THE (IN) ADEQUACIES OF THE UN IN PROVIDING HUMAN SECURITY GUIDELINES AND NORMS. CASE STUDY OF THE MONUSCO IN THE DEMOCRATIC REPUBLIC OF CONGO.

Martin Chingambu Kayembe

Abstract

This paper identifies a number of problematic issues emanating from the MONUSCO's interventions in providing sustainable peace and human security in the Democratic Republic of the Congo (DRC). This brings a variety of debates, on the adequacies and the inadequacies of the MONUSCO in terms of its mandates for promoting sustainable peace and human security in the war zones in the DRC. The paper is mainly subdivided into four major areas: the first being the birth and tasks of the MONUSCO, the second the understanding of the challenges faced by the United Nations peacekeeping missions' world over. The third area is the Human security versus State security and the fourth is the Contradiction and Incompatibility of the 'normative framework' for peace operations by the MONUSCO in the DRC. This essay is based on a desk paper work. The findings highlight the achievements and challenges being faced by the MONUSCO in its mission in the DRC. These findings prompted the author to suggest the integrated peacebuilding: Baker and Scheye's multi-layered security and justice approaches as model to be adopted for peace and human security to prevail in the Eastern part of the DRC.

Key words: Peace, Human security, State security, Policies, Integrated peacebuilding

Paper classification: Research paper

Introduction

The Democratic Republic of the Congo is one of the African countries which has experienced

deadly conflicts and wars in the past decades. These conflicts and wars have claimed lives of many

people. While trying to understand the shift of focus from the state security to the human security, this paper discusses the (in)adequacies of the MONUSCO while discharging its mandate in the DRC.

Birth and tasks of the MONUSCO

The Democratic Republic of the Congo (DRC) and other five regional States who were involved in the wars in the country signed the Lusaka Ceasefire Agreement in July 1999. As a follow up to the Agreement on the 30 November 1999, the United Nations Security Council established the United Nations Organization Mission (MONUC) by its resolution 1279. The first task of the mission was to assist the parties involved into the war to observe the Ceasefire Agreement. With time the Council expanded the mandate of the MONUC to supervision and implementation of the Ceasefire Agreement and assigned different related additional tasks. In 2010, MONUC was renamed as the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) (United Nations (2018)).

Understanding the challenges faced by the United Nations Peacekeeping Missions

As stated by Macqueen (2011), the cold war conflict and rivalries between the East and the West made it necessary that mission personnel become neutral and avoid ideological prescription. They were called to be impartial and were prohibited from promoting particular modes of social, political, or economic grouping. Policies guiding the setting up of the United Nations Emergency Force in the 1950s emphasized that UN missions were supposed to facilitate peaceful resolution of disputes, taking as supreme the respect for state sovereignty. As such peacekeeping forces were discouraged from taking sides with any of the feuding parties and from interfering in the domestic affairs of host states. In this context impartiality emerged as the core norm in peacekeeping operations.

According to Franck (2003), impartiality was a befitting norm because it sets a preceding ground for fairness in conflict resolution. With the increase in conflicts and the subsequent increase of UN peacekeeping missions, more shared guidelines, standards and specifications on what it means to be an impartial peacekeeper also emerged. Standards for judging specific practices that were

compatible with impartiality were also shared globally. This was important because during the cold war, troops were usually tasked with observing cease-fires or liaising between parties to a peace agreement. As it was the case of the MONUC.

The notion of impartiality was surrounded by deeper normative commitments which were also emphasized by the UN Secretary General, and depended on prevailing norms around state sovereignty, self-determination and non-interference. In 1978, Secretary-General Kurt Waldheim affirmed that staff in UN missions should act 'with complete impartiality', and 'must not take on responsibilities which fall under the Government of the country in which it is operating' (United Nations Security Council, (1978)).

Given the need for seriousness on this regard of fairness and respect for state sovereignty in conflict resolution, the issue of impartiality was adopted as part of the broader, constitutive norms of the international system. Until the 1990s, post-cold war, the UN normative framework was clear, and with consensus from member states, about what impartiality required, and what kinds of activities were appropriate for UN peacekeepers. This norm of impartiality is in agreement with the UN Charter principle on non-interference in conflicts of other states unless authorized by the UN.

Post-cold war, the transformation from inter-state to intra-state conflicts, as well as the increases in conflict and the difficult nature of conflict thereof presented an ambiguity with regards to the issue of impartiality, and contestations arose. Conflict was no longer about ideological difference *per se*, and the need to remove focus from what the state can do as well as redefine the concept of state sovereignty arose. Biological warfare, environmental challenges, cyber threats and many other human threats required a different narrative altogether, and as such touched on the issue of impartiality. As a result, modern day peace operations now operate in a complicated and unusual legal and policy framework and context. The different complications in various contexts have given rise to fundamental disagreements as to what peacekeeping and peacekeeping operations entail.

Human Security versus State Sovereignty

Axworthy (2001), highlights two major disagreements. Firstly, the new proponents of human security articulated a new narrative regarding the concept of state sovereignty. They persuaded new and broadly defined interpretations of security from its state centric notions to embrace the non-asymmetric version of security. They argued that, 'the security of states is essential, but not sufficient to fully ensure the safety of the world's peoples'. His argument was further elaborated in the International Commission on Intervention and State Sovereignty.

The Responsibility to Protect Modeled arguments in favour of the responsibility to protect (R2P), this argument gained a lot of support from many stakeholders. The International Commission on Intervention and State Sovereignty argued that, 'the principle of non-intervention yields to the international responsibility to protect' when states are 'unable or unwilling' to protect their citizens from serious harm. Likewise, the current Secretary-General's Human Rights Up Front initiative connects the legitimacy of UN personnel to their efforts to prevent and address human rights violations.

According to the United Nations-Human Security Unit (2010) when dealing with human security, two major themes need to be taken into account, these are protection and empowerment. These are the major building blocks in order to achieve the goal of human security. They are considered by the CHS as the two major themes of "any human security policy framework." In terms of the United Nations-Human Security Unit (2010);

> Protection is defined by the CHS as "strategies, set up by states, international agencies, NGOs and the private sector, [to] shield people from menaces" (CHS: 2003:10). It refers to the norms, processes and institutions required to protect people from critical and pervasive threats. Protection implies a "top-down" approach. It recognizes that people face threats that are beyond their control (e.g., natural disasters, financial crises and conflicts). Human security therefore requires protecting people in a systematic, comprehensive and preventative way. States have the primary responsibility to implement such a protective structure. However, international and regional organizations; civil society and non-governmental actors; and the private sector also play a pivotal role in shielding people from menaces. Empowerment is defined by the CHS as "strategies [that] enable people to develop their resilience to difficult situations" (CHS: 2003:10). Empowerment implies a "bottom up" approach. It aims at developing the capabilities of individuals and communities to make informed choices and to act on their own behalf. Empowering people not only enables them to develop their full potential but it also allows them to find ways and to participate in solutions to ensure human security for themselves

and others. As clearly stated by the CHS, protection and empowerment are mutually reinforcing and cannot be treated in isolation: "both are required in nearly all situations of human insecurity, though their form and balance will vary tremendously across circumstances".

Recent documents on human security norms also have specific guidelines on this issue. For example the Capstone Doctrine claims that protection of human rights 'must be at the core' of any action taken to address armed conflict. The Brahimi Report states that UN troops or police who 'witness violence against civilians should be presumed to be authorized to stop it.' The irony and ambiguity is that the norm of R2P remains deeply contested on both technical and substantive arguments. Critics of this notion argue that it accords the UN hegemonic powers and UN personnel additional room to impose their own conception of justice on host governments, which may result in violation of the rights of host countries in terms of decision making.

The second issue which has also received much criticism is the UN's wider ideological transformation towards liberal internationalism following collapse of the Soviet Union. Following the rise of human security prioritizing the rights of individuals over states, then Secretary-General Boutros Boutros-Ghali placed too much emphasis on addressing the 'deepest causes of conflict', and the need to identify and reinforce 'structures which will tend to strengthen and solidify peace'. This call focused on how peace building overlaps with peacekeeping. This proposition was often criticized for being ideologically prescriptive, and for assuming that, 'liberal democracy and a market-based economy provide the best foundation for peace, both within and among states.' Contrary and most upheld argument was rather that strong state institutions must be in place before the long-term benefits of liberalization can be realized.

According to Rhoads (2016)' postulations the rise of both human security and liberal internationalism has allowed the UN to trade its 'passive' conception of impartiality for an 'assertive' one. In reality, the introduced normative changes already discussed above provide a new foundation for decision making among the UN and its peacekeeping forces outside the strong dictates of impartiality that governed the period between 1950 and 1990. In current times the UN peacekeepers can be legitimated to take forceful action and still be considered 'impartial' as long as they are aiming to fulfill ostensibly universal goals, like promoting human rights. Rhoads

(2016)' further argues that the norms around human security, liberal peacebuilding, and state-building are often in contestation with one another and with established norms such as sovereign autonomy and non-interference.

Further argument is that these norms have not yielded clear, coherent expectations about proper behaviour for UN peacekeepers, and the irony that defeats the purpose for effective human security provision is that while practices on the ground are fragmented, mission personnel are also beleaguered by conflicting viewpoints about what neutrality requires. It is often complicated for UN personnel to determine how to respond when troops they are supposed to mentor and cooperate with are responsible for serious human rights violations, and especially when they are also caught up in serious human rights violations as troops.

The contradiction and incompatibility of the 'normative framework' for peace operations

Since the inception of its mandate, MONUC/MONUSCO has recorded a number of achievements as well as some failures. The International Peace Institute (IPI 2019) highlights some of the major achievements of MONUSCO as follows;

> The first area in which MONUC- the precursor to MONUSCO- had a strategic impact is in its contribution towards the reunification of the country. In short, as one African diplomat put it, "If the UN mission had not existed, most probably DRC would not have existed in its current form." MONUC/MONUSCO also had a strategic impact in preventing a recurrence of a major violent conflict, by using its presence to enable other international and national actors, including the private sector, to provide services and to stimulate the local economy and support democratic politics. The role of MONUC/MONUSCO has also been critical in monitoring, reporting, collecting, and sharing information related to human rights violations to support international criminal justice and the fight against impunity, including the International Criminal Court's prosecution of Thomas Lubanga, Germain Katanga, Bosco Ntaganda, and others. (IPI, 2019).

The mandate of MONUSCO in the DRC was further renewed in 2020 for a period of one year, till December 2021. Among the major policies for peace operations, were the protection of civilians which included child protection, protection of women and the consideration of gender, sexual violence. (United Nations Security Council (2020))

According to the United Nations Security Council, the extension of the mandate of MONUSCO in the DRC, was based on the inclusion of an exceptional basis and not "creating a precedent or any prejudice to the agreed principles of peacekeeping." Here is the composition the Brigade which was decided upon for peacekeeping mission in the DRC;

> MONUSCO's authorized troop ceiling will comprise 14,000 military personnel, 660 military observers and staff officers, 591 police personnel, and 1,050 personnel of formed police units, and continues to agree to a temporary deployment of up to 360 personnel of formed police units provided they are deployed in replacement of military personnel, as proposed by the Secretary-General in his report S/2019/905, and invites the Secretariat to consider further reduction of MONUSCO's level of military deployment and area of operations based on the positive evolution of the situation on the ground, in particular in the regions where the threat posed by armed groups is no longer significant. The United Nation Security Council decides that the strategic priorities of MONUSCO are to contribute to the following objectives: (a) Protection of civilians, as described in paragraph 29(i) of this resolution; (b) Support to the stabilization and strengthening of State institutions in the DRC and key governance and security reforms, as described in paragraph 29(ii) of this resolution… (United Nations Security Council (2020, p. 8))

As highlighted above in the mandate of the MONUSCO, The United Nations Security Council Resolution (2556) requested MONUSCO to fully consider the protection of the children throughout its mandate also to help the Government of the DRC to insure that the protection of the rights of children is fully considered. MONUSCO was mandated to continuously ensure the efficiency in "monitoring and reporting mechanisms on children and armed conflict." (United Nations Security Council (2020, p. 12).

In the same line of protection, the Security Council Resolution requested MONUSCO to fully consider the gender issue as one of the most critical issues throughout the whole period of its validated mandate. Also MONUSCO was tasked to help the Government of the DRC and other important stakeholders to create

> a legal, political and socio-economic environment conducive to ensuring the full, effective and meaningful participation and full involvement and representation of women at all levels, and survivors of sexual and gender-based violence, for the maintenance and promotion of peace and security, protection of civilians, including by engaging women's networks as partners in protection". (United Nations Security Council (2020, p. 12)).

MONUSCO had been requested to support the advancement of the participation of women into politics in order to achieve the 30% as enshrined in the DRC constitution. With the above well elaborated mandate, the MONUSCO in the DRC, could have been in the position to carry out its security mission and assisting the DRC government with the implementation of the policies that could promote peace and development within the country. Nevertheless, things seem not to be working in the right way. Eastern part of the country still under serious insurgent of the M23 being supported by external forces such as the Rwandan army. Civilians including children and women are being serious tortured by the warring parties.

This has generated a lot of debate and mistrust by the general population on the effectiveness of the mandate of the MONUSCO in the DRC, particularly at Eastern part of the country.

The International Peace Institute (IPI) (2019) alludes also to the challenges encountered by MONUSCO in the Eastern part of the country while trying to discharge its mandate. According to the IPI (2019) report,

> [t]he mission has also faced a number of operational constraints: the eternal operational and tactical challenges of not having adequate means and capacities to fulfill the mission, of having contingents unwilling to execute the given mandate, and of lacking effective leadership and poor pre- or in-mission training; the problem of multiple interpretations of what peacekeeping is and of the mandate of the mission; and the lack of a strategic communications strategy to counter misunderstandings and to explain the mandate and the mission to the Congolese people or even internally. (IPI (2019)).

Some of these challenges are crippling the MONUSCO humanitarian interventions, given that the people do no longer trust and misinterpret the mission of the MONUSCO within the country. Thus, the conflict arising between the MONUSCO and local population who do no longer appreciate the presence of the MONUSCO within the country. According to Amadou and Carine (2023) some few days ago a convoy of MONUSCO from Muningi village to Kitshanga was put to ashes by the population with the thought that MONUSCO was carrying weapons and other military ammunitions. (Il y a quelques jours, un convoi de la MONUSCO parti de la localité de Muningi vers Kitshanga a été pris à partie et incendié par la population qui pensait que la MONUSCO transportait des armes et autres effets militaires.) But in actual fact, the MONUSCO convoy had humanitarian goods to be provided to the 12 000 internal displaced families in the refugee camps in Kitshanga. The traditional leader, chief of Baunde, Nicholas Kilinda, alludes that the hostility

between MONUSCO and the people is caused by the lack of proper communication. He requested to MONUSCO to make efforts to communicate with the population through the local authorities. In his own words;

> Selon le Mwami de la chefferie de Baunde, Nicholas Kilinda, l'hostilité entre la MONUSCO et la population est due à un manque de communication. Il a demandé à la MONUSCO de fournir des efforts pour communiquer avec elle, à travers les autorités locales. *« Nous sommes prêts à nous engager dans cette voie. Nous sommes prêts à transmettre le bon message, la vraie information à la population. S'il y a la communication, je pense que tout ira bien et il n'y aura plus d'incidents ». (Nicholas Kilinda, chef of Baunde) (Amadou and Carine* (2023))

> The hostility between the MONUSCO and the population is caused by the Lack of communication. He requested the MONUSCO to make efforts to communicate with the population, through the local authorities "we are ready to engage in this way. We are ready to convey the good message, the true information to the population. If there is communication, I think all will go well and there will no longer be any incident". (The English translation of the above citation).

These challenges being faced by MONUSCO in the fulfilment of its mandate, could be understood at various levels such as failure to communicate effectively with the population, failure to understand the political economy of the country and failure to address the structural factors within the country. Such critics had been previously highlighted by McCreedy (2022) who managed to establish some of the MONUSCO. According to McCreedy (2022) since the establishment of the MONUSCO in 1999, "its response to the intercommunal and armed group violence in the DRC has long suffered from an overly securitized approach and separation of security and development." In his criticisms, McCreedy (2022) alludes that the MONUSCO has failed to fully consider the political economy of the conflict within the DRC while programming, analyzing and coming up with political strategy. Furthermore, McCreedy (2022) elaborates on these failures and provides some suggestions to be taken by the MONUSCO in this transitional period.

According to this writer, various structural factors in the DRC remain acting as "drivers of instability unaddressed. These include: "the instrumentalization of ethnic conflict based on political and economic exclusion, as is evidenced by the recent escalation in intercommunal violence in the Ituri province of eastern DRC." Thus, McCreedy (2022)'s suggestion is that considering MONUSCO in its current period of transition and the Joint Strategy on the Progressive and its Phase of Drawdown" the UN should take this opportunity to embark on

> …a coordinated approach to address these structural factors. This includes reframing stabilization not only in terms of security, but also governance and development, and supporting the implementation of reforms and targeted measures to address the deeply rooted causes of conflict. (McCreedy, 2022).

Further contradiction and incompatibility is that while the Capstone doctrine cites human rights and international humanitarian law as part of the 'normative framework' for peace operations, it at the same time states that missions 'must always be aware of and respect national sovereignty'. This incompatibility and ambiguity creates an unparalleled degree of uncertainty for peacekeepers, who often struggle to balance the UN's competing normative commitments with reality on the ground.

It is on the account of these contradictions that the MONUSCO might be operating in the DRC. The expectations from Congolese people were to see a MONUSCO full of power to stabilized and consolidate peace in the DRC however; the MONUSCO seems to be very passive towards the ill-treatment of civilians by both the Government security forces as well as the rebels. It has also been noticed that MONUSCO itself is deep rooted into atrocities against the citizens whom they are supposed to protected; some members of the MONUSCO have been accused of violations of human security, most of them have been accused of rape cases, smuggling of minerals mainly at the Eastern part of the DRC.

The reason why this paper is arguing that for sustainable peace to prevail in the DRC, with special reference to the Eastern part of the country, MONUSCO has to utilize a robust and multidimensional framework for security and justice which encompasses different stakeholders. Framework such as Integrated Peacebuilding Multi-layered Justice and Security from Baker and Scheye (2007) might assist.

A suggested framework for justice and security to prevail in the Eastern part of the DRC
Integrated Peacebuilding: Multi-layered Justice and Security from Baker and Scheye (2007) is one of the leading frameworks which encourages the participation of everyone for the provision of peace, justice and security. This framework provides an important guideline for an operational "people centred security and justice approach". Baker and Scheye (2007) the Security Sector Reform (SSR) should be "people-centred and locally owned'. As has been highlighted by the chief

Nicholas Kilinda chief for MONUSCO to effectively discharge its mandate without any hindrances from the population, communication with the local people is the key to success. Baker and Scheye (2007) argue that the implementation of the SSR, must include the local people and local forms of authority. The Integrated Peacebuilding: Multi-layered Justice and Security is a product of the findings of the study carried out in Somaliland which suggest that the crime that threatens the people and their locations in which they find themselves, show that people search for different security and justice agencies for protection and response. They noted that;

> [t]heir (people) choice is made in terms of previous personal experience, required mentality/cultural values (surveillance or punishment), availability, cost and legitimacy. As a result of their calculations, the extended family may protect the compound, but the street committee may sort out the domestic assault, the customary court may examine the land dispute with the neighbour, the taxi association marshal may handle the bus station pickpocket, the commercial security guard may secure the entrance to the bank and the state police may be called if there is a stabbing. Security and justice, as it is experienced, is not just diverse or private, it is a complex pattern of alternative and overlapping security and justice agencies, which can be described from the public perspective as multi-choice. People are rarely users of either private or public agencies, as if these were mutually exclusive categories. (Baker& Scheye (2007, p. 39).

Various scholars such as Chandler (2015), Boege et. al., (2009) have alluded to the power of any state in the provision of peace and stability to its population. Such scholars might have not taken into account differences of status of various states: some states are weak, some fragile. Such type of states might always be overpowered by other actors who might even be more powerful than the state. Such is the DRC state, weak as it is, peace and security continue to be jeopardized in the areas occupied by the aggressors who could be rebels as well as foreign. The reason why, in the case of such states, security should just be left to the state alone without taking into account the non-state actors. This can be supported by the observation of Chandler (2015) who states that countries that have experienced violent conflicts, their security system and justice should not just be left to the state alone in their post conflict periods.

Baker and Scheley (2007) argue that the experience encountered by the population living in fragile states is often repressive and violent from the state. As a result, such people do not generally trust the state as the unique body which should provide security and justice. That is why, such people revert to the traditional systems for security and justice. In their arguments, Baker and Scheley

(2007) and Boege et. al., (2009) state that Africa possesses customary courts and structures which are constructed on the traditional societal which include. These include clans, tribes, religious brotherhoods, extended families and village communities. The traditional authorities include: village elders, headmen, clan chiefs, healers, big men, and religious leaders. These leaders most of the time are considered to be capable of resolving conflicts in their environments involving their people up to 90%.

According to Baker and Scheye (2007, p. 41),

> The experience of people in post-conflict and fragile states, therefore, is one of choice with a layered network of alternative and overlapping provisions of security and justice. What is true is that in any situation there are often a surprising number of security and justice agencies-non-state and state, offering localized protection of different levels of legality, effectiveness, availability, methods and services. Each system, of course, enforces their own code of conduct and standards. We see no principled necessity for prioritizing the state node for normative reasons. Instead, a multi-layered approach identifies at least three layers of security and justice providers below the state. These are commercial, non-governmental organizations, and informal sector security and justice providers. All are considered as potential providers and partners.

Thus, security and justice issues should just be considered business for state alone, these should include every stakeholder, such as the state, the private sector, the NGOs, traditional leaders, and the general population. They should be a mutual collaboration and cooperation between the mentioned stakeholders.

In conclusion, the MONUSCO's mandate of stabilizing and consolidating peace in the country seems to be facing a lot of challenges in the fulfillment of its tasks. Although it appears to have all the powers to impose itself for the protection of Human security, it is sometimes constrained by the sovereignty of the state. Hence, the human security is being compromised for the benefit of the state security. The case of the MONUSCO in the DRC has remained deplorable, Congolese civilians are being massacred, tortures, rapes by both the Government forces which are supposed to provide security to the citizens and the rebels who pretend to come and liberate these civilians. All these atrocities are being committed on the people and the UN mission in the DRC is watching without any intervention. It can be argued that the UN peacekeeping troops have to remain impartial in their missions; however, this paper would want to suggest that the impartially has to

be evaluated to a certain extent after that, if atrocities towards civilians continue, the UN peacekeepers should be allowed to intervene and provide the total human security to the general population. Nevertheless, the UN mission in the DRC, will be successful if they will try to change their way of providing security in the country. The Integrated Peacebuilding: Multi-layered Justice and Security approaches should be used so to make everyone participate to the search for peace and security.

The case of the DRC remains a standalone due to the suffering and insecurity that the people have endured. The state instead of providing security to its citizens is persecuting them. Therefore, if the MONUSCO remains passive then it will be meaningless and costly for the citizens in the Democratic Republic of the Congo to have the United Nations peacekeepers in the country. Thus, the MONUSCO must communicate appropriately with these other arms of security so that it is assisted to perform successfully its mandate as tasked by the United Nations Security Council. Peace and security in the DRC should be everyone's concern. It is not only the state, the MONUSCO, the NGOs, or the Traditional Authorities alone, but the combined efforts of all that will one day see the Eastern part of the DRC free from wars and conflicts and the achievement of sustainable peace for the entire country.

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