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Protection of civilians in disarmament initiative within the context of the African Standby force (ASF)

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Abstract

Disarmament, Demobilization and Reintegration (DDR), usually undertaken to immediately reduce violence and stabilize post-conflict situations, is among the first interventions in a larger assemblage of activities within a framework under which the concept of the Protection of Civilians (PoC) is realized. For various reasons, not least, diverse contexts, threats to civilian safety and security and differences among practitioners involved in post conflict situations, have rendered traditional approaches to DDR largely ineffective. Fortunately, different practitioners are increasingly embracing Practical Disarmament (PD). As opposed to traditional DDR, PD is a more comprehensive approach. This paper looks at various approaches used in PD and in what circumstances they are best applied to facilitate and enhance the PoC.

Introduction and background

'...between 20 and 30 November 2012. At least 97 women and 33 girls (aged between 6 and 17) were raped and a further five women were victims of attempted rape in and around Minova, Kalehe territory, South Kivu province... [perpetrators] entered houses, usually in groups of three to six, and, after threatening the inhabitants, looted whatever they could find... [they] would leave with the looted

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goods and at least one would stand guard as the remaining [perpetrators] raped women and girls in the house. Victims were threatened with death if they shouted; some were raped at gunpoint.

The enormity of this incident, among others, is by any measure, profound. While the violent conflict in Eastern Democratic Republic of Congo can be categorized as one of the catastrophes of the present times, it is not lost that at the time these incidences took place, the international community, through the United Nations, had a large peacekeeping operation on the ground. The same scenario, albeit in different forms and intensity, is repeated in nearly all the on-going violent conflicts in the African continent, be it in Mali, Central African Republic, Sudan and South Sudan or Somalia.

This phenomenon of conflict largely speaks to the question of safety and security of people caught in violent conflicts. Briefly, ‘safety and security of communities means the protection and securing of residents and their property, and prevention of anything that may threaten them...’ The threat to safety and security is prevalent in many post-conflict situations, where ‘humanitarian problems, issues of DDR, small arms and light weapons collection and management, security sector reform/governance (SSR/G), the rule of law, transitional justice, reconstruction and socio-economic issues...’ present critical challenges to stabilization efforts and the realization of sustainable peace.

To ensure and guarantee sustainable peace, in conflict and non-conflict situations, different approaches are adopted. These approaches entail a variety of activities with an aggregate and overarching goal to contribute and attain, what is popularly referred to as, human security. As a concept, the Commission for Human Security in 2003, postulated that “human security means protecting vital freedoms....protecting people from critical and pervasive threats and situations, [and] building on their strengths and aspirations....human security connects different types of freedoms – freedom from want, freedom from fear and freedom to take action on one’s own behalf”.

This definition of human security is different from the traditional definition of security that focused on the state that is, securing sovereignty. The same concept of human security is owned by the African Union whose predecessor, the Organization of African unity (OAU) averred, in a 1991 document – Towards a Conference on Security, Stability Development and Cooperation in Africa that: “security embraces all aspects of the society including economic, political and social dimensions of individual, family, community, local and national life’.

The report went further to suggest that ‘the security of a nation must be constructed in terms of the security of the individual citizen to live in peace with access to basic necessities of life while fully participating in the affairs of his/her society in freedom and enjoying all fundamental human rights’.

The problem of the presence and proliferation of Small Arms and Light Weapons (SALW) is captured in details in the June 2013 AU draft Aide-Mémoire for the Consideration of Issues Pertaining to the Protection of Civilians in Africa. The Aide-Mémoire highlights the detrimental impact of Small Arms and Light Weapons, Mines and Explosive Remnants of War and more particularly small arms on the civilian population and their contribution in fuelling armed conflict. As a result, the Aide-Mémoire notes the importance of ensuring that Peace Support Operations (PSOs) have in their mandates practical measures aimed at monitoring and preventing the proliferation and secure collection and disposal of illicit SALW among other measures.

In all present day AU PSOs, the PoC is a core element of the mandates. Indeed, PoC is increasingly being perceived as the basic measure of the success of PSOs. The urgency and centrality of civilian protection especially at the end of armed conflict is a key determinant of the extent to which all the stakeholders see the PSO as a useful tool in post-conflict situations. In other words, the stakeholders, especially the local civilian population, apportion legitimacy and credibility of the PSOs on their ability to protect civilians.

This paper aims to explore how activities carried out under PSO mandates in African Peacekeeping missions can be enhanced to contribute better to the realization of the concept of Protection of Civilians (PoC). Specifically, the paper focuses on the role of Disarmament, Demobilization and Reintegration (DDR) as one of the long-term consolidation activities in post-conflict situations.

Statement of the problem

One of the problems with the realization of PoC in PSOs is the fact that to date, there is no clear standard agreed definition of the concept of PoC. The lack of clarity effectively means that stakeholders working within peacekeeping missions, humanitarian and peacekeeping communities have their own interpretation of the civilian protection mandate. This disparity cascades down to the specific activities implemented by the stakeholders. This gets complicated when the activities in question, for example, entails diverse components. The emphasis placed on the individual components, if not properly balanced, can result in disparities in the

benefits accrued from the interventions. In the worst-case scenario these disparities can be a source of conflict that result in the outbreak or resurgence of violent confrontations and ultimately insecurity.

Purpose and Objectives

The purpose of this study is to first understand the interface between PSOs and the concept of PoC especially in the Tier Frameworks of the UN and AU. Second, is to understand which activities are conceived under the different Tiers. Specifically, is to anchor disarmament to the concepts of PSO and PoC. Once anchored, the study explores the best approaches for realizing PoC in disarmament interventions.

In sum, the objectives of the study are:

1. To explore the aspect of PoC in Peace Support Operations
2. To establish the nexus between disarmament and PoC
3. To interrogate how PoC can be realized in disarmament interventions
4. To identify salient PoC elements and challenges in disarmament interventions

Significance, Methodology, scope, delimitations and limitations

It is important to concretely understand how different elements in any given concepts reinforce and/or contradict each other. This is especially important where the different concepts aim to contribute to the same end goal, for example, PoC. Equally significant, is the need to identify the best approaches for realizing the successful implementation of specific interventions like DDR and, as well, understand how each approach affects the successful realization of other complementing activities.

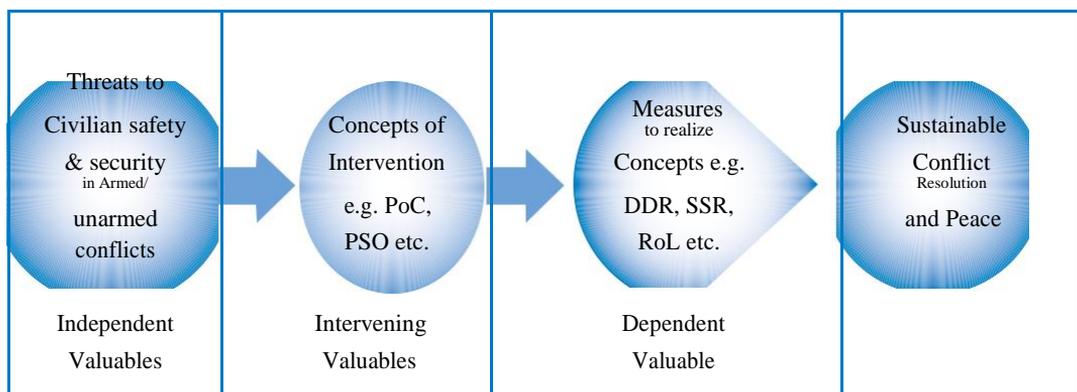
The study adopts a purely desk study approach. The focus of the study is mainly African Union Peace Support Operations but will also draw from experiences of UN peacekeeping operations especially because that is where AU approaches are benchmarked. The study is purposely delimited to disarmament initiatives even though there exists critical complementary initiatives like Security Sector Reforms (SSR), Rule of Law (RoL) among others that, together, contribute towards the realization of sustainable conflict resolution and peace especially in post-conflict situations. The value of interactions with practitioners with first-hand experience is immense; however, in this study there were no opportunities to undertake any field study.

Theoretical Framework/Conceptual Framework

In both armed, and unarmed conflicts, civilians face a diverse array of threats including violence (killings, torture, sexual violence), coercion (arbitrary displacement, forced recruitment, abduction), deprivation (denial of access to humanitarian assistance, discrimination in the provision of basic services) and, as has been witnessed in the DRC, the peacekeepers can also be a threat. The civilian population experiences these varied threats in different contexts and intensities. The more divergent the threats, different context and intensities, the more varied are the interventions and stakeholders. The succeeding sections one and two of this report endeavour to interrogate the intricacies intertwining the concepts of PSOs, PoC and their nexus with disarmament.

The conceptual framework is based on the contention that it is important within a given conflict or post-conflict context to follow a logical process that starts with (i) exploring and understanding all the factors that threaten the safety and security of the civilian populations, (ii) framing these in any of the given operational concepts (PSO or PoC), (iii) identifying the various measures necessary to operationalize the concepts (DDR, RoL, SSR) and exploring the best strategies to implement them for purposes of (iv) realizing the desired sustainable conflict resolution and peace. In this logical diagram, items (i) constitute the independent variable; item (iii) the intervening variable; and, (iv) the dependent variable. This paper focuses on the intervening variables (item (iii)) alone.

Conceptual Framework of the Study



Context of the Conflict/Post-conflict situation

Definition of Concepts

The detailed description of the key concepts and terminologies used in the paper is given in the endnotes but briefly include:

The AU Draft Guidelines on the Protection of Civilians in African Union Peace Support Operations defines the Protection of Civilians as activities undertaken to improve the security of the population and people at risk, and to ensure the full respect for the rights of groups and the individual recognised under various regional instruments.

The Concept of R2P emerged in 2005 from recommendations by the UN International Commission on Intervention and State Sovereignty (ICISS) in view of the setbacks with the full realization of the PoC concept in violent conflicts experienced in the 1990s e.g. in Liberia, Somalia, Rwanda, Sierra Leone, Burundi, the DRC, Sudan among others. The R2P Concept applies in situations where atrocious crimes e.g. genocide, crimes against humanity, war crimes, ethnic cleansing are systematic and planned as part of the war strategy.

Traditional peacekeeping operations involved authorized military operations undertaken with the consent of the major parties to a dispute that were designed to monitor and facilitate implementation of peace agreements e.g. a ceasefire, truce etc. Peacekeeping was also aimed at supporting diplomatic efforts to reach long-term political settlements. Second generation peacekeeping operations (often referred to as Peace Support Operations (PSOs)) are more complex and multidimensional where in addition to traditional military functions, police and civilian components are an integral part of the operation. Broadly defined, Small Arms are those weapons designed for personal use while light weapons are those designed for use by several persons serving as a crew.

The concept of Practical Disarmament can be traced to as far back as 1995, through the UN's "Supplement to an Agenda for Peace" that, for the first time, recognized and acknowledged the phenomenon of armed non-state actors; and, called for practical disarmament measures, different from the regulations and sanctions applicable to nation-states.

Broadly, combatants are persons who are members of a national army or an irregular military organization/structure and who are actively participating in military activities and hostilities. Ex-combatants are defined as persons who have laid down or surrendered their arms with a view to entering a DDR process.

Rule of Law (RoL) refer to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.

Security Sector Reform (SSR) refers to a dynamic concept involving the design and implementation of a strategy for the management of security functions in a democratically accountable, efficient and effective manner to initiate and support reform of the national security infra-structure.

Peacebuilding involves a range of measures targeted to reduce the risk of lapsing or relapsing into conflict by strengthening national capacities at all levels for conflict management, and to lay the foundations for sustainable peace and development.

Theoretical Frameworks: Situating PoC

Protection of civilians in Conflict Situations

Parts of the African continent continue to experience and grapple with situations of violent conflicts. These conflicts arise out of a range of factors including skewed governance; rampant quest for political power; inequitable distribution, use and ownership of national resources; negative ethnicity; and religious clefs among others. The conflicts are largely intra-state in nature and increasingly involve non-state actors that employ asymmetric tactics of execution including use of improvised explosive devices, grenades and other explosive ordinances. In these types of violent conflicts, it is increasingly difficult to distinguish the real combatants or what exactly is the root causes of the violence.

In any violent conflict situation, some sections of the civilian population might also be combatants but what is clear is that the majority of the victims are civilians who include vulnerable sections of the community including the elderly, women and children. Depending on the conflict and if not accidentally caught between fighters, the combatants can directly target these vulnerable groups, use them as shields, recruit them into fighting and subject them to other forms of violence not least, sexual violence and general human rights abuse. Indeed, in protracted violent conflicts, the civilian population experience serious threats such as genocide, war crimes, crimes against humanity and ethnic cleansing.

Peace Support Operations (PSO) are a tool used by the UN and the AU to assist countries in or emerging from violent conflict to end the conflict, restore peace and facilitate peacebuilding interventions that ensure that the affected countries do not

relapse into conflict. As a result of the hostilities and the diverse number and interests of parties involved in conflict, PSOs are considered to be an important intervention in ending conflict and restoring peace as it is considered or expected to be an impartial tool. The civilians who are usually most affected by the conflict place high hopes on the PSOs to not only protect them but also to help them get justice and facilitate a return to normalcy.

Protection of civilian mandates are anchored on the principles of peacekeeping¹² – consent of the host government and main parties to the conflict, impartiality, non-use of force except in self defense or defense of the mandate, legitimacy and credibility among the relevant stakeholders. Equally important is the recognition that even though the primary responsibility for PoC lies with the host governments there are also many other different actors with distinct roles and responsibilities.

The extent to which the PSOs are able to protect and assist the civilian population return to normal life determines the perception and acceptance of the intervention; that is, the legitimacy and credibility of the PSO. If the civilian population does not experience any levels of security or have their rights protected, they will withdraw their support to the PSO. The PSOs can then not be effective in building and sustaining the necessary political goodwill towards the peace process. Thus, a key primary responsibility of any PSO is to protect the civilian population.

The UN and AU engagement in PoC

Consideration of aspects of PoC in UN peacekeeping activities can be traced as far back as the Operational Directive No. 8 of the 1960 UN Operation in the Congo (ONUC). In 1992 the UN Protection Force deployed to the former Yugoslavia (UNPROFOR) was the next attempt by the UN to embrace elements of PoC but the mission was neither mandated nor resourced to provide direct physical protection to civilians.¹³ Drawing from lessons learned, the UN in 1999 took the first bold step to specifically incorporate aspects of PoC in a peacekeeping mission by mandating the UN Mission in Sierra Leone (UNAMSIL) to ‘take the necessary action... within its capabilities and areas of deployment, to accord protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone and the ECOMOG’.¹⁴ Since then, and given the many conflicts on the continent, especially intra-state ones, that are exceedingly violent and have devastating negative impacts on civilian populations, the UN has endeavoured to mainstream PoC in its peacekeeping missions’ mandates as reflected in different Security Council Resolutions (SCR) including SCR 1265 (1999), 1674 (2006), 1894 (2009) among others.¹⁵ The UN has further considered protection against specific threats in particular sexual and

gender-based violence that usually targets women and children.¹⁶ Indeed, the present-day UN peacekeeping mandates have explicit authority ‘to use all necessary means to protect civilians under imminent threat of physical violence, without prejudice to the responsibility of the host Government, within the limits of its capacity and areas of deployment’.¹⁷

Pursuant to its mandate, the African Union Peace and Security Council (AUPSC) respond to conflicts on the continent through various mechanisms delineated within the African Peace and Security Architecture (APSA). The mandate of the AU to intervene in conflict situations is legally founded in its Constitutive Act where, Article 4(h) legitimizes ‘the right of the Union to intervene in a member state pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity’.¹⁸ In addition, the AU embraces the principle of non-indifference and endeavors to offer ‘African solutions to African problems’.¹⁹ Indeed, its harmonized doctrine for PSOs clearly states that ‘the protection of a non-combatant’s basic right to life and dignity is a fundamental element of all peace support operations’.²⁰ The AU further embraces the doctrine of Responsibility-to-Protect (R2P)²¹ and will intervene in conflict situations where the host government is unable or unwilling to protect its citizens in times of violent conflict. Thus, working with the national government and other relevant stakeholders, a key intervention by the AU ensures that the civilian populations are adequately protected in situations of violent conflicts.

The continental engagement in PoC is informed by the changes in operational environment of PSOs especially after the setbacks experienced with the protection of civilians e.g. in Rwanda in the 1990s.²² Present-day PSOs are increasingly integrated, multidisciplinary and multidimensional²³ as noted by the AU 2010 *Draft Guidelines on the Protection of Civilians in African Union Peace Support Operations*’ that states: ‘protection of civilians in a peace support mission requires a multidimensional and coordinated approach with clear and differentiated responsibilities for military, police and civilian components [...]’²⁴ The AU defines the Protection of Civilians as:

‘Activities undertaken to improve the security of the population and people at risk, and to ensure the full respect for the rights of groups and the individual recognised under regional instruments, including the African Charter of Human and Peoples’ Rights, the African Union Convention for the Protection and Assistance of Internally Displaced Persons, and the Convention Governing the Specific Aspects of Refugee

The AU has over time developed several instruments that address the protection of civilians. These include, among others, the AU Constitutive Act (2000), the African Charter on Human and People's Rights (1986), the African Charter on the Rights and Welfare of the Child (1999), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003), the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (2002) and the AU Convention for the Protection and Assistance to Internally Displaced Persons (2009).²⁶

Realizing PoC in PSOs

The UN and the AU have adopted a basic three (UN) and four-tiered (AU) framework used in its PSOs to realize the concept of PoC:²⁷

1. Protection as part of the political process: that aims to ensure that a State emerging from conflict establishes sustainable peace by making sure that situations that give rise to armed violence are eliminated and that issues of justice and accountability are adequately addressed;
2. ~~Disarmament, demobilization and reintegration of combatants and other persons directly affected by armed violence and initiatives to~~
3. Establishment of a protective environment: that includes the peace building initiatives to mitigate against potential relapse into violent conflicts; and,
4. Rights-based protection: applicable to both individuals and groups and that may include, for example, the monitoring and reporting of human rights violations and the promotion and protection of human rights.

The mutually reinforcing tiered approach and the diverse activities it encompasses stems from the acknowledgement that protection should be a far more reaching intervention that goes beyond the immediate protection from imminent physical threat. Rather, protection is a shared responsibility between host governments, local and external stakeholders and the communities involved.

Full realization of the concept of PoC is closely tied to the successful implementation of the many different tasks undertaken under PSOs.²⁸ These include:

- Support to the political processes: lasting peace requires a sound political foundation that ensures that post-conflict countries do not relapse into violent conflict and that there is justice and accountability which are key factors of protection.

- Conflict management and support to reconciliation: capacity building of local conflict resolution and reconciliation processes is a critical element that contributes towards stability and lasting peace.
- Protection from physical violence: civilians must be protected from the effects of physical violence or the imminent threat to violence.
- Creating conditions conducive to the delivery of humanitarian assistance: humanitarian assistance to civilians must be guaranteed and necessary actions must be taken to ensure that such provision is not threatened.
- Promotion of the Protection of Human Rights: it is important to facilitate the necessary infrastructures and capacities that ensure that human rights violations are investigated, monitored and reported in order to assist in ending the culture of impunity.
- Mitigating involuntary displacements: forceful displacement of populations is a violation of human rights and where it has occurred, the refugees and the Internally Displaced Persons (IDPs) require to be facilitated to voluntarily return home and live in dignity.
- Rule of Law, Security Sector Reform and DDR: to ensure lasting peace, illicit armaments should be removed from unauthorised hands. The capacities of the military and police institutions require support and re-orientation if the rule of law is to be observed and that all are accountable to laws that are publicly promulgated, equally enforced, independently enforced and that are consistent with international norms and standards.

Theoretical Framework: Nexus between Disarmament and PoC

SALW in Conflict Situations

A key aspect of the many of the protracted intra-state conflicts witnessed since the early 1990s, is the diversity of the perpetrators especially non-state actors that include warlords, private militias, armed civilians and other criminal elements. Another phenomenon is the increased level of indiscriminate violence in the conflicts and their ability to spill over across national and international borders. It has been suggested that the growing use of information communication technologies and the ease in national and international travel are some of the factors contributing to the fluid transformation of conflict. However, it is the availability and (mis-)use of sophisticated Small Arms and Light Weapons (SALW)²⁹ that is attributed with the exacerbation of violence in the conflicts.

The proliferation and application of illicit SALW is prevalent in both non-violent and violent conflict situations. In both situations, there are diverse socio-political,

economic and cultural factors that drive the proliferation of SALW not least including: absent/inept/ discriminatory governance structures and political authority; porous international borders; in-equitable distribution of natural resources and government services; and, retrogressive cultural practices e.g. cattle rustling among pastoralist communities; among others.³⁰ In post conflict situations, proliferation can be fuelled by such factors as: the breakdown of the rule of law, collapsed administrative and physical infrastructure, lack of productive economic opportunities especially for the youth, presence of remnant SALWs, threat from internal and external insurgency groups; among others.

SALW sustains and exacerbates violent conflicts, threatens the functions of legitimate governments, threatens the application and observance of international human rights and humanitarian laws, endangers humanitarian relief and general development and can entrench a culture of violence and impunity.³¹ In sum, illicit SALWs are a threat to peace, security and economic development to any country but are especially worse for countries emerging from conflict.³² The AU has posited that the availability and use of illicit SALW give rise to social violence, corruption and other criminal enterprises that can also be attributed to terrorism, mercenary activities and trans-national organized crime like drug and human trafficking. In addition, in post-conflict situations, the use of illicit SALW complicates reconstruction and peacebuilding initiatives; indeed, illicit SALW constitute part of the factors that threaten continental peace, development and stability.³³ For this reason, the Constitutive Act of the AU and the Protocol establishing the Peace and Security Council, that have very clear principles regarding peace and security on the continent, have detailed principles on the management of the challenge of SALW in the continent. ³⁴

Disarmament and PoC

Countries emerging from violent conflicts are characterised by instability and a general threat to security. In these countries, it is imperative that immediate interventions to stabilize and mitigate against insecurity are undertaken. This is critical in order to facilitate the implementation of needed activities such as relief and humanitarian activities, reconciliation, peacebuilding and the start of general reconstruction. At the end of hostilities the first-line of intervention is usually the Disarmament, Demobilization and Reintegration (DDR) of former combatants. However, as a result of the urgency to end insecurity, the initial DDR initiatives focused on the immediate need to stabilize the situations as opposed to comprehensively addressing the pertinent underlying issues contributing to insecurity and instability.³⁵ Fortunately, this has changed and the present-day DDR initiatives are more comprehensive.

DDR initiatives are undertaken within the larger context of wide-ranging activities outlined in AUPSO mandates. The aggregate outcome of the successful implementation of these activities ensures that communities affected by violent conflicts can revert to situations of normalcy where their human security is facilitated and guaranteed. It has been pointed out that in an effort to realize PoC objectives, the AU adopts a Four-Tier approach in its PSO missions. Briefly these include: Protection as part of the political process; Protection from physical violence; Establishment of a protective environment; and, Rights-based protection. While the successful implementation of a comprehensive DDR initiative contributes to the overall realization of PoC, it is the activities under Tier Two that benefit most.

The removal of illicit SALW can minimize the risk of a potential escalation of violence (prevention) especially given the fact that combatants no longer have weapons in their possession (pre-emption). However, should violence break out, it is easier to contain it (response) and to continue implementing reconstruction and peace-building activities (consolidation). The DDR initiatives are complemented by other closely related activities including Rule of Law and Security Sector Reforms that aim to capacitate law enforcement institutions to adopt and embrace approaches that are accountable and consistent with acceptable international norms and standards, in their work. These initiatives, proposed under Tier Two, demonstrate the clear link between disarmament and PoC.

Anchoring Disarmament in PSO mandates and PoC concept

To address the illicit proliferation and application of SALW, the AU approaches are founded on two principal documents. The first document is the African Common Position on the Illicit Proliferation, Circulation and Trafficking of SALW (Bamako Declaration) that was adopted by the Council of Ministers of the OAU in December 2000.³⁶ The Declaration provides for the identification, seizure and destruction of illicit arms and the establishment of measures to control the circulation, transfer and use of SALW. The second document is the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, adopted in New York in July 2001.³⁷ In addition to these two documents, the AU subscribes to other protocols and conventions.³⁸

Substantively, DDR activities within the AU can be traced to the Solemn Declaration on a Common African Defence and Security Policy (CADSP) that was adopted in February 2004.³⁹ The AU Peace and Security Council (PSC) is charged with the responsibility of realizing the objectives of the Declaration and has since,

2006, under the Policy Framework on Post Conflict Reconstruction and Development Policy (PCRD)⁴⁰ engaged in strengthening its own capacity and that of the member states on DDR. The AU advocates for the integration of and engagement in DDR throughout the entire spectrum of peace processes - peace negotiations, peacekeeping and peace building initiatives. This is reflected in various AU African Peace and Security Architecture (AU APSA) Roadmaps; for example, APSA Road Map (2011-2013) states that DDR must

'be integrated into the entire peace processes, from the initial peace negotiations through peacekeeping and follow-on peace building activities [and] ... calls for collaboration with relevant Units within the Peace and Security Department, and also with other relevant Departments'.⁴¹

A key activity by the AU towards the un-packing of the APSA Roadmaps, is a response to a decision by the Assembly (Decision of the Assembly/AU/Dec.369 (XVII)). In its response, the AU developed a draft 'AU Strategy on the Control of Illicit Proliferation, Circulation and Trafficking of SALW'. This draft, considered and adopted at a meeting from 26-29 September 2011 in Lome, Togo⁴², has the overall objective of preventing, combating and eradicating the illicit proliferation, circulation and trafficking of SALW in an integrated and holistic manner. The AU further elaborated a comprehensive Action Plan to facilitate the implementation and realization of the strategy.⁴³

The availability and application of illicit SALW are a threat to general peace and security because, besides exacerbating conflict, threatening peaceful reconciliation and long-term peacebuilding, they also cement cultures of violence and impunity. In such circumstances, human security cannot be realized or guaranteed whether in peace, conflict or post-conflict situations.

In post conflict-situations in particular, the primary mandate of POC initiatives is to safeguard and mitigate against threats to human security through the implementation of '...activities aimed at obtaining full respect for the rights of the individual in accordance with international humanitarian, human rights and refugee law'.⁴⁴ The removal of SALW from unauthorized hands, mitigates fear and insecurity of armed violence in a society and is thus one of the activities that contributes towards the realization of the rights of individuals.

Tier two, Protection from Physical Violence, of the UN and AU Framework for operationalizing the concept of PoC, points out that DDR is one of the key activities

that contribute significantly to the realization of peace in post-conflict situations (consolidation).

Several UN resolutions are explicit on the need to address the question of SALW in integrated approaches aimed at the realization of sustainable peace. For example, in its focus on the ‘root causes of armed conflict and threats to the security of women and girls’, the UNSCR 2122 (2013), ‘...links disarmament and gender equality and addresses the Arms Trade Treaty (ATT); acknowledging its adoption and looking forward to its contribution to reducing violence... builds on ...UNSCR 2117 in urging member states to ensure women’s full and meaningful participation in combating illicit Small Arms and Light Weapons transfer and misuse’.

Important UN and AU documents on conflict resolution and peacebuilding have underscored the primacy of removing SALW from (Ex-) combatants and have ensured that the necessary activities are an integral part of their PSO mandates. One of these is the African Union/UN hybrid operation/mission in Darfur (UNAMID) whose mandate, among others include: ‘Protection of civilians’ and ‘Contributing to the promotion of human rights and the rule of law’. Towards this, UNAMID undertakes a comprehensive DDR programme within the provisions of Article 29 of the May 2006 Darfur Peace Agreement – Final Security Arrangements that ‘...provides for integration, disarmament, demobilization and social and economic reintegration and the reform of selected national security institutions’⁴⁵; and the July 2011 Doha Document for Peace in Darfur peace Agreement (DDPD) that extensively outlines the necessary activities to be considered in DDR.⁴⁶

From the foregoing, it is clear that DDR activities are firmly anchored in PSO mandates and PoC concepts.

Realizing PoC in Disarmament Operations

In many conflict situations, there are different actors (aggrieved and spoilers) behind each of the factors that drive the proliferation and use of illicit SALW. These actors may include: ordinary civilians who feel insecure/threatened (politically, economically or culturally), armed ex-combatants (state and non-state), war lords, individual criminals (singularly or as an organized group), terrorists, gun merchants/ profiteers and criminal cartels (smugglers, human/drug traffickers), amongst others. Undoubtedly, the motives, organization and resources of these groups are different.

The nature of many post -conflict situations is such that many of these armed/profitteering groups are present and all have significant contributions to the general instability and insecurity. This is the scenario that faces PSO missions with

mandates for DDR. Indeed, PSO DDR initiatives can be complicated given the need to develop specific and targeted approaches for each different armed group.

It has been pointed out that traditional DDR activities were more concerned with the immediate reduction of violence and the need to stabilize the conflict situations. Increasingly, DDR activities have embraced additional elements aimed at enhancing their contribution towards reconstruction and peacebuilding initiatives. The more comprehensive DDR approach is usually referred to as Practical Disarmament (PD).⁴⁷ In brief, PD is an approach that goes beyond the hitherto technical interventions of arms collection. PD is more comprehensive and endeavours to take into consideration demand factors (why people are armed), accountability (of processes and end results) and the reform of state security frameworks/ institutions (rule of law, human rights etc.).⁴⁸

Identifying PoC elements and challenges in Practical Disarmament

Approaches to Practical disarmament

In practical disarmament, the approaches employed are largely dependent on the specific group that is targeted by the process. In any of the PD approaches used, there are different PoC concerns that require to be taken into account.

Voluntary Surrender

In Voluntary surrender, individuals or groups holding unauthorised SALW return them to a legally mandated body. The return of the arms is purely on the individuals' own accord and there are no sanctions imposed for having held the arms. This is usually guaranteed in specified provisions of the law. The government will usually specify where the arms should be taken, the time frame for surrender or any other modalities deemed necessary.

In many instances, this being a voluntary process, there are no major protection concerns. However, it is often that not all the armed persons are willing to surrender their arms. Such people can be hostile against those that voluntarily wish to surrender their weapons. This is especially out of the fear that they may be reported as having arms in their possession. In such circumstances, it is incumbent on the mandated authorities to accord those volunteering to return firearms security from intimidation and threats to their safety. In addition, the government should ensure that the collection centres are safe and secure to avoid potential theft of the returned weapons or accidents arising from poor handling.

Amnesty

There are circumstances where individuals self-arm for what they consider as ‘genuine’ reasons; e.g. where the government is not able to provide security. However, the presence of arms in unauthorized hands constitutes a general security threat both to those holding the arms and the general public. Under such circumstances governments often extend amnesties to those holding arms to return them to a designated authority. In many post conflict situations governments set up Amnesty Commissions to oversee this process.⁴⁹ The responsible authority sets the time frame, location where the arms are to be returned and provides the necessary security. The protection concerns in this approach are similar to those under the ‘Voluntary Surrender’.

Forceful Disarmament

In many instances, voluntary surrender or the offer of amnesty to those returning arms might not result in the return of all the illegally held arms. An escalation of armed violence might still prevail and/or the government might be of the opinion that the number of arms in illegal hands is far greater than what was returned. In such circumstances, the government uses its legitimate authority to forcefully look for and collect the firearms either from armed individuals or groups.

In nearly all the cases of forceful disarmament, there are reported cases of violence and general abuse of human rights by those carrying out the disarmament. It is important to pay attention to PoC concerns during forceful disarmament. This usually starts with carrying out a careful determination of the number of illegal arms in unauthorized hands. This is important in order to avoid situations where people are harassed to return or surrender weapons that they actually do not have. As a result of the many shortfalls with forceful disarmament, practical disarmament discourages this approach. However, where it must be carried out, it is important that the entire exercise is carefully planned and coordinated and that the appropriate policy and legal provisions are put in place and adhered to.

Weapons in Exchange for Development (WfD)

As a way of encouraging the voluntary return of illegally held arms, governments and its’ partners link the surrender of arms and the development opportunities extended to the community. This is a complicated approach especially given the fact that it is the right of every citizen to enjoy or benefit from social amenities that the government is obligated to provide. In the same vein, the approach can be misconstrued as tantamount to blackmail of the community by a weak government that has been unable to undertake its obligations in disarmament. In addition, the measure and determination of the level of development and the number or types of arms returned can be contended. Finally, not everybody in a community holds an

illegal weapon and thus, the collective punishment or denial of development when it is linked to the number of arms surrendered is discriminatory. This disarmament approach is not recommended in practical disarmament but where it is employed, PoC concerns must be taken into account. In particular, it is important that the community is involved in all the steps of the process and that general security is guaranteed.

Weapons Linked to Development (WLD)

As opposed to the weapons in exchange of development approach, the government can directly link the voluntary community surrender of arms to an increase of inputs into already ongoing development initiatives. Additional or complementary development initiatives are undertaken without any pre-conditions but the level of engagement by government corresponds to an agreed number of surrendered weapons – the more weapons returned the higher the engagement. This approach can encourage community participation in development and security as they see the benefits of voluntary surrender of illegally held arms. The cooperation by the community ensures that protection concerns are integral to the disarmament process.

Weapons in Exchange for Incentives (WEI)

The ‘Weapons in exchange of development (WfD)’ and ‘Weapons Linked to Development (WLD)’ approaches are community based. There might be circumstances where the mandated authority might wish to focus on individuals holding illegal arms. The ‘Weapons in Exchange for Incentives (WEI)’ initiative directly link voluntary surrender of weapons to the provision of pre-determined benefits or material goods to individuals. Determining the value of the incentive against the number or type of weapon returned is not easy and, in many instances, people return the unserviceable weapons in their possession and retain the functional ones. In addition, the offer of incentives might lead unscrupulous individuals using unorthodox means to acquire weapons to exchange for incentives. Such people would be committing a criminal offense and the award of the incentive can be construed as rewarding their criminality. There are grave protection concerns tied to this approach not least being the risk of insecurity arising from a renewed proliferation of arms in anticipation of incentives. This is especially critical if the government is unable to match the incentive programme with equivalent strict enforcement of legislation on possession and use of arms.⁵⁰

Buy-Back

Another approach that targets individuals as opposed to the community is that of buying arms held in unauthorized hands. It is usually recommended as a short-term

intervention as it is open to serious abuse. Setting the value of the arms returned is critical as the value should be higher than the amount of money offered. If not, serious proliferation of arms will occur and criminals will even connive with officials to steal government stocks and resell to the same government. The approach requires careful planning and adequate measures should be put in place to proof ownership of returned weapons and also to account and secure all the returned arms.⁵¹ The protection concerns are similar to those under ‘Weapons in Exchange for Incentives (WEI)’.

Other PoC concerns

It has been pointed out that practical disarmament entails many different aspects and goes beyond the mere removal of illegally held weapons in a community. The foregoing section has outlined the kind and type of protection concerns that require to be attended to for purposes of achieving successful disarmament. Besides the actual disarmament approaches that are adopted, there are other disarmament processes that, while not directly applicable to civilians have and can impact on their security. For example, activities carried out under ‘Demobilization’ or ‘Integration’ even though directed at (Ex-) combatants can have profound impact on PoC. A few of these activities are highlighted below:

Cantonment

Briefly, cantonment is the process of assembling combatants in designated areas in preparation for disarmament and demobilization. It is not unusual that these designated areas are public spaces e.g. school grounds. In addition, the combatants have to be transported and catered for within public spaces. In protracted armed conflicts, the trauma from violence meted out by the combatants on civilians is immense. It is natural for affected communities to want instant justice, maybe in the form of revenge, or, if not properly prepared, as hostility towards ex-combatants in cantonment. Conversely, the people in cantonment might not have had any interaction with the ordinary people for a long time. Therefore, they may, inadvertently, exhibit emotions that are construed as hostile by the community especially if physical interactions with the ex-combatants are unavoidable. In such situations, the government must prepare and educate the civilians on the process of cantonment to mitigate potential conflict. In addition, it is possible that ex-leaders of the armed groups may take advantage of the cantonment to re-mobilise for criminal activities. This has a direct impact on the civilian population; thus, the government must set in place the right regulations to address potential protection concerns.

Re-insertion, resettlement and reintegration

Reinsertion involves the provision of appropriate packages, either in cash or in material form, to enable people who demobilised to sustain themselves as they assume civilian life. The type and kind of packages offered for reinsertion can be a source of conflict between the demobilized persons and the rest of the community. The community can look at the packages as a reward to people who caused their misery during the conflict. The demobilized persons might also misuse their reinsertion packages and involve themselves, for example, in the abuse of drugs or prostitution among other negative behaviour.

Resettlement involves the physical trans-location of those who have been disarmed and demobilized. Ideally, the resettlement should be to new environments of one's choice, but it may happen that the government selects where the ex-combatant are resettled. If the receiving communities are not properly consulted and counselled to receive the ex-combatants, conflicts will be imminent. Even where open hostility against the ex-combatants⁵² might not be witnessed, seeds of discord are planted and can affect the intended long-term peacebuilding processes.

Reintegration of the ex-combatants is usually either into reconstituted national armies or into the society. If the reintegration is back into civilian life, there are pertinent protection concerns to be addressed. The ex-combatants might have committed grave acts of violence in the communities where they are integrated. The receiving communities might harbour genuine concerns over their security, especially given the fact that ex-combatants are not necessarily immediately absorbed into productive lives but will idle the time away and/or engage in petty jobs that do not occupy them fully. There are also issues of health. Many ex-combatants are faced with diverse health challenges including serious communicable diseases that can be easily passed on to the general public. It is important that besides tackling the necessary socio-economic needs of the reintegrated ex-combatants, the government should also address the overall political governance in the country e.g. participation, representation, sharing of resources among others, especially because this is what might have given rise to the armed conflict.

Rule of Law, Security Sector Reforms and long-term peacebuilding

Realizing PoC in disarmament initiatives is greatly complemented by presence and observation of the rule of law⁵³, comprehensive security sector reforms⁵⁴ and dedicated activities geared towards long-term peacebuilding⁵⁵. How the rules are developed, enacted and applied impacts on the security of the population. It is important to protect communities from discrimination in service delivery, sharing

of resources, political representation and in all other socio-economic and cultural interventions by government. In doing this, the concept of PoC, as envisaged in the Tiered Framework used in PSOs, will largely be achieved.

Challenges with PoC in Disarmament Initiatives

PoC in disarmament initiatives faces a number of challenges; some of these are highlighted in the foregoing section on the specific disarmament approaches employed. These include, ensuring that the security of the people being disarmed is guaranteed and that adequate measures are put in place to prevent the re-circulation of surrendered or recovered weapons. The activities undertaken under the disarmament approaches; for example, under a Weapons in Exchange for Development/ Incentive programme, must take into consideration the aspects of equity and equality and careful gender disaggregation among other aspects. The aim of doing this is, for example, to encourage peaceful conflict management and reconciliation and protection of human rights, which are all important for the promotion of sustainable peace.

Another challenge to the PoC is the operational environment in which disarmament is undertaken. If done in post-conflict situations the general instability and insecurity presents challenges to PoC. This is especially so, because of the many competing needs and the urgency with which the needs should be implemented. The resulting compromises in terms of resource allocation or emphasis or thoroughness required in any one factor e.g. capacity building during disarmament, can affect the overall effective realization of the PoC.

A key challenge to PoC in disarmament initiatives can also be attributed to the specific mandate of a PSO. This can, for example, take two forms: (1) the framing and resourcing of the PSO or (2) the understanding and interpretation of the Concept of PoC. To date, there has never been a PSO that is sufficiently resourced. In addition, there is presently no universally agreed definition of PoC and the different interpretation by different stakeholders involved in a PSO can present challenges.

Probably the fundamental challenge that faces PoC especially in post conflict situations is the high expectations by the people and what the PSO mandate can actually deliver. Given that this mainly arises from the inadequacy or mismatch of the expectations and the resources allocated to the PSO, the same mis-match is transferred to the specific activities e.g. disarmament; consequently, the contribution of the specific activities to overall PoC is affected.

Conclusion

Present day PSOs are categorical on protection⁵⁶ and often, the success of the missions are measured against their ability and success in the protection of civilians. The difficult in effective realization of PoC arises from many factors stemming from the diverse and unique situations under which different missions are carried out.

Within a PSO, disarmament initiatives fall under Tier Two ‘Protection from Physical violence’ of the framework used to realize PoC. For disarmament to be effective and contribute to PoC, there must be clear links and complementarity of activities under each of the other pillars or Tiers - Protection as part of the Political Process, Establishment of a protective environment; and, Rights-based protection. This is not always easy as different emphasis is usually given to either of the Tiers depending on the context under which the PSO is undertaken.

Fortunately, PSOs, PoC and disarmament initiatives are properly founded on various UN and AU provisions as well as national legislations. This provides the opportunity to engage with the POC concerns in every activity or intervention, such as disarmament, undertaken under PSO.

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