

THE UNITED NATIONS' USE OF FORCE IN PEACE SUPPORT OPERATIONS: THE QUESTION OF CIVILIAN AND MILITARY INSUBORDINATION IN ONUC'S OPERATIONS IN KATANGA.

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Abstract

The second generation of peacekeeping operations resulted from the United Nations Organization's Operation in the Congo (ONUC) in early 60s. The importance of ONUC (or UNOC¹) in the development of multi-dimensional peacekeeping and more particularly the concept of the use of force is undeniable. The tribute in the evolution of the concept of the use of force finds its root in Katanga, where the United Nations are believed to have waged their first war in the history of peacekeeping operations. The present paper dissects United Nations operations in the Katanga in the 60s in the context of military and civilian insubordination. It explores different aspects in the coordination of military operations that led to accidental death of UNSG Dag Hammarskjöld. Legal and operational facets of the katangan operations will be the focus of this discussion.

Introduction

The African post-independence period had been one of the most critical eras in the history of many nations. Some had a smooth and peaceful transition, while other went through tumultuous situations necessitating international support of various natures. Many factors justified the sudden eruption of violent conflicts in newly decolonized states. Among these were the lack of experience and skills in the management of state affairs on the part of newly promoted leaders, hidden and secret agendas and instigation of trouble to justify immixion in their former colonies' affairs, on the part of former metropolis. The disorder engendered by the struggle for independence and/or a difficult transition from colony to new state created too much pressure on the United Nations at the peak of the Cold War. The United Nations' support, either in the form of Trusteeship or peacekeeping operations, was the only way to avoid confrontation of Superpowers on the ground of protecting their zone of influence and interests.

The Congo did not make an exception to post-independence conflicts, as was the case in many African countries. Early after its independence, the Congo faced a breakdown of law and order and generalized chaos, which prompted authorities to turn to the United Nations for assistance restoring peace and stability. Established under UNSC Resolution 143 adopted on July 14, 1960,

¹ UNOC: United Nations Organization in the Congo.

the United Nations Operations in the Congo, known through its French acronym ONUC (Organisation/Operations des Nations Unies au Congo), was the first United Nations Peacekeeping Mission of its kind established by the Security Council (Liu 1999:34), but drew its principles from those enunciated for UNEF (Findlay 2002:52). ONUC remains one of the most important missions throughout the history of United Nations Peacekeeping Operations. It is also one of the most controversial particularly on aspects related to the use of force. The main source of controversy rose from the interpretation of mandates and the legalistic approach dictated by the conformism of UN peacekeeping principles inherited from previous peacekeeping missions, and the evolutionary approach demonstrated by Dag Hammarskjöld, then Secretary-General of the Organization (Abi-Saab 1978:39-44). Of the two contending approaches, the former wished to stick to the strict application of the principle of the use of force only as a last resort in self-defense; the latter promoted an evolution of the concept of use of force and that of self-defense. The use of force and the concept of self-defense in United Nations peacekeeping operations radically changed, thanks to ONUC (Liu 1999:34).

This paper will focus on the aspect surrounding the use of force on the legalistic angle, the respect of the mandate, hierarchical instructions and directives related to the use of force in ONUC. Given the importance of the Katanga in this respect, the spatial circumscription of this discussion will be limited to this province during the period from 1960 to 1964. The main point of this discussion will be “whether or not operations in Katanga were a consequence of civilian and military insubordination”. In order to determine the eventuality of civilian or military insubordination there is a need to analyze different mandates over the use of Force in the Katanga and its direct impact on the course of the mission.

The motivation behind the choice of United Nations Force (UNF) in the Katanga for this discussion lies, as mentioned above, in its importance on the evolution of the Concept of Peacekeeping Operations and particularly on the burning subject of the recourse to force to implement a particular aspect of the mandate. The Katangan secession seems the choice of predilection for the study of peacekeeping and peace enforcement under the UN banner. The great share of ONUC’s legacy on the evolution of peacekeeping operations would be attributed to operations in Katanga.

I. The Independence of the Congo and the Chaos

In 1885 at the Conference in Berlin, King Leopold II was able to obtain recognition for the *Association Internationale Africaine* or the International Association for Africa (IAA), the sovereignty equal to that of an independent state. The IAA gave way in 1885 to Congo Free State. Since the beginning of the colonization of the Congo in 1876, it was a private property of King Leopold II until 1908, year that knew the transfer of ownership to the Kingdom of Belgium. During the Leopoldian ownership, the management of the Congo was made, initially through the *Association Internationale Africain*, then Congo Free State and the Compagnie du Katanga. A district of the Lualaba covering the territory of future Katanga, was established in 1888 as part of the Congo Free State. As the Free State didn't however have the financial and human resources to colonize the new territory its administration and exploitation was entrusted in 1891 to the Compagnie du Katanga. In 1900 the Company's rule was replaced by that of a new agency, the *Comité Spécial du Katanga* - CSK, including representatives of the Free State and of the Compagnie du Katanga and enjoying - like the Company - full administrative and economic powers². The CSK was a distinct authority from the Congo Free State. In 1910 the CSK lost its administrative powers and Katanga was integrated into the Belgian Congo as a vice government general, retaining a large measure of autonomy (Ibid). The Vice-Governor General directly reported to Brussels and the Katanga enjoyed its special autonomy until 1933 when it was reorganized as a province within the Belgian Congo and under the authority of the central government (Lemarchand 1962).

Immediately after independence in 1960, the Congo faced:

- a. The mutiny of the army (troops requested more pay and access to higher ranks),
- b. The epidemic rise of tribal and rebellious movements³ (most of political Parties had tribal foundations),
- c. The incapacity of the Government to restore and maintain law and order within its territory,
- d. The Katangan secession (11 July 1960), and
- e. Misunderstanding of the process of transfer of authority from Belgians to Congolese nationals - mostly due to lack of preparedness (James 1996: 20-21).

The lack of preparedness was a logical consequence of Belgium's **paternalistic colonial approach** which mainly suggested taking care of basic needs of Congolese in order to keep them

² [http://geocities.com/capitolhill/rotunda/2009/congolese_provinces.html#\(2\)#\(2\)](http://geocities.com/capitolhill/rotunda/2009/congolese_provinces.html#(2)#(2)).

³ Most of political parties were tribal groups which had been politicized to justify democracy.

happy without giving them voice in the administration of *the res publica* and the lack of elite for continuity. At Independence, average of Congolese university graduates was between 14 to 31 out of an estimated population of 14.000.000 (Ibid).

The collapse of law and order emphasized by rivalry of President Joseph Kasavubu and his Prime Minister P.E. Lumumba, apparently motivated by tribal pressure (Epstein 1965: 9-12). This led to internal tensions, aggravated at the international level by the presence of Belgian troops assimilated by the Social and Communist block, led by USSR to an [NATO's] invasion of a sovereign State, threatening to intervene in order to "end the aggression". This position was dictated by socialist obedience of P.M. Lumumba. At this point, a direct confrontation between the USA and the USSR in the Congo became a very strong possibility. The recourse to the UN was the only solution to avoid a East-West war in the Congo. ONUC's intervention had the credit of avoiding of direct military confrontation of the two superpowers (USA and USSR) on the Congolese ground.

II. **Genesis and deployment ONUC**

The major difficulty for the Congolese government remained the secession of the richest province declared by Moise Kapenda Tshombe, leader of the CONAKAT. Officially, the secession was to preserve Katanga from the fallout that the rest of the Congo faced. This secession meant evasion of revenue from the important mineral exploitation represented by the *Union Miniere du Haut-Katanga* (UMHK) and a precedent for other provinces to secede from the central government, and consequently the total balkanization of the Congo. In order to save the state from a predicted end, P.E. Lumumba called on the United Nations for assistance in order to restore peace and order. To respond to the request from the government of the Congo, Secretary-General Dag Hammarskjold submitted a request to the Security Council, invoking, for the first time in the history of the United Nations, Chapter XV, article 99 of the UN Charter for discussions (Findlay 2002:52). The invocation of article 99 meant that discussions in the Security Council would be based upon the opinion of the Secretary-General on what represents a threat to the maintenance of international peace and security. In the case of the Congo, Hammarskjold based his judgment on the fear that the two Cold War antagonists and their allies and proxies would be drawn into the escalating cauldron (Ibid.). This gamble determined the cleverness that characterized Hammarskjold. It also circumscribed the discussions to his point of view. Another reason for the invocation of article 99 (Chapter XV) avoided Chapter VII as wished by USSR (Citrin 1996: 31-45).

Using Peacekeeping principles drawn from UNEF, Hammarskjöld designed a Peacekeeping Mission that would include, for the first time in the history of Peacekeeping Operations (PKOs), simultaneously Military and Civilian components and would be under SG's supervision. ONUC became the first PKOs established by UNSC and equally the first multi-dimensional PKOs in the history of the UN. Following principles copied from UNEF would be guidelines (Findlay 2002: 52-53). ONUC Should:

- Be present with consent of the Government of the Congo
- should not take any action susceptible of making it party to the internal conflict,
- Be under exclusive command of UN and not the Congolese Government,
- Enjoy freedom of movements and communications necessary for its operations (agreement to arranged with the Congolese government),
- Use force only as a last resort, restricted to self-defense only, and UN forces should avoid taking military initiatives.

Established under UNSC resolution 143/1960, ONUC's Initial Mandate was to bring about the withdrawal of Belgian Forces from the Congo, and, as in UNEF, it should fill the gap left by the departing foreign Armed Forces. A special feature, inexistent in Egypt with UNEF, appeared in the situation in Congo, is that the disintegrated armed forces could not be able to take over the control of Law and Order. For this reason and UN forces would have to fill the gap. Without clear mandate, this task seemed unrealistic, i.e. the UN assistance to the Government of Congo had no practical stand, given the fact that troops did not know what to do on the ground to bring this assistance (Findlay 2002:52). UN troops ended up doing police and *the Force Publique's* jobs. ONUC remains one of the speediest deployed UN missions (Ibid). Troops arrived from Ethiopia, Ghana, Guinea, Ireland, Liberia, Mali, Morocco, Sweden and Tunisia, deployed in all provinces, except in Katanga (Ibid.)

III. The Katangan Secession

Settlement processes in the province were initiated under the auspices of a quasi-independent entity, the Comite Special du Katanga – CSK (Lemarchand 1962). The autonomy enjoyed by Katanga until 1933, resembling to that of the Ruanda-Urundi, gave an impression of this province being distinct from the rest of the Congo. Another fact to support this position is the endowment in Minerals, which made the Katanga an economic power and the most developed province within the Congo. The UMHK, which comprised British and Belgian interests, was in itself, a power to count

on, given its Public Information structures which went far beyond the measure of the Congo as a State. Settlers in Katanga tried to get the Government in Brussels to create an independent state in Katanga, which would remain under their dominion even after independence. After failing to obtain the backing from Brussels, they allied with the *Confederation des Associations Tribales du Katanga* (CONAKAT), which represented the interest of the *authentic Katangese* community. This community was struggling to restore the balance broken by the introduction of the *alien tribes* - the baluba of Kasai (Lemarchand 1962). Allying with European settlers who shared the fear of losing their interests seemed a genuine cause for the CONAKAT (Ibid.). It appears that foreign interests coupled to political aspirations of Katangese political authorities decided the fate of the Congo, which seemed a nonviable child born from the independence. The way for a secession of Katanga was already paved; the only missing element was a trigger. The mutiny of the Force Publique was the long expected opportunity for the CONAKAT. After its materialization, the secession of Katanga represented a very big challenge to the survival of the Congo and a threat to the maintenance of international peace and security, at least in the context of opposing international interests dictated by the Cold War.

IV. **Considerations over the Secession.**

From the onset of the mission, Hammarskjöld's approach on the Katangan secession was cautious. This implied that the UN viewed the situation as a constitutional disagreement outside its jurisdiction (House, 1978: 124; Abi-Saab, 1978: 39, 44). It justified UN's non-interference with domestic matters as a marker of its impartiality. This approach and the diplomacy promoted by Hammarskjöld led to acceptance of initial troops in Katanga. The shift from the cautious and diplomatic approach appeared, most probably because of tragic events that happened in the course of the mission, especially the death of the most respected United Nations Secretary-General (UNSG), Dag Hammarskjöld.

Other reasons that led to the change of the UN's perception over Katanga's claim for independence were apparently interests of International actors with the USA as coalition leader. One of the fundamental requirements for recognition of claims for self-determination is the freedom from interference from another government in internal domestic affairs. This particular aspect could not be satisfied in the case of the Katangan secession, as to mean international interests crippled the claim for independence from Congo. The late US advocacy for the end of the secession was not for reasons related to International peace and security (Weissman, 1974: 152-194), but most

probably found its explanation in International Intelligence Strategy. Supporting the end of the secession, the USA feared of an intrusion of Communists and/or the USSR Troops in assistance to the Congolese Government. This fear was perceptible in the of Assistant Secretary of State Harlan Cleveland's statement on operations in Katanga, on January 17, 1963 (Lefever 1963:85):

"...the UN action in Katanga was justified, even though it was opposed in varying degrees by several of the larger nations because of operations in the Congo, there are no uninvited foreign troops, no communist enclaves, no army of Liberation, no reason for a single American soldier to die there, no excuse for a soviet soldier to live there".

The USA, as mentioned above, considered that the continuation of the secession could lead to the collapse of the Central Government with direct consequence being the end of the Congo as a unified State and instability of Africa (Weissman, 1974: 152-194). Katanga has always been the biggest contributor to the national budget, thus its secession asphyxiated the economy of the Congo. The other reason was the possibility that other provinces would secede from the Congo and complicate furthermore the crisis. For this reason, it was imperious [for the USA] to end the secession for the sake of the Congolese unity and the stability of Africa. Difficulties to re-integrate Katanga were deep in respect to the presence of mercenaries and the financial support of the UMHK, a state within the State and the "Economic Lung⁴" of the State. Once this secession ended, it could be easy to handle the other rebellious and secessionist movements, especially that of the Lumubist Gizenga. Some possibility of economic interests justified this position. It is believed that American-Swedish interest dictated Hammarkjold's actions and US position on Katanga (Rosio 1993).

Earlier, the UNSC considered Katangan secession⁵ a purely internal matter, as stressed in the UNSC Resolution 146⁶ and it was meant to be settled between Central Government and Katanga Provincial authorities without any international interference. It [UNSC] focused its attention on the withdrawal of foreign Troops and the maintenance of law and order. The only role the UN could play in this case was to create conditions for negotiations and play the good offices role.

⁴ From the literal translation of the French expression: +Poumon Economic+used for Gécamines, new name for UMHK, and Kolwezi, the main copper and cobalt mining center.

⁵ Presumably because of Soviet Union

⁶ Paragraph 4 of Resolution 146, logically meant that the Force would not intervene in the Katangan problem. The main reason implementation of Security Council was hindered in the Katanga was the fear of its authorities that UN would end the secession on behalf of the Central Government. This declaration was a kind of assurance to them so that they get the official position of the Security Council and facilitate implementation of the mandate in their province.

Nevertheless, Dag Hammarskjöld's tragic death on the way to resolve the Katangan issue might have significantly changed this perception, and the secession, finally, was the qualified illegal "illegal"⁷. Resolution 169 of November 24, 1961 clearly gave UNSC's view over the secession without any ambiguity. USSR's position was very much clear from the beginning as it shared Lumumba's socialist views. Soviets Socialists strongly disapproved the Katangan secession.

V. **Legal bases on the use of Force in the Katanga**

Before discussing the use of force in Katanga, it is important to mention the difficulties encountered by the UN to deploy its troops in the breakaway province. Despite its fast deployment, ONUC was not able to penetrate Katanga. Secessionist authorities opposed the presence of UN forces in Katanga. In order to implement Resolution 146 (S/4426), UNSG Hammarskjöld conducted difficult negotiations leading to an acceptance, under conditions, of the entry of the UN in the Katanga. His tacit acceptance of conditions laid by Tshombe, in order to allow UNF deployment in the Katanga, led to hardship between him and Prime Minister Lumumba. In fact, Lumumba feared an authentication and acceptance of the Katangan secession, despite the fact that this implicit acceptance was based upon hypothetical and undefined relations to take place between Katangan authorities and the UN (Abi-Saab, G., 1978: 45). In the spirit of Resolution 146, ONUC's deployment in the Katanga was mandatory and was legitimate.

ONUC's field operations in the Katanga and elsewhere in the Congo were based upon the mandate formulated in a set of Resolutions, the Rules of Engagement (ROE) of Peacekeeping Force and Secretary-General's directives⁸. These directives were summaries of mandates and peacekeeping principles. The other legal base for the use of force is the Status of Force Agreement (SOFA) signed between the UN and the Government of the Congo. The first SOFA was signed at the beginning of deployments in July 1960, but its provision did not contain any use of force. A second SOFA was later signed in November 1961, with retroactive effect from the deployment, it contained provisions on the use of force as a last resort in case of self defense and within limits of its mandate. The signature of the second SOFA was to conform to resolution 169 voted three days earlier, consecrating enforcement measures, especially against the Katangan secession. UNSC resolutions 161 and 169 constituted also the legal base that justified UN's recourse to forceful means to settle the Katangan issue.

⁷ Resolution 169/1961 paragraph 1.

⁸ Responsibility of interpreting mandates lay upon the Secretary-General from the beginning of the mission.

Although they constituted the legal base for the use of force, resolutions 161 and 169, as political decisions, were subject to different interpretations. For those that advocated ONUC's use of force from the beginning, Resolution 146, on its own, contained provisions of the use of force, but, Dag Hammarskjöld, wishing peaceful settlement of the crisis than showdown, rejected this interpretation. The second interpretation found its justification in Secretary-General's recourse to article 99, which indirectly invoked Chapter VII, particularly article 39. However, Katanga supporters, including some western chancelleries rejected reasons evoked by Officials to justify the recourse to the use of force to end the secession. They depicted it as the "*finality*" in itself rather than a consequence of enforcement measures against foreign troops and self-defense.

In general, Security Council resolutions are results of painful political negotiations among international actors, especially the five permanent members of the UNSC. Each actor makes sure to secure interests of his state, making sometimes mandates practically impossible to implement in field of operations, either because they are insufficient or impracticable. The case of the Congo did not escape from this principle.

The first provision to be explored is the concept of self-defense. Traditional self-defense provision authorized peacekeeper use force to protect from direct harmful attack. Due to necessity, the concept was extended in order to fit the situation in the field. From this new approach, self-defense would comprise peacekeeper's personal protection from attack, imminent attack; the same applying to civilian under the protection of peacekeeping forces. Self-defense, in the spirit of ONUC, would include disarmament and detention, pending deportation. The second provision concerned the use of force to restore freedom of the movement of the UNF guaranteed by the SOFA agreement. This provision, never used before appeared in operations in Katanga, though it generated many protestations because of circumstances surrounding these operations. Besides this procedural framework, any decision regarding the use of force had to be sanctioned by the UNSG or his delegate. It appears clearly, that UNSG's directives gave a hierarchical chain which was to be scrupulously respected whenever the question of the use of force appeared. The management of day-to-day operations in PKOs was UNSG's responsibility. He was accountable to the UNSC for PKOs, thus critical decisions belonged to him. It is in the light of the hierarchy and procedures and binding texts and directives that the following analysis will dissect events and mechanisms that surrounded enforcement measures and operations surrounding that sealed the fate of the Katangan secession.

VI. Enforcement Measures in Katanga and the End of the Secession

After difficult negotiations, UN Forces deployed and started implementing the mandate within the Katanga. Their mandate included among the others, the apprehension and expulsion of foreign and 'uninvited' troops, maintaining law and order and the prevention of civil war. This exercise was not easy for a number of reasons among which prevailed, on the Katangan side, the fear of the end of the secession followed by the end of financial privileges mercenaries enjoyed, and the fact that peacekeepers were perceived as invaders allied to the Central Government. Given the enormous difficulty to deliver their UNF resorted to the use of force a number of times, but in the following lines it will be question of four times major operations in the Katanga. The question of the use of force in Katanga constitutes the main part of this discussion, not as such, but considering the conformism characterizing the conduct of operations and chain of command in UNPKOs and, particularly ONUC, i.e. respect of the mandate, operational procedures and hierarchical procedures. The main question the following paragraphs will discuss is the whether or not the planning and conduct of enforcement measures in Katanga were acts of insubordination and how they did affect the credibility of United Nations in general and peacekeeping operations in particular.

In Katanga, UNF conducted four major operations in order to implement ONUC's mandate. These operations were known as:

- Operation Rum Punch;
- Operation Morthor;
- Operation UNOKAT;
- Operation Grand Slam.

a. Round One: Operation Rumpunch

Known as Operation Rumpunch, the first operation was an enforcement of UNSC resolution 161/1961. The operation started on August 28, 1961 and was conducted in order to arrest and expel all foreign military and political advisors believed to be those preventing Tshombe from engaging into negotiations for peaceful settlement of the secession. Operation Rumpunch began

with 'preventive measures' justifiable, according to ONUC, under the force's right of self-defence and its mandate to prevent civil war (Findlay 2002:73).

Operation Rumpunch did not directly aim the end the secession with coercive measures, but isolating secessionist authorities from foreign military and political strategists. In doing so, UN authorities expected to persuade Tshombe and his cabinet to negotiate and possibly obtain the reunification of the Congo as a whole. Despite the great caution that characterized *Operation Rumpunch*, it provoked a series of protests from Britain, Belgium and the Federation of Rhodesia and Nyasaland as well as other Katanga supporters in the West. It is important to note that UN weak Public Information did not help in inverting the tendency. It was unable to compete with the heavily paid pro-Katanga media-press that western public opinion informed and in favor of Katanga. Consequently, UN operations were considered as a form of subjugation the only "stable" and anti-communist province of the Congo.

However, the original plan for this operation sanctioned by the Secretary-General underwent changes. Some of the new operational aspects were not discussed with the hierarchy prior to their implementation. According to UN authorities in the Congo, these modifications were meant to be pre-emptive actions to minimize bloodshed (Rikhye, 1995: 255, 259). They implied the capture of the radio station, the post and telecommunications office as well as isolation of Munongo⁹, by besieging his house and isolating him from foreign mercenaries (Ibid).

Considering the UN's chain of command and the approval system on sensitive operations, the three new aspects of Rum Punch, even though they were operational details and not noticeable from the outside, were questionable, i.e. they were not done in accordance with given instructions. They could only be justified in a case of emergency. Obnubilated details of the operation would have represented a problem in case of complications. The fact that no attention was paid to these details possibly meant a "*chèque en blanc*" (blanket authority) given to UN officials in the Katanga at the heights of the tension, and would explain steps taken for the next operation.

Rumpunch met no resistance from the *Gendarmerie* until instruction to halt the operation were given, apparently upon demand of consular representatives¹⁰ in Katanga, who promised to conduct the grouping and expelling of their nationals. Overall, Operation Rumpunch would be seen as a success because of the inexistence of casualties on both sides, including civilians, its effectiveness

⁹ Munongo was Tshombe's Minister of interior and virulent opponent of the UN in Katanga. I was believed to be the principal orchestrator of the resistance against the UN.

¹⁰ British, French and Belgian Consuls

on the purpose and its length in time, even if it was not complete (Findlay, 2002: 73-74). This success was due to its detailed preparation, co-ordination of UN Contingents as well as the surprise effect over the Katangan *Gendarmerie* and mercenaries (Rikhye, 1993:255,259).

The striking element on Rumpuch was ONUC's provision of a guard of honor for the Belgian officers being expelled from Katanga; this action was qualified as foolish and inappropriate *comic opera exhibition* by Hammarskjöld (ibid). So long as the Katangan secession was qualified illegal (UNSC Res. 161/1961), any action conducted in this context was, *ipso facto*, illegal and its acting agents were liable to prosecution concerning their action in conformity with the Congolese and International Laws. Although, the UN had no judicial mandate to prosecute such individuals, at least the approach taken in this regard should relay UN's disapproval and of foreign support to secession. A guard of honor to these individuals showed a complete reversal from drastic measures against mercenaries to a tacit acquiescence, and consequently, lack of efficiency and complaisance on the part of the UN.

On the legalistic side, Operation Rumpuch was fully justified by Resolution 161. It remained within the limits of ONUC Mandate. However, the conduct of operations breached the principle of impartiality of peacekeepers. Though it did not attempt, at least officially, to suppress the secession, eliminating foreign elements constituted a support to the central government in the restoration of the territorial integrity and the political independence of the Congo. Finally, Operation Rumpuch and other consecutive UN operations in Katanga clearly indicated that the UN's actions would affect the political settlement of an internal and constitutional dispute between the central government and the breakaway province – Katanga. Thus UN's non-interference in domestic affairs, as far as the Congo was concerned was no longer applicable. Operation Rumpuch was successfully conducted without bloodshed, rounding up, arresting and expelling mercenaries gave satisfaction to the UN. The timely and well prepared coordination of the operation obnubilated protests that rose from its conduct, particularly from Katanga supporters.

b. Round One Continued: Operation Morthor¹¹

The success of Rumpuch galvanized Connor Cruise O'Brien (UN representative in Katanga) to plan operation Morthor, as he believed the *Gendarmerie Katangaise* was weakened by Operation Rumpuch. Operation was more controversial and it darkened the whole image of ONUC's operations. The rationale behind Operation Morthor was to replicate of Operation Rumpuch - bis

¹¹ Morthor was made up with Hindi words meaning *breakthrough* and *cut-off*.

and to finalize what the unfinished task (Boulden 1999). Conditions were different from Rumpunch to Morthor. The surprise effect would no longer work. Other aspects related to the planning and the co-ordination between different Contingents in the core of the action, and the Katangan resistance was minimized. It was a total miscalculation. If Operation Rumpunch could be viewed as a success due to rapid results it brought, Morthor displayed a total misconception and lack of co-ordination with major damages. It is important to notice that the Katangan Gendarmerie were better equipped and great in number than UNF.

Launched on September 12 without prior approval of Hammarskjöld, 1961, Operation Morthor intended to arrest and expel foreign uninvited troops, but most of all, to arrest secessionist authorities, with the exception of Tshombe and end the secession of Katanga (Findlay 2002:75, McDonald 2001). O'Brien tried to persuade Tshombe that his only way out for him was to surrender and liquidate the secession, while UNF would take the radio station, the Post Office and Offices of the Surete (McDonald 2001). The conduct of the operation was apparently unknown from the Secretariat. Hammarskjöld got informed about it only upon his transit in Accra on his way to Leopoldville through news, but the amplification given to Katanga from international press made him take it with less importance. The kept Force Commander was also in complete blackout as to the planning of the operation. At this point, the question of Area Commander (Brigadier Raja) integrity and professionalism surfaced. Military are known to be respectful of the hierarchy and the chain of command than civilian. Whether or not instructions on Operation Morthor emanated from UNSG, as pretended during the preparatory meeting convened by Khiary, Brigadier Raja has the duty to consult his superior, in fact the Force Commander, so as not to break the rigid UN chain of command (Urquhart, 1972: 548-9).

At the end of this operation, central government flags were supposed to be raised on all official buildings and an official from Leopoldville was expected to assume authority on behalf of the central government. Unexpectedly, the operation met early and sustained resistance from the Gendarmerie. Instead of taking Katangan forces by surprise, UNF were taken by surprise (Findlay 2002:75). After agreeing to O'Brien's conditions, Tshombe fled to Northern Rhodesia. O'Brien prematurely declared the end of the secession. Events surrounding Operation Morthor led to the crash of Hammarskjöld's plane in Ndola, while on his way to negotiate the resolution of the crisis in Katanga (Boulden 1999, Findlay 2002:76, McDonald 2001). Both parties – UNF and the

Gendarmerie – suffered heavy casualties, the Katangan side being seriously affected. Additional to casualties, Irish troops were under siege in Jadotville.

On the public information register, the UN's credibility was, furthermore, damaged. It was no longer question of peacekeeping operations, but a peace enforcement mission, which Hammarskjold was trying to avoid from the beginning (Findlay 2002:75). With this shift on peace support operations, the UN was facing further pressure from Troop Contributing Countries and the public international opinion. In fact, allegations of attacks on civilian property, ambulances and hospitals were reported all over the world.

An important fact to be mentioned in the understanding of the role of the UN in the Congo and the interpretation of resolutions in regard to the growing inflammatory and volatile situation in Katanga from both UN actors and the Central government of the Congo. This misunderstanding had governed the relationship between both of them throughout mission lifetime, especially when it came to the Katangan secession. The Government, based upon the fact that it had invited in the UN, believed the latter would act upon its request to end the secession. UN's position (at least in Hammarskjold's perspective) was to refrain from interfering in internal matters (the Katangan case was believed to be one) and stick to the principles of United Nations Peacekeeping Operations (Abi-Saab: 39-44). The development of the situation would hardly help the UN keeping these principles.

The other fact to mention in this operation was the personality of individuals at UN leadership level in the Congo that affected their judgment of the situation on the ground. Individuals whose personalities affected the conduct of UN operations in the Congo were Dag Hammarskjold, UNSG, Mahmood Khiary, Chief of Civilian Operations in Congo, Connor Cruise O'Brien, UN representative in Katanga, and Brigadier Raja from the Indian Contingent. The personality of Dag Hammarskjold would not be part of this section. Mahmood Khiary, Chief of Civilian Operations at the time of Operation Morthor, was a Tunisian national with strong nationalistic views. The description provided by Rikhye¹² depicted a man "having no patience with the maneuvering of the Belgians to retain dominance over an independent country and he was intolerant to people like Tshombe and Kalonji who looked to the Belgians to remain on power..." From this depiction, it is clear that his personal views overweighed tact, diplomacy and strategy. *His understanding of the UN peace and*

¹² Indar Jit Rikhye was UNSG's military advisor during the course of ONUC. He also assumed the function of Head of the mission on a temporary basis.

security was limited to his Congo experience (Rikhye 1995:260-261). The decision he took in authorizing Morthor had a serious impact on the mission and would change the course of history. Hammarskjöld's death would be considered one of the heaviest consequences of this misconceived operation.

Connor Cruise O'Brien was a spontaneous individual and sometimes lacking continence and was not a man in the Katanga's burning situation; this justified the reserve given by Frank Aiken¹³ regarding his appointment in the Elisabethville (Urquhart, 1972: 548-9). He was an outstanding politician and diplomat, but with less experience with the UN. He was flamboyant and spontaneous and sometime this would go beyond the limits of his authority. His temperament and background did not fit for Elisabethville (Ibid). Counting the number of times he was quoted by the press and media using a controversial discourse over UN's presence and operations in the Congo, especially in times the Organization had a crippled Public Information Aiken's reserves upon him could be justified. All this kept Hammarskjöld apprehensive of his state of mind (Ibid.). The next key person was Brigadier Raja¹⁴ who had no experience in Peacekeeping operations. As a trained military, he was *to resort what he was trained to do* – the use of force (Rikhye 1995: 260-1).

These three key persons would be ready to bend the rules to achieve their goal, or what they thought was UN's. The common features among them were (1) the inexperience in the United Nations diplomacy and the way of handling crises at the height of the Cold War and (2) the anti-colonialist conviction. A highly sensitive mission over which antagonism grew between the West and East needed diplomats who were able to transcend their personal convictions and foresee impacts of their decision long term. Unfortunately, the aforementioned officials did not demonstrate this quality.

Morthor showed ONUC had clearly gone even the extended perception of self-defense in PKOs and entered Peace Enforcement Operations without any mandate. Noticing the massive use of force and its lack of approval, this operation tarnished the image of the UN Operations and mobilized protests from members of the UN and its condemnation by international Medias (Findlay:76). O'Brien's declaration that Katanga was back under the Central Government's control, and his justification that Morthor was conducted under provisions enumerated in paragraph A1 of Resolution 161, which he thought authorized ONUC to use force to end the secession (to prevent

¹³Irish Minister of Foreign Affairs

¹⁴ Raja K.A.S was the Indian Brigadier General who assumed the post of UN Area Commander in the Katanga.

civil war), showed a clear shift from fundamental principles of peacekeeping as elaborated by Hammarskjöld and highlighted in Resolutions 143 and 146. Was it a violation of these principles or a policy change? Although Dag Hammarskjöld rejected these claims and presented the operation as a continuation of Rumpunch, aimed at the rounding up and expulsion of foreign military personnel (McDonnald 2001), facts on the ground contradicted his statements. Many factors clearly evidenced that Morthor was an attempt to end the Katangan secession and the legalistic approach of Hammarskjöld prevented him from supporting such move there was no legal basis to justify it. Neither the mandate, nor any other fundamental or operational document did cover it. To end the secession by forcible means was *ultra vires* the UN mandate (Ibid).

In spite of its *ex-post factum* justification with the vote of Resolution 169 November 24, 1961, Morthor marked a switch from Peacekeeping to Peace Enforcement without any justification and *de facto* changing the Rules of Engagement (ROE) of UN forces in Congo. On the other side, it could be considered as a disaster for none of its objectives was achieved and it resulted in an increased number of casualties from both sides, Tshombe and Munongo could not be apprehended, and mercenaries remained. The great loser of this operation were the UN including the fact that claims were received concerning UN peacekeepers respect of the Geneva Conventions and the customary Laws of war during hostilities; tarnishing the image of the Organization.

Briefly, the risk taken by the trio (Khiary, O'Brien and Raja) was considerable and their perception of UN's functions in the Katanga was a major factor. Trying to execute warrant arrest issued by the Central Government or ending the secession was beyond ONUC mandate that, authorized peacekeepers to use force only as a last resort. Executing warrant from the Central Government constituted an interference in internal matters breaching the principle of impartiality fundamental to UN peacekeeping operations. This move was against Hammarskjöld's policy in the Congo. He rejected any action that would affect the balance of power between the conflicting parties in the Congo – notably the central government and Katangan secessionist authorities. Therefore, operation Morthor could no more be accepted as self-defense, even after stretching in all directions existing Security Council resolutions and summary directives. Moreover, its main controversy related to the military initiative and all surrounding factors such as ignorance of the chain of command and the questionable legitimacy of the use of force to end of the Katangan secession as confirmed by O'Brien in his declaration at this effect. Resolution 161/1961 paragraph A-1

authorized the UN to take all measures to prevent occurrence of civil war and not the end of the secession; UN did not have such mandate at that time.

However, it would have not been easy to have a normal reaction without infringing basic principles and procedures of peacekeeping operations in situations like those of Katanga. Katanga was a difficult position where politics, international relations, international law and experience preceded any action. In addition, Katanga became the focus of UN military activities and heavy pressure was on UN officials at international, national and provincial levels. Harassed by the Katangan Gendarmerie, vilified by Katangan authority and their sympathizers, and hindered in their plans by Western consuls, some mistakes would always to be expected, but their unfortunate cost was the loss of the greatest UN Secretary-General.

c. Round two: Operation UNOKAT

The failure of Morthor and consecutive negotiations to end hostilities left Katangan authorities boosted with pride and the feeling of victory, they regained confidence, and his minister of interior, Munongo, resumed his negative propaganda against ONUC (Rikhye 1995:287). Consequently, harassment and attacks on UN personnel re-appeared. After fruitless warning, the UN had to take another move to restore the freedom of movement of UNF¹⁵ and stop the harassment of UN member and attacks on IDPs, mainly the Balubas. After considering the situation, U Thant instructed the Indian Brigadier Raja through Sean MacEon¹⁶ to “*use all troops at his disposal to restore law and order, and to achieve that, he had to use all force necessary*” (Findlay 2002: 78).

Indeed, the instruction received by Brigadier Raja expressed the change of UN policy regarding the use of force possibly due to the shock that the Organization suffered with the death of Hammarskjöld when trying to solve the Katanga issue and partly due to the change of UNSG. This operation consecrated the inauguration of the stronger mandate voted during November 1961. The use of force in this operation was greater than all previous operations as the Field Commander (Raja) had blanket instruction that any other before and after him could have had (Findlay 2002: 78). Allegations of a hidden agenda on forcing political decisions by force and weakening position of a party to the Conflict (Katanga) to persuade it to negotiate were brought about concerning this operation.

¹⁵ The Katangan gendarmerie established roadblocks to isolate UNF from its Headquarters in preparation of attacks

¹⁶ Force Commander.

In fact, this operation, examined on the military and political angle, would be qualified successful, by neutralizing the Katangan air force assets (fixed and rotary wing aircrafts), especially the famous *fouga magister* jet fighter. It constituted an essential strike to the Katangan morale by crashing down elements which symbolized its military supremacy over 'peace soldiers'. On the other hand it had restored the freedom of movement of UNF by removing road blocks and permitting UN Troops to regain power over the gendarmes. On its own, this operation's military success represented the decisive step over the secession and sealed the future of its actors. On the political ground, UN success over the gendarmes persuaded Tshombe to meet Adoula and, later, both of them signed the Kitona declaration. Military success over the Katangan Gendarmerie had sealed the fate of the self-proclaimed province-state.

Despite its irreproachable planning and co-ordination, some issues need to be pointed out as they had marked the conduct of Operation Onukat. First, the freedom of movement provisions were not enforced. Thus, the use of force to restore freedom of movement to peacekeepers was not covered by the actual mandate of ONUC. Second, UNF compliance to provisions of the International Humanitarian Law on targeting civilian and military objectives and specially hospitals, ambulances and ICRC vehicles presumably due to treachery and perfidy performed by the Gendarmes, using ambulances and ICRC vehicles and the use of hospitals and civilian residences to fire or direct fire against UNF (Rikhye 1995: 96).

Some critics consider that the operation had the purpose of ending the secession using the backdoor of self-defense (Findlay, 1999: 122), argument denied by George Ivan Smith¹⁷, whereas others claim, just as for operation Morthor, it went beyond the borderline separating peacekeeping to peace enforcement (Rikhye, 1993, 297). Nevertheless, this last allegation depended on the interpretation of UNSC resolution 169, which had enforcement measures. And there is no clear practical delineation between peacekeeping with enforcement measures and peace enforcement.

d. Round three: Operation Grand Slam

In the volatile situation, tension grew very high during the last quarter of 1962 and Katangan Gendarmerie were conducting acts of provocation and political leaders multiplied negative propaganda against UN and calling for general fighting against UN Force. UN personnel and property were subject to recurrent attacks from the gendarmes after talks between Tshombe and Adoula had failed due to lack of commitment of the former. The last resort was the use of coercive

¹⁷ UN Representative in the Katanga (December 1961)

measures to end the secession for the sake of unity and international peace. Gendarmes preferred fighting against the UN rather than re-integrating the Congo, they even threatened using scorched earth and sabotaging the infrastructure. The last two weeks of December seemed more difficult due to the Katangan Gendarmerie increased harassment and firing on UN members, civilians and military. Further warnings were issued to Tshombe about reprisal measures from UNF if these attacks continued, but this did not work out.

The operation started on December 28, 1962 and ended January 21 with entry of UN troops in Kolwezi, 300 Kilometers north-West of Elizabethville. Meanwhile, Tshombe had capitulated and announced the end of Katanga Secession January 17, 1963 after his defeat. Operation Grand Slam was presumably a self-defense action against repeated attacks against UN troops and civilian personnel and it was conducted that context.

This version became questionable after the entry of troops into Jadotville, 120 Kilometers North of Elizabethville, ignoring U Thant¹⁸ assurances that troops would halt and would not cross the Lufira River¹⁹. UN official report concluded Communication breakdown from UNHQ, Leopoldville, and Elizabethville due to time difference. After troops had crossed the river, it was difficult to evoke the self-defense justification, thus the invocation of the freedom of movement provisions. However, as mentioned above, this justification was questionable on the legal basis, in relation to the mandate.

Conclusion

Of course, ONUC remains one of the most important missions beyond traditional conception of Peacekeeping operations; it was the first multifunctional mission comprising both the military and civilian component. It also remains one of the largest UN Peacekeeping Missions ever deployed and operations in Congo marked the evolution in the concept of use of force and that of self-defense. However, behind this evolution and success, some black spots remained. At what cost did the UN operate these important changes in peacekeeping operations? The cost of these changes was too high. ONUC intervention in the Congo was to assist the government to restore law and order and arrange conditions for the settlement of internal and constitutional disagreements. The operations in the Congo, in general and those in Katanga in particular, were marked by critical incidents principally based upon the interpretation of mandates, understanding of the role of the UN in the Congo and the conduct of operations in the field, thus casting a negative

¹⁸ Acting UNSG in replacement of the deceased Hammarskjold.

¹⁹ River Close to Jadotville.

image on an operation that had brought revolution on the way the world community handles conflicts today.

In the history of the evolution of UN peace support operations, Katanga will always occupy a place of choice. This place of choice is of Katanga in this respect is due to three essential factors. The first of all there was a profound divergence of views regarding the position the UN should adopt *vis-à-vis* of the secession. Was the Katangan secession a constitutional and internal dispute or a threat to international peace and security? Hammarskjold's position on this issue did not suffer any ambiguity, it was an internal and constitutional dispute, though some member states suggested that the UN should use force to end the secession, arguing that existing provisions of the mandate covered this aspect. O'Brien's justification for Operation Morthor indicated that paragraph A1 of Resolution 161/1961 gave UN the possibility of pre-emptive use of force to end the Katangan secession on the ground that the central government was building up troops to attack Katanga (McDonnald 2001). Being a threat to international peace and security or civil war is not the question; the main question is to know whether or not there grounds for use of force to end the secession. These grounds had to be drawn from the mandate of ONUC, SOFA and SG's directives. The question of legal justification for the use of force to in Katanga is the second. This makes the second factor. The means and the ends were the third factor. It was claimed UNF used force to expel foreign troops, restore freedom of movement, or for self-defens, but O'Brien's statement made it clear the use of force was the means and the end was the termination of the secession of Katanga. After establishing the threat and justifying the actions, the finality of these actions (use of force) was another subject of controversy.

In all this *embroglio*, the behavior of officials who had the answers to questions raised by the presence of the three factors was the catalyzing element, have there been all these controversies without UN authorities bending the rules to satisfy situational pressure, the impact would have been minimal on the credibility, impartiality and the moral capital of the UN. After Operation Rumpunch, Dag Hammarskjold issued a summary instruction to ONUC (See Figure 1). These instructions clarified his position on the use of force. It appears that ONUC officials did not follow these instructions as far as Operation Morthor was concerned. To conduct a major operation without prior clearance from the hierarchy and in total contradiction with instructions received. It is a policy within the UN to confirm any instruction in case of doubt from the hierarchy, obviously this

had not been the case for Round One Operation Morthor. This demonstrates a blatant insubordination.

The fact that UNF in the Congo was a mosaic of many contingents from different Contributing States who had never worked together and facing languages communication problems did affect its operations. On top of the communicational difficulty, autonomy of troops and agreements between UNHQ and the contributing Member State brought much friction among Contingents. This was one of the biggest difficulties in the conduction of field operations.

ONUC was conducted with tactical diplomacy by an eminent Secretary-General (Dag Hammarskjöld) more inclined to resolution of disputes by peaceful means instead of the use of force and having more consideration on legalistic approach. His untimely death seriously affected conceptions and the interpretation of Resolutions. His replacement had less consideration on the legal considerations and wanted the finish the job quickly (Abi-Saab 1978:196-198). The way the the Katangan secession was ended highlighted an exasperation and impatience about a situation which was more than taking long.

Many elements affected ONUC's rating:

- a. The failure of the state, which characterized the Congo,
- b. The context of cold war,
- c. The misunderstanding and misinterpretation of principles governing peacekeeping operation,
- d. Different interests of Eastern and Western blocks,
- e. The changing and volatile situation, specially in the Katanga, and finally
- f. The quality of UN leadership in the field.

The failure of state led to a situation where the UN had to act as a national police in maintaining law and order, and sometime they were asked to carry duties, which were beyond the scope of a peacekeeping mission. The lack of understanding on the side of Congolese authorities was also due to a poor Public Information to explain UN role and the limitation of its mandate. UN operations in the Katanga had been entailed by actions, which were, at different stages, different from received instructions. Some of these actions claimed lives of peacekeepers, civilians as well as the Secretary-General. To my humble view, ONUC's operations in Katanga were first experience of a mission of that configuration, combining both civilian and military component, and in the particular context of Cold War with too much pressure to handle on a daily basis. Lessons learned from

mistakes of committed in ONUC were bases for reforming peacekeeping operations. These mistakes and break through in the in the co-ordination at different levels of responsibility laid a foundation for new concepts of peacekeeping in term of the use of force and the structure of missions. With UN military action in the Katangan secession, many question rose, regarding impartiality, peacekeeping and peace enforcement, the legitimacy of such action, specially the question of the right to self-determination of a Katangeses. All these are the price paid for the development of peacekeeping operations within the UN framework.

1. The mandate of the UN for the protection of law and order authorized it to deploy troops to protect civilians when they were threatened by tribal war or violence.
2. Paragraph 1A of the Security Council's resolution of February 21 also authorized preventive action by the UN to deal with incitement to or preparation of civil war.
3. The right of UN troops to use force in self-defence covered attempts to overrun or displace UN positions. It also covered attempts to injure or abduct UN personnel.
4. The act of self-defence against attack could include the disarming and, if necessary, the detention of those preparing to attack UN troops.
5. Incitement to or preparation for violence, including troop movements and confirmed reports of an impending attack, would warrant protective action by UN troops, but criticism of the UN, however pungently expressed, or peaceful demonstrations against the UN, could not be held to justify protective action.
6. The maintenance of law and order or the prevention of civil war might justify, in certain circumstances, the closing of radio stations and airports if it was clear they were being used to foment civil war or for other unlawful purposes. The legal basis for taking such measures would be strengthened when the competent authorities of the Central or the provincial government had requested or approved such measures.
7. Arrest or detention of civil leaders was only justifiable if they were engaged in overt military action or were caught *in flagrante delicto* inciting violence. Without such justifying circumstances, the detention of political leaders would run a serious risk of violating the ban on intervention in domestic conflicts.
8. Political leaders could be arrested by the UN if the UN was requested to do so by *both* the Central Government *and* the provincial authorities. However, it was doubtful if a warrant of arrest issued against a provincial leader by the Central Government alone was sufficient basis for the UN to carry out such an arrest, even if the arrest was requested by the Commissaire d'État appointed by the Central Government.
9. The appointment of a Commissaire d'État could not change the legal situation of the UN in conflicts between the Central Government and a provincial government, nor did it remove the obligation of the UN to abstain from interference in constitutional conflicts.

Figure 3.1. Summary of Secretary-General Dag Hammarskjöld's instructions to ONUC, 7 or 8 September 1961

Source: Sir Brian Urquhart, quoted in Abi-Saab, G., *The United Nations Operation in the Congo 1960–1964* (Oxford University Press: Oxford, 1978), p. 135.

Abbreviations:

1. IDPs : Internal Displaced Populations
2. NATO : North Atlantic Treaty Organization
3. ONUC : Opération des Nations Unies au Congo
4. PKO : Peacekeeping Operation
5. ROE : Rule of Engagement
6. UN : United Nations
7. UMHK : Union Minière du Haut Katanga
8. UNF : United Nations Force
9. UNSC : United Nations Security Council
10. UNSG : United Nations Secretary-General
11. US : United States
12. USSR : Union of Socialist and Soviet Republic.

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