



Accountability System for the Protection of Civilians

CASE STUDY

Democratic Republic of the Congo

The peacekeeping mission in the Democratic Republic of the Congo (DRC) has been mandated to protect civilians for more than two decades and has often been a laboratory for protection of civilians (POC) practices for UN peacekeeping. The many tools and structures developed to improve POC in the DRC were often developed after blatant failures to protect civilians, and the mission has demonstrated its ability to learn from its shortcomings and innovate continuously. Most recently, the mission was criticized for its underperformance during incidents in Kamanyola and in the Beni area.



Kamanyola, South Kivu, September 2017

The Incident

On September 15, 2017, some 2,000 Burundian asylum seekers and refugees protested in front of a post of the intelligence services in Kamanyola in the Democratic Republic of the Congo (DRC) following the forced repatriation of four Burundians by Congolese authorities.¹ According to the secretary-general's report on the incident, "One... soldier was killed in clashes between the refugees and security forces, and the armed forces and national police indiscriminately opened fire on protesters, resulting in 39 refugees killed and over 117 others injured."²

The UN Organization Stabilization Mission in the DRC (MONUSCO) had a base a few hundred meters away from the site of the massacre and did not intervene. As the mission later acknowledged,

[MONUSCO] did not respond until after all shooting had ended. Based on subsequent reviews, the Mission believes the [company operating base] responded at best 2 hours after being made aware of the incident—and potentially later.... MONUSCO said its forces were "expected to respond to incidents within 15 minutes of them taking place," and acknowledged that "this guideline was clearly not met."³

However, "MONUSCO provided immediate first-aid and initial distributions of food and water as well as protection for the estimated 1,500 refugees gathered outside the MONUSCO base."⁴ The mission also subsequently established a protective perimeter outside its gates and assisted with the burial of bodies. It continued to "provide security to groups of asylum seekers until they were escorted to Rwanda" in March 2018.⁵

¹ While the secretary-general reported that these four Burundians were repatriated, the UN Refugee Agency (UNHCR) said they were detained. UNHCR, "UNHCR Calls on DRC to Protect Refugees after Tragic Killings," September 19, 2017.

² UN Security Council, *Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo*, UN Doc. S/2017/824, October 2, 2017.

³ Cited in: Human Rights Watch, "DR Congo: Massacre Trial Puts Focus on Justice," July 29, 2019.

⁴ MONUSCO, "Following Deadly Clashes, MONUSCO Provides Support to Burundian Refugees in Kamanyola," September 20, 2017.

⁵ Human Rights Watch, "DR Congo: Massacre Trial Puts Focus on Justice."

According to MONUSCO, the commander of the base was not present at the time of the massacre, and the acting commander “engaged in extensive consultations with his hierarchy and individuals at the base prior to dispatching forces to investigate the incident, rather than taking the responsibility to send a patrol himself.”⁶ Furthermore, there was “some evidence that certain members of the [company operating base] may have considered that the protection of civilians mandate was less applicable to cases where Congolese national authorities were taking action. In addition, certain members of the Force were clearly unsure about what the role of Force members should play in responding to civilian demonstrations.”⁷ The incident also raised issues related to implicit caveats invoked by troops on the ground, as opposed to “official” caveats declared by troop-contributing countries to the Secretariat.

The Accountability Process

As explained by one MONUSCO official, a joint evidence-gathering team was deployed within a week, and there were investigations and inquiries “for weeks and months afterwards.”⁸ The UN Refugee Agency (UNHCR) also called for an investigation into the incident.⁹ In a briefing to the UN Security Council on October 11, 2017, the head of MONUSCO said that the mission “conducted an investigation into the response of the peacekeepers during this event.”¹⁰ The secretary-general’s October 2017 report on the DRC, released one month after the Kamanyola incident, included a dedicated section on “the assessment of performance of the Mission’s uniformed personnel in protecting civilians.” The report mentions that “MONUSCO is also conducting an inquiry into the response of its peacekeepers, and the Security Council will be informed of its outcome.”¹¹

In addition, on January 16, 2018, the under-secretary-general for peacekeeping operations appointed Lieutenant-General Chikadibia Isaac Obiakor to lead a special investigation into the incident. Investigators were tasked with looking into the challenges facing MONUSCO in discharging its mandate to protect civilians and providing recommendations on improving the performance of its troops.¹² According to an NGO official familiar with the findings, the special investigation incriminated the Pakistani battalion for its failure to protect civilians and its attempts to cover up this failure, including by allegedly changing logbooks and breaking cellphones.¹³ In March 2018, the

⁶ Ibid.

⁷ Ibid.

⁸ Phone interview with UN senior official, February 18, 2020.

⁹ UNHCR, “UNHCR Shocked over Burundians Deaths in DRC, Calls for Investigation,” September 16, 2017. Right after the killings, the military prosecutor arrested and filed charges against five military personnel, including the colonel in command of the Congolese armed forces in Kamanyola. On June 28, 2019, the trial of six Congolese security force personnel for the killings of the thirty-six Burundians started. MONUSCO has supported Congolese authorities in ensuring the safety of victims and witnesses who decided to testify. MONUSCO also provided technical, logistical, and financial support to the judicial investigation and preparations for the trial.

¹⁰ UN Doc. S/2017/824. See also: MONUSCO, “Briefing by SRSG Maman Sidikou to the UN Security Council—Open Session,” October 11, 2017.

¹¹ UN Doc. S/2017/824.

¹² UN Secretary-General, “Note to Correspondents—Special Investigation Following Kamanyola Incident,” January 16, 2018.

¹³ Interview with NGO representative, New York, February 6, 2020.

secretary-general's report made note of the special investigation, as well as another special investigation into incidents that occurred in Semuliki, saying that they had "identified a number of systemic performance issues to be addressed by the Secretariat, MONUSCO and troop-contributing countries."¹⁴

Despite the activation of these accountability mechanisms, which all had overlapping mandates, the case of Kamanyola reveals the lack of robust accountability for blatant failures to protect civilians. The special investigation, which inherently had higher visibility, signaled the UN's intent to hold the mission accountable, but its findings and recommendations were not publicly released.¹⁵ There was a strong sense that no action was taken, despite an awareness of under-performance.

MONUSCO informed Human Rights Watch that it was unable to comment on whether disciplinary action was taken against any of the UN peacekeepers involved.¹⁶ The under-secretary-general for peacekeeping operations reportedly visited Pakistan to discuss the performance of the Pakistani battalion, but there is little evidence of concrete outcomes.¹⁷ A senior MONUSCO official explained that the "Pakistanis were never sanctioned. There was a rotation."¹⁸ An NGO expert based in DRC indicated that no one was repatriated and that troops who were being investigated were instead kept longer to allow the investigation to be conducted, pointing to the counter-productive effects of drawn-out investigations.¹⁹

One UN official highlighted the politicization of the issue and the tense dynamics between the Secretariat and the mission. Headquarters officials sought to water down any mention of the failure to protect civilians in the secretary-general's report. The fact that the report only mentioned "a number of systemic performance issues" identified by the special investigations into the Kamanyola and Semuliki incidents and a review of the preparedness of troops in company operating bases speaks to the UN's reluctance to call out POC failures.²⁰

Nonetheless, UN headquarters put in place a number of systemic corrective measures to increase the accountability of T/PCCs following the incident of Kamanyola, building on the recommendations of the Cammaert and Santos Cruz reports.²¹ UN headquarters put in place a platform to measure performance across different missions and engaged in

¹⁴ UN Security Council, *Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo*, UN Doc. S/2018/174, March 1, 2018.

¹⁵ When previous high-profile special investigations and boards of inquiry were publicly announced, a press release was circulated and posted. In this case, information about whether the investigation had been completed was not publicly released. The only indication that it had been completed came from the secretary-general's report.

¹⁶ Human Rights Watch, "DR Congo: Massacre Trial Puts Focus on Justice."

¹⁷ Interview with NGO representative, February 2020.

¹⁸ Interview with senior UN official, February 2020.

¹⁹ Interview with NGO representative, February 2020.

²⁰ Interview with senior UN official, February 2020; UN Doc. S/2018/174.

²¹ UN Security Council, *Independent Special Investigation into the Violence in Juba in 2016 and the Response by the United Nations Mission in South Sudan*, UN Doc. S/2016/924, November 2016; *Improving Security of United Nations Peacekeepers: We Need to Change the Way We Are Doing Business*, December 2017.

more robust exchanges with TCCs to address potential shortcomings. At the field level, the mission sought to encourage a more proactive posture and mindset across its military component, including through the establishment of rapidly deployable battalions.



Beni, North Kivu, November 2019

The Incident

The Congolese armed forces began a military offensive against the Allied Democratic Forces (ADF), a rebel group active in North Kivu province, on October 30, 2019. MONUSCO was not initially invited to take part in the offensive but started to conduct joint operations with Congolese forces on November 13th.²² The mission had developed contingency plans to minimize the risk of attacks on civilians: "In line with its protection mandate, the Mission [had] increased the number of day and night patrols dispatched to areas vulnerable to ADF attacks, [and provided] logistical and medical support to [the Congolese armed forces] to help in sustaining the latest operations against ADF and weaken the capacity of ADF to inflict harm on civilians."²³

Despite the mission's efforts, the ADF increased their raids in Beni territory and targeted civilians in retaliation against the offensive. Thousands of civilians fled Beni, and a UN investigation found that 260 civilians were allegedly killed by the ADF between October 30th and December 31st.²⁴

For months, local communities had expressed deep frustration with MONUSCO's inability to protect them, as highlighted by the 2019 strategic review of MONUSCO.²⁵ Their anger manifested itself in a series of protests in Beni, starting on November 24th.²⁶ While the protests reflected popular discontent with the mission's performance, protesters also appear to have been manipulated by various spoilers and political parties seeking to influence the mission's mandate renewal. Protestors stormed MONUSCO's facility in Beni, and UN offices were set on fire and looted, with some residents demanding the withdrawal of MONUSCO due to the inaction of UN forces.²⁷ Despite the material

²² "Are UN Troops Failing the Congolese?" *Al Jazeera*, November 26, 2019; MONUSCO, "FARDC and MONUSCO Launch Joint Operations against ADF," November 16, 2018.

²³ UN Security Council, *Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo*, UN Doc. S/2019/905, November 26, 2019.

²⁴ "Crowd in DRC Lynches 2 'Suspected Rebels' as UN Envoy Visits," *Al Jazeera*, December 1, 2019.

²⁵ "In Beni, civil society representatives voiced their frustration and discontent about the passivity of MONUSCO while villages were systematically being attacked by ADF. Much criticism was expressed about MONUSCO projects, such as the building of schools that were useless in situations where children were being massacred. As one community member pointed out, the United Nations seems to 'care more about trees and animals [in Virunga National Park] than about Congolese being slaughtered every day.' Civil society representatives stressed that if MONUSCO was not there for the protection of civilians, they wanted it to leave." UN Security Council, *Transitioning from Stabilization to Peace: An Independent Strategic Review of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo*, UN Doc. S/2019/842, October 25, 2019.

²⁶ "Protests Spread in East DRC as Fury against UN Peacekeepers Rises," *Al Jazeera*, November 27, 2019.

²⁷ Fiston Mahamba, "Two Killed in Congo after Protesters Torch U.N. Buildings over Massacre," *Reuters*, November 25, 2019.

damage to UN premises and property, the mission's restraint in its response to the protesters helped limit civilian casualties.

The Accountability Process

The case of Beni does not relate to a single incident of underperformance or passivity in the face of attacks on civilians. What was at stake was accountability for the failure to protect civilians in the medium to long run and local civilians' perceptions that the mission was not doing enough. Protests against MONUSCO were triggered by longstanding frustrations with the mission's inability to protect civilians from repeated attacks by the ADF and instrumentalized by political parties and spoilers seeking to influence MONUSCO's posture and future mandate.

Beni is also a case of local populations questioning the mission's performance and holding peacekeepers accountable through protests and social unrest. As found by an independent assessment led by General Dos Santos Cruz in December 2019 and early January 2020, the high number of civilian casualties was one of the main triggers of the demonstrations against MONUSCO in North Kivu.²⁸ The Beni protests also illustrated the confusion between real and perceived performance, as communities are not always well informed about what the mission is doing to protect them and can be manipulated by spoilers seeking to mobilize them against UN peacekeepers.

Several mechanisms were activated following the protests in Beni. The mission dispatched a joint evidence-gathering team, conducted an after-action review, and set up a board of inquiry. The results of these inquiries were not published, however. On December 9, 2019, the under-secretary-general for peace operations asked Lieutenant-General Carlos Alberto Dos Santos Cruz to lead an "independent assessment" of MONUSCO's response to the ADFs' alleged attacks on civilians in Beni. The assessment also looked into attacks targeting the Ebola response in Mambasa territory in Ituri province. Key findings were released on January 22, 2020, a press release was circulated, and the Security Council was briefed on the findings.²⁹ The inquiry was not called an "independent investigation" but an "independent assessment," signaling a lesser degree of formality.

The assessment focused on systematic issues and technical fixes, and its recommendations echoed many of those usually made after a POC incident: a comprehensive response involving all components of the mission, the UN country team, and external partners; better coordination within the mission and between the mission and Congolese security forces; improved mindset, capabilities, and mobility of the Force Intervention Brigade; and the development of a political strategy to address insecurity.³⁰

²⁸ MONUSCO, "Independent Assessment of MONUSCO's Response to Recent Attacks against Civilians in Béni Area, DRC," January 22, 2020.

²⁹ The scope of the assessment was limited to events that occurred between October 30 and 31, 2019. "The independent assessment team, which included political, military and logistics specialists, aimed to establish the circumstances leading to the attacks, evaluate the ability of the MONUSCO Force to effectively deliver on the Mission's mandate to ensure the protection of civilians under threat of physical violence and neutralize armed groups in the Beni area, as well as provide a secure environment for the Ebola response, and make practical recommendations on how to enhance the Force's performance." MONUSCO, "Independent Assessment of MONUSCO's Response to Recent Attacks against Civilians in Béni Area, DRC."

³⁰ Ibid; Interview with MONUSCO official and with NGO representative, February 2020.

The UN Department of Peace Operations (DPO) and the mission developed an action plan to implement key recommendations from the report. Troop-contributing countries also conducted their own evaluations, according to one MONUSCO official. While the assessment demonstrated the need to discuss the performance of the Force Intervention Brigade, which the strategic review of MONUSCO had also raised just a few months earlier, many meetings reportedly took place behind closed doors due to the reluctance of some member states to consider enlarging the pool of countries contributing to the brigade.