent waves of conflict, chronic humanitarian crises and serious human rights violations, including sexual violence. Congolese and foreign armed groups have contributed to the cycles of violence, taking advantage of power and safety vacuums in the eastern part of the country; of the illegal exploration of natural resources; of interference by neighboring countries; of a generalized impunity; of quarrels between communities; and of the poor capacities of the army and the national police to ensure law and order through the effective protection of civilians and the national territory (United Nations, s.d.b.).

The recurrence of such cycles of violence, like the large crisis in North Kivu, caused by the March 23 Movement (M23) in April 2012¹¹, was an ongoing obstacle to peace in the DRC, threatening global stability and development in the Great Lakes region (idem). In order to put an end to these cycles of violence and find a political solution to the conflict, negotiations were initiated in Kampala, the capital of Uganda, with representatives of the DRC government

¹¹ In April 2012, the M23 soldiers rebelled against the government and clashed with national forces in the Goma region. In November that same year, the M23 even ended up in full control of Goma, the main city in the North Kivu province, in the eastern part of the DRC, an area of vast mineral wealth, causing fears of a generalized conflict in the country. The condition for a withdrawal was the negotiation of the terms of their reintegration into the DRC armed forces, as well as “opening a political dialogue at the national level” (Jornal de Angola, 2012).

and M23. These negotiations, which became known as the “Kampala Dialogue” and were mediated by the Ugandan government through the support of the International Conference on the Great Lakes Region (ICGLR) and the UN, began in December 2012 and continued until November of the following year (SADC, 2013).

During this period, the “Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the Region” was signed by representatives from 11 countries¹² in the region, by the presidents of the African Union¹³ (AU), by the ICGLR, by the SADC and by the Secretary-General of the United Nations, on February 2013 in Ethiopia (United Nations, s.d.b.).

In March 2013, acting on behalf of the goals of the “Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the Region” and answering the summons of the governments of the Great Lakes of Africa region, the Security Council unanimously approved Resolution 2098 (2013), extending the MONUSCO mandate until March 2014 and creating an intervention brigade specializing in strengthening the peacekeeping operation in the country (*idem*).

The Council decided that the brigade would be created for an initial period of one year, exceptionally and without setting a precedent and subject to the already established peacekeeping principles. This brigade was to be responsible for neutralizing armed groups with the purpose of contributing towards reducing the threat posed by these groups, affirming authority and civilian safety in the east of the DRC and creating a space for stabilization activities. It was also decided that the intervention brigade would have a clear exit strategy and that the Council could consider extending its mandate for longer than one year, based on performance and on the progress of the application of the Peace, Security and Cooperation Framework for the Region and for the RDC (*idem*).

The resolution strongly condemned the Congolese group M23, the Democratic Forces for the Liberation of Rwanda (DFLR), the Ugandan group Lord’s Resistance Army (LRA) and “all other armed groups and their ongoing violence and human rights abuses”. The new brigade was tasked with carrying out offensive operations, unilaterally or jointly with the Congolese armed forces “in a robust way, highly mobile and versatile, and in strict compliance with International Law”, to stop the activities of those groups (*idem*).

In late 2013, with the intervention brigade still in action, the M23 group issued a statement renouncing the rebellion and asking their combatants to prepare for disarmament, demobilization and social reintegration. Jointly, the DRC government issued its own statement acknowledging the renunciation of rebellion by the M23 and announced it would take measures to facilitate and make this disposition irreversible. The action was formally set with the “Nairobi Declaration”, in Kenya, which had also signed the “Peace, Security and Cooperation Framework for the RDC and the Region”, and represented the conclusion of the “Kampala Dialogue” (SADC, 2013).

On March 28 of this year, the Security Council, through Resolution 2147, prolonged

¹² The signatories were: the DRC, Angola, Zambia, Tanzania, Uganda, Rwanda, Burundi, South Sudan, the Republic of the Congo, South Africa and the Central African Republic.

¹³ Established in 2002, this organization succeeded the Organization of African Unity.

the MONUSCO mandate until March 31, 2015, and determined that the mandate would also include the continuity of the intervention brigade in the eastern part of the country, authorizing all the measures necessary to achieve the following goals, in accord with the priorities of protection of civilians, stabilization and support to the implementation of the Framework: reduction of threats posed by Congolese and foreign armed groups, and violence against civilians, including sexual violence; providing support to national and international legal processes in the DRC, through the implementation of functional, professional and responsible State institutions. Throughout the resolution, the deep concern of the Council focused on the humanitarian situation in the DRC and on firmly condemning all armed groups operating in the region that constantly violate international law and human rights (UN News Centre, 2014).

This way, the Council observes the mission's need for strengthening support to the Congolese government, so that it may face the challenges posed by the goals of a peace and security agreement for the region (idem).

4. Conclusion

The methodological path developed in this paper sought to examine the existence of a correlation between the evolution of the several UN stabilization interventions in the Great Lakes in Africa, namely in the DRC, with the paradigm shift regarding the use of force in peacekeeping operations as a form of conflict resolution, which was demonstrably a positive correlation. The relation between the two variables found was explained through fundamental concepts like robust operations, with the creation of an intervention brigade in the country, on a temporary basis.

Bearing in mind the events that took place in the DRC post-Report, we can conclude that the Brahimi Report represented a paradigm shift in the use of force by United Nations peace operations, as force was used for the protection of civilians and as a deterrent for armed groups in the region, through the creation of an intervention brigade, reducing the threat these groups represent for the population and for the stabilization of the country. In fact, there were several failures during this long process, especially regarding the protection of civilians and at times even of the MONUC/MONUSCO mandate, but the use of force as a preventive anticipatory action has proven more effective than in response to a declaredly armed attack, adding, in this respect, to UN credibility.

In fact, the issue of peacekeeping has been one of the main challenges for the UN since the end of the Cold War. The use of force in itself, as demonstrated in this work, is not an innovative issue for the UN in peacekeeping missions, as the organization had already authorized the use of force in its first peacekeeping mission in the DRC, in 1960, prior to the existence of the Brahimi Report. However, this report became an iconic reference, in so far as it defined operational strategies for the use of force by peace forces, stating how and when to intervene. Secretary-General Kofi Annan himself stated that: "Under our charter, we are allowed to use force in the common interest. But there are questions that we will

have to answer. What is the common interest? Who defines it? Who defends it? And under what authority and under what circumstances? (Bratt & Gionet, 2001, p. 1).

The Brahimi Report was also a benchmark in demonstrating that peace operations were being implemented, increasingly, not on far side of conflict situations, but in stalemate situations in which at least one party was not seriously committed to end the confrontation, presenting several recommendations meant to solve a serious problem in strategic management, decision making, quick implantation, operational planning and support, as well as the use of modern information technologies in UN peace operations (United Nations, 2000, p. viii).

It is clear that there are differences of opinion inside the UN regarding the use of force. In our opinion, the use of force alone, as retaliation to armed attacks, is a greater factor of incitement to conflict because, as argued by Reynaert (2011, p. 15) “the use of force might offend parties to the peace process”, which happened during the mandate of the ONUC, and also in a smaller scale during the mandate of the MONUC. However, the use of force as a mechanism of support to the party that shows willingness and commitment in reaching an understanding, accompanied by a dialogue between communities through a commitment and the signing of an agreement between all parties integral to the conflict can generate forms of mediation and conciliation. The implementation of an intervention brigade with the participation of regional actors shows that regional integration plays an important role in solving a conflict with regional aspects at its core. The replacement of peace tasks commanded by global institutions with others organized by the countries involved in the conflict seems to bring about a more viable and sustainable long term solution for peace.

The example of the DRC is an evidence of the paradigm shift, which may be taken into consideration in other conflicts in Africa and in other parts of the world.

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