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Anything But Safe

Problems with the Protection of Civilians in so-called "safe zones"

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Problems with the Protection of Civilians in so-called "safe zones"

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Abstract:

There is something rather magical in the idea of a 'safe zone' - almost as if by declaring an area to be safe one can make it so. Yet it would be more accurate to suggest that 'safe zones' are extremely fragile and depend for their existence on the complex and shifting goals of in-country actors and international actors. The history of 'safe areas' in Iraq, Bosnia, Rwanda, Sri Lanka and Sudan shows some of the severe limitations in the 'safety' that has been offered – reflecting the complex agendas of national and international actors who may perpetrate or tolerate large-scale abuse despite – and often under the cover of – an officially declared 'safe area'.

§ 1 Introduction

The idea of a 'safe zone' (or 'safe zones') has repeatedly been touted in relation to Syria's war, and has recently been given support by a number of key external actors.

In relation to Syria, US President Donald Trump has suggested that he would like to "take a big swatch of land" for "the right price" and build "a big beautiful safe zone". One might easily get the impression that President Trump is getting ready to conduct his latest piece of real estate business; but of course the politics of such a safe zone will be complicated, to put it mildly. Trump mentioned the possibility of 'safe zones' in Syria as an alternative to admitting Syrians into the United States. Back in September 2015, German Development Minister Gerd Mueller noted the substantial influx of Syrians into Germany and observed, "We must send a strong signal now; you should not all come here – we come to you and help you where you are… I see the urgent need for the UN Security Council to deal with the issue to take a first step towards a ceasefire and safe zones in Syria…"[1]

When thinking about the possible effects of one or more 'safe zones' in Syria it will be important to consider the various motives parties to the conflict may have for the creation of such zones. In addition, the various motives for opposing them must be considered as well. This is one of the areas where a study of 'safe zones' established in conflicts in different parts of the world can provide valuable background.

In both Syria and earlier humanitarian emergencies, the *motives* for creating – or opposing – safe zones are highly relevant when we consider the *effects* (or likely effects) of such zones and the degree to which protection for civilians has been – or is likely to be - sustained over time. In the case of Syria, the importance being attached to keeping Syrian refugees away from Europe and the US is clearly relevant here: while this motivation does not mean 'safe areas' in Syria will not work, it certainly gives grounds for skepticism. One possibility is that 'safe zones' in Syria will serve as a way of shunting people a little across the border into areas that are, first of all, *not home* and, secondly, *less safe* than being in Turkey or Jordan, for example.

This report will therefore present a critical history of the idea and practice of 'safe zones', highlighting their advantages but also going into significant detail about some disadvantages. The paper shows how political and self-interested objectives have frequently been crucial both in driving 'safe zones' policies and in limiting the benefits. The paper will also discuss the extent to which safe zones have a basis in international law, the extent to which 'safe zones' have in practice resembled the entities envisaged in international law, and the extent to which the act of returning refugees to 'safe zones' in their country-of-origin has a basis in international law.

The report will examine possible lessons that can be drawn from previous instances where 'safe zones' or 'safe areas' were created, drawing on secondary literature and on the author's own first-hand experience. The paper adopts a political economy approach to understanding the conflicts and the relevant humanitarian interventions. The case-studies bring out the political motivations for setting up 'safe zones', including the desire to stem refugee flows. They highlight the (often very severe)

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[1] Kammholz and Malzahn.

limits to the protection and assistance that 'safe zones' have been able to provide. In addition, the case studies show that, in the absence of consent from warring parties, 'safe zones' have necessarily relied on enforcement: where enforcement has not been provided, the 'safe zone' has not been safe. On the other hand, enforcement has brought its own problems, and enforcing a 'safe zone' can easily spill over into more war and even into regime change.

Section 2 will look at 'safe zones' in international law and how the legal framework compares with some 'real world' examples. Section 3 will examine how 'safe zones' relate to concerns around migration and repatriation. Section 4 will look at the 'safe zone' that was set up in northern Iraq in 1991. Section 5 will look at the 'safe zones' in Bosnia-Herzegovina during the war there. Section 6 will look at the 'safe zone' set up by the French government in southwestern Rwanda in 1994. Section 7 will examine the 'safe zones' (known as 'open relief centres') set up in Sri Lanka in 1990. Section 8 will look at the 'safe zone' established, on the Sri Lankan government's initiative, within northeastern Sri Lanka in 2009. Section 9 will look at the 'Protection of Civilians' initiative in South Sudan . Finally, the conclusion will draw out the main points and briefly discuss them in relation to the current situation in Syria.

§ 2 'Safe zones' in international law - and in practice

Under Chapter 7 of the UN Charter, the UN Security Council is authorized to restore international peace and security when it determines that this is under threat, and the UN can take measures deemed necessary for the purpose. One of the measures that has, in practice, been adopted is the establishment of safe areas - for example those authorised by the UN Security Council for Bosnia-Herzegovina and for Iraq.[2]

Elements of international law also provide more explicitly for the establishment of 'safe zones'. Importantly, international law has envisaged the establishment of 'safe zones' that are *demilitarised* and that are civilian in character, and international law has also envisaged *the consent of the warring parties*. A 2015 paper from the Harvard Humanitarian Initiative summarized the legal situation in this way: "… both the [Geneva] Conventions and [Additional] Protocol explicitly rely on the consent of all parties to the conflict and their agreement on the logistical issues involved in the creation and maintenance of a neutral, demilitarized safe zone."[3]

Yet, crucially, both demilitarisation and consent have tended to be absent from 'safe zones' that have actually been established.[4] This, as we shall see, has had important consequences for the safety of civilians in these zones.

Three articles of the 1949 Geneva Conventions pertain to protected zones.[5] And while the Geneva Conventions addressed themselves primarily to international conflicts, Common Article 3 of the Geneva Conventions covered situations of non-international armed conflicts. Article 23 of the First Geneva Convention provides for the protection of the *military* sick and wounded, while article 14 of the Fourth Geneva Convention covers the sick and wounded among *civilians,* extending protection also to the aged, children under 15, expectant mothers and the mothers of young children.

Finally, Article 15 of the Fourth Geneva Convention, on 'neutralized zones', notes that:

> Any Party to the conflict may, either direct or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction: a, wounded and sick combatants or non-combatants b, civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character.[6]

Significantly, Article 15 also specifies that there should be a written agreement between the Parties specifying arrangements for administration, food supply and

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[2] See eg ICRC/InterAction.
[3] Harvard Humanitarian Initiative.
[4] Landgren.
[5] Landgren.
[6] ICRC, n.d.(a).

supervision of the proposed zone, and fixing the duration of the zone.[7] An ICRC/InterAction report noted:

> While similar treaty law does not exist for non-international conflicts, state practice has established a prohibition on attacking zones established to shelter the wounded, the sick and civilians from the effects of hostilities in both IACs [international armed conflicts] and NIAS [non-international armed conflicts] as a rule of customary international law.[8]

The concept of a safety zone was expanded in the 1977 Additional Protocols [additional to the Geneva Conventions], which provide for the protection of an entire designated civilian population – not just the sick, wounded, or otherwise vulnerable.[9] Article 60 of Protocol 1 (the Protocol that applies to international armed conflict) stipulates that there should be an express agreement by the parties to a conflict on the status of any demilitarised zone and spells out the conditions which such a locality must meet, conditions that add up to complete demilitarisation:

> The subject of such an agreement shall normally be any zone which fulfills the following conditions: a, all combatants, as well as mobile weapons and mobile military equipment, must have been evacuated; b, no hostile use shall be made of fixed military installations or establishments; c, no acts of hostility shall be committed by the authorities or by the population and d, any activity linked to the military effort must have ceased.[10]

Recognising the contemporary prevalence of internal conflicts, Protocol II of the 1977 Additional Protocols explicitly extends its provisions on the protection of civilians to non-international armed conflicts.

In reality, the absence of demilitarisation and the absence of consent from warring parties, turn 'safe zone' into something very different from the entity envisaged in the Geneva Conventions and the 1977 Additional Protocols. Karin Landgren has put the matter very clearly:

> The alternative to consent is enforcement. Enforced safety zones, however, depend on a credible threat, which in turn can compromise the safety of the zone, politicize its existence, and complicate humanitarian access to it. Safety zones in Northern Iraq, Bosnia and Rwanda have not excluded combatants, and in each case, military activities have been carried out from or through the zones.[11]

Military activities within or around the 'safe zone' and the absence of consent from warring parties also have the potential to transform an international intervention to enforce safe zones. The pursuit of a limited set of humanitarian goals may develop into a full-scale military intervention (as in Bosnia and Libya) and even to regime

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[7] ICRC, n.d.(a).
[8] ICRC/InterAction, 7.
[9] Landgren, 439.
[10] ICRC, n.d.(b).
[11] Landgren, 442.

change (as in Libya). Once international actors begin to *enforce* a safe zone in opposition to armed actors on the ground, the distinction between peacekeeping and war-making may quickly become blurred. Today, many countries (perhaps especially Russia) are wary of the way the 'no-fly zone' in Libya mutated into fully-fledged military intervention. In a similar way, a delayed attempt to enforce 'safe areas' in Bosnia fed into fully-fledged military intervention there during the 1990s. Whether one approves of such military interventions or not, past experience suggests such 'mission creep' is quite possible.

§ 3: 'Safe zones', migration and the repatriation agenda

Several analysts have expressed a concern that the establishment of a 'safe zone' may, in practice, impede refugee protection. One key problem is that 'safe zones' may legitimise non-admission of refugees into neighbouring and more distant countries. A related problem is that 'safe zones' may also legitimise and encourage repatriation programmes that would otherwise be considered under international refugee law to be a case of *refoulement*.[12] These dangers are further highlighted by the very considerable evidence that containing refugee movements has been a major reason for setting up 'safe zones' in the first place. For example, the impetus for setting up 'safe havens' in Iraq, Bosnia and Sri Lanka came in large part from an international push to limit (and perhaps reverse) flows of migrants from the country in which the 'safe haven' was being established.

Refoulement and cessation in international law

International law prohibits the practice of *'refoulement'*. Specifically, Article 33 of the 1951 Geneva Convention specifies that:

> No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

A refugee is defined as someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion. Importantly, such a person is already a refugee even before their refugee status has been officially confirmed (or, for that matter, refused). It follows that the protection against *refoulement* or expulsion extends to asylum-seekers (who may be refugees) as well as to those whose refugee status has been confirmed: as Chimni notes "…the principle of non-refoulement… applies not merely to those granted refugee status or an intermediate humanitarian status, but also to asylum seekers."[13] While refugee protection under the 1951 convention was limited to refugees from Europe, the omission was rectified 16 years later with 1967 Protocol Relating to the Status of Refugees.[14]

The 1951 Refugee Convention specifies an exception to the prohibition on *refoulement* in a clause that has often been cited in the US in the context of the post-9/11 'war on terror'. Article 33, part 2 notes:

> The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

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[12] See e.g. Hathaway and Neve.

[13] Chimni, 65.

[14] Arulanantham.

The claim that refugees are a security threat has become a common one and has helped to 'inform' various repatriation efforts. However, lawyers have tended to stress the dangers – and illegality – of repatriating refugees on the basis of some blanket or generalized security fears as opposed to the existence of specific evidence about specific individuals.

Article 1C(5) of the 1951 Refugees Convention provides that the convention shall cease to apply when the circumstances that led to recognition of refugee status have ceased to exist.[15] In its 2003 *Guidelines on International Protection*, UNHCR comments:

> … cessation practices should be developed in a manner consistent with the goal of durable solutions. Cessation should therefore not result in persons residing in a host State with an uncertain status. It should not result either in persons being compelled to return to a volatile situation, as this would undermine the likelihood of a durable solution and could also cause additional or renewed instability in an otherwise improving situation, thus risking future refugee flows. Acknowledging these considerations ensures refugees do not face involuntary return to situations that might again produce flight and a need for refugee status. It supports the principle that conditions within the country of origin must have changed in a profound and enduring manner before cessation can be applied.[16]

UNHCR adds:

> … changes in the refugee's country of origin affecting only part of the territory should not, in principle, lead to cessation of refugee status. Refugee status can only come to an end if the basis for persecution is removed without the precondition that the refugee has to return to specific safe parts of the country in order to be free from persecution. Also, not being able to move or to establish oneself freely in the country of origin would indicate that the changes have not been fundamental.[17]

The trend towards repatriation

The Cold War provided an important impetus for Western governments to receive refugees - in part because receiving into the West those fleeing from Communism was regarded as something of a 'propaganda coup'. But particularly from the 1990s, with concerns around immigration growing in many countries, many Western countries found complex and often effective ways of rejecting asylum applications, of granting only temporary protected status, and of preventing asylum seekers from arriving in the first place.[18] Moreover, despite the explicit prohibition of *refoulement* under the 1951 Refugee Convention (with some narrowly-constrained exceptions), the 1990s

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[15] UNHCR, 2003.

[16] UNHCR, 2003, 3.

[17] UNHCR, 2003, 5.

[18] Arulanantham.

saw a growing willingness to accede to repatriation (and sometimes to *assist* with it) even in circumstances where the population movement could not reasonably be construed as voluntary. Significantly, UNHCR declared the 1990s to be "the decade of repatriation", which it itself suggested a push for repatriation that was probably not going to be driven by the desires of the refugees themselves.[19]

One early intimation that the idea of a 'safe haven' might be harnessed to repatriation came in relation to Haiti. In 1991, following a military coup and the persecution of the followers of the ousted Haitian President Aristide, the US government had refused entry to many Haitians, interdicting them on the high seas and building a camp for them in Cuba at Guantanamo Bay.[20] Karin Landren notes, "During 1994, the United States actively pursued the establishment of so-called 'safe havens' in other countries for Haitians and Cubans seeking asylum, and applied that designation to the military base at Guantanamo Bay, where asylum seekers were held pending a decision."[21]

UNHCR's increasing involvement in assisting people inside their country-of-origin was illustrated in early 1994 when Pakistan closed its borders to Afghan refugees and UNHCR set up camps inside Afghanistan, effectively reducing pressure on Pakistan to accept the refugees.[22] A growing international favour for repatriation and even involuntary repatriation was illustrated in 1996 when Tanzania expelled some 500,000 Rwandan refugees, with UNHCR facilitating their movement back into Rwanda.[23] Many aid workers and diplomats presented the involuntary repatriation as a form of 'conflict prevention', given the danger of a Rwandan government sponsored attack on refugees in Tanzania (of the kind that had affected Rwandan refugees in Zaire/DRC).[24] Yet the principle that UNHCR would support only *voluntary* repatriation had been seriously undermined.

The cases of Pakistan and Tanzania highlighted dilemmas that UNHCR was facing in many parts of the world. Particularly in the new, post-Cold War climate of the 1990s, UNHCR often found itself in an ambiguous and difficult position: by offering assistance to repatriation efforts, by offering assistance to those who had not left their country-of-origin, and by espousing the so-called 'right to remain',[25] UNHCR left itself open to the charge that it was not only facilitating *refoulement* but also undermining people's ability to claim asylum. Meanwhile, although the growing emphasis on the importance of repatriation was often accompanied by rhetoric about the importance of addressing 'root causes', UNHCR's ability actually to address these root causes tended to be extremely limited. Chimni put this rather bluntly: "UNHCR and the NGO community cannot address the root political causes of the conflicts

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[19] Chimni.
[20] Alunanantham.
[21] Landgren, 441.
[22] Whitaker.
[23] Whitaker.
[24] Whitaker.
[25] Arulanantham.

which led to the outflow of refugees."[26] Chimni also tracked a growing institutional acceptance of the idea that repatriation need not necessarily be entirely voluntary.

In his 1996 analysis, Mikhael Barutciski went so far as to argue that UNHCR, in effect, was colluding in an attempt by powerful states to undermine its traditional focus on facilitating asylum. He suggested that the move towards a preoccupation with in-country protection was "intended to reinforce State policies that deny entry to asylum seekers" and that UNHCR was "assigned these interventionist activities in order to indirectly subvert its original palliative role."[27]

Trends in UNHCR funding do seem to reveal a successful accommodation to changing international priorities. In the 1980s a rapid rise in numbers of refugees had not led to any substantial rise in UNHCR's funding. At the same time, the sharp increase in numbers helped to precipitate increased efforts by states to preempt the arrival of asylum seekers on their own territory. Given these increased efforts, Barutciski pointed out, it might have been expected that UNHCR (as the agency charged with defending asylum) would find itself locked into permanent confrontation with these states and also that its funding would come under sustained pressure from donor governments in the richer countries. Yet UNHCR's funding actually *doubled* between 1990 and 1993, propelled upwards by the crises in Iraq and former Yugoslavia and by UNHCR's increasing involvement *inside* these crisis zones.[28]

In 2000, Ahilan Arulanantham noted: "Apart from the harm caused by safe havens to those seeking asylum, there are also geopolitical costs. States can use their contributions to safe havens as a justification for decreasing refugee commitments, and their support for safe havens serves to deflect political criticism of refugee policy."[29]

Advocates of voluntary repatriation tended to assume that refugees *wanted* to go home, but there were often many reasons to want to stay outside the country-of-origin.[30] Chimni noted the increasing resort by aid officials to the idea that there are 'objective' facts that can trump the desires of refugees themselves: most notably by the idea that repatriation can be done if it is considered that return can be 'safe'. This mode of operation significantly erodes the commitment to repatriations that are truly *voluntary*. Chimni also observed that the idea of safe return is linked to the idea of the internal flight alternative (IFA): that is, the idea that an asylum application can reasonably and legally be rejected if it can be shown the applicant could have moved to some 'safe' part of the country-of-origin. Landgren expressed related concerns in 1995:

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[26] Chimni, 71; see also Duffield. See also Barutciski: "… the international community may be funding an agency that is not capable of accomplishing the mission apparently entrusted to it." (Barutciski, 50).

[27] Barutciski, 50.

[28] Barutciski.

[29] Arulanantham, 25.

[30] Chimni.

Principles formulated [in 1991] by the African-Asian Legal Consultative Committee for the establishment of safety zones in the refugee context state that if normalization is restored in the State of origin and the international organization or agency in charge of the safety zone is satisfied that the conditions are favourable and conducive to return, 'the persons residing in such zones shall be provided with all facilities to return to their permanent place of residence. This provides a significant departure from the *non-refoulement* rule where the consent of the individual is required.'[31]

Commenting on the 'safe zones in northern Iraq, Bosnia and Rwanda, Hathaway and Neve note that

None of these interventions gave the at-risk population a meaningful choice between remaining secure in their own homes and seeking asylum… Would-be refugees may indeed have remained within their own states, but not because they exercised a 'right to remain'. They had no option but to remain.[32]

The authors add:

For most refugees, the shift from the right to seek asylum to the 'right to remain' simply formalizes the de facto withdrawal of states from their legal duty to protect refugees, and makes clear that refugees should no longer expect to benefit from the legal protections historically provided by UNHCR.[33]

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[31] Landgren, 456, citing UN doc. A/AC.96/777 [Note on International Protection 1991], para 47).
[32] Hathaway and Neve, 135-6.
[33] Hathaway and Neve, 137.

§ 4: The Kurdish 'safe haven' in northern Iraq

In 1991, in the wake of the Iraqi uprisings that followed the First Gulf War over Kuwait, some 400,000 Iraqi Kurds fled towards Turkey and Iran. The Kurds were refused entry into Turkey, though some gained admission to Iran. Some of the Iraqi Kurds were even beaten back by Turkish soldiers. Although Turkey had in 1988 accepted tens of thousands of Iraqi Kurds after they fled from earlier Iraqi government attacks (including the Halabjah chemical attacks), Turkey was concerned about the effects of the Iraqi Kurds on internal security and had received little help from the international community when it came to dealing with this earlier migration.

Turkey was a valued NATO ally and occupied a key strategic position as a predominantly Muslim country positioned between Europe and the Middle East, as it does today. Rather than pressure Turkey into accepting the Iraqi Kurds (as Thailand had been pressured to accept refugees in the 1970s and 1980s and Pakistan had been pressured into accepting Afghan refugees in the 1980s), the victorious US-led coalition acceded to Turkish wishes. Turkey's borders remained closed. Citing UN Security Council Resolution 688, Britain, France and the US undertook to carve out a 'safe zone' in northern Iraq. Apart from providing an alternative to admittance of refugees into Turkey, the move may also have been attractive as a way of further destabilizing the Iraqi regime by supporting the development of an autonomous and militarized political entity within Iraq's borders.[34]

Despite many shortcomings, the Kurdish safe zone did survive. The Iraqi Kurds were spared a large-scale massacre by Saddam's forces. And the 'safe haven' provided a basis for a fledgling Kurdish administration that endures – in significantly modified form – to this day.

Before concluding that the 'safe haven' was a success that should be eagerly copied elsewhere, two important caveats are worth highlighting. First, the protection that Iraqi Kurds did enjoy seems to have been permitted by some rather special circumstances that have not recurred elsewhere. Second, there were, in practice, grave limits to the protection that the safe haven was able to provide to the Iraqi Kurds. Significantly, the various abuses to which Iraqi Kurds continued to be subject were often downplayed by members of the US-led coalition that established the 'safe haven', actors who generally preferred to stress that the haven was safe.[35] Of course, even using the term 'safe haven' – usually without the inverted commas - carried this implication.

If we consider first the special circumstances surrounding the establishment of the Kurdish 'safe haven', one was the fact that the haven had emerged in the wake of a major military confrontation between Western governments and the Iraqi government, a confrontation in which the Iraqi government – the main threat to the Iraqi Kurds - had been comprehensively defeated. The US-led coalition was now able to dominate Iraqi airspace. A second special circumstance was that this was, to a large extent, a *post-war* context. In this sense, it was very different from trying to set up safe zones in the middle of the wars in the former Yugoslavia, for example. Third, in terms of

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[34] Frelick, 1997.
[35] Keen, 1993.

forces on the ground the Iraqi Kurdish *peshmerga* forces were a significant military presence, as they remain to this day.

When it came to the grave limitations on protection for the Iraqi Kurds, five key points stand out.

First, there was a very limited international presence on the ground. Crucially, the number of international ground troops was drastically scaled down from an initial figure of more than 20,000 to virtually zero.[36] It is true that there was a continuing UN peacekeeping presence. But when I visited the Kurdish 'safe area' in 1992, UN peacekeepers were few in number, generally did not speak local languages, lacked a mandate to protect Kurdish civilians and were often unable to protect *themselves*. Rather, the employed Kurdish *peshmerga* to provide protection. Certainly, the UN peacekeepers were not able to protect against Government-of-Iraq attacks, and they tended to flee when these attacks took place.[37] Meanwhile, Western officials were not able to travel freely around the safe area or to monitor abuses effectively.[38] Although the presence of Western aid workers has sometimes been seen as making people safer through 'protection by presence', aid workers in northern Iraq were a target for violence emanating from Baghdad and were also subject to evacuation when violence against Kurds intensified.

A second major limitation in the security provided by the 'safe haven' was the limited geographical coverage of the international protection efforts. This had three main aspects. First, the no-fly zone in the north did not cover all the Kurdish-controlled areas or Kurds living outside Kurdish-controlled areas. Second, Iraqi ground-troops in practice were only excluded from part of the so-called 'safe area': a limited security zone centred on Dahuk governorate.[39] Third, there was no protection at all in some of the areas where it was most needed. This applied to Kirkuk, where Kurds continued to be subject to horrendous human rights abuses.[40] Landgren noted in 1995: "Attacks by Iraqi government forces outside the safe haven are alleged to have forced more Kurds to flee into it in recent years.[41]

A third major limitation on protective power of the 'safe haven' was the stance of the Turkish government. While Turkey was a key backer of the 'safe haven' in providing a channel for aid and trade as well as an airbase for Operation Provide Comfort, Turkey also posed a threat to the Iraqi Kurds.

Turkey was wary of anything resembling a Kurdish state in northern Iraq, fearing that this would encourage Kurdish nationalism within Turkey and would provide support for PKK terrorists. PKK attacks in Turkey did rise after the 'safe haven' was established, fuelling a desire within Turkey for military intervention in northern Iraq.[42] Turkey argued that growing conflict between the PUK and KDP within the

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[36] Keen, 1993.
[37] Keen, 1993.
[38] Keen, 1993.
[39] Keen, 1993.
[40] Keen, 1993.
[41] Landgren.
[42] Kirisci.

'safe haven' was creating a power vacuum that was being exploited by the PKK.[43] At the same time, Turkey had an interest in Baghdad retaining some degree of influence in northern Iraq to pre-empt a federal arrangement. It also had an interest in some degree of division between the PUK and KDP.

Turkey made numerous attacks on Kurdish guerrillas within Iraq and in March 1995 Turkey launched a major military intervention into northern Iraq involving 35,000 troops.[44] A report in the *Geneva Post* noted in that month:

> This week the allies conveniently grounded their overflights of Iraqi Kurdistan to allow Turkish jets to bomb the very territory the allies are committed to protect from Iraqi aggression. It is small comfort to the Kurds of Iraq that the bombs raining down below to an ostensibly friendly power…[45]

Quite apart from the Turkish incursions, the Iraqi Kurds' security was severely eroded by the fact that the Operation Provide Comfort no-fly zone had to be renewed by the Turkish parliament every six months, a process that was far from automatic since the operation had only limited support among the Turkish population.[46] Many Turks saw Operation Provide Comfort as a Western ploy to set up an independent Kurdish state in northern Iraq.[47]

It is also important to observe that the 'safe haven' for Iraqi Kurds proved entirely compatible with escalating abuses by the Turkish government against Kurds *within Turkey*. Indeed, donors' and aid agencies' focus on protecting and assisting the Iraqi Kurds was an additional reason not to upset Ankara, whose cooperation was required to sustain the 'safe haven' in Iraq. Some analysts highlighted the phenomenon of 'good Kurds' (in Iraq) who were to be protected and 'bad Kurds' (in Turkey) who could be left exposed to Turkish government violence.

Diplomatic challenges to Turkish abuses (whether against Kurds in Iraq or in Turkey) appear to have been tempered by Turkey's status as a key Western ally and by Turkey's role as the hub for aid and trade and an airbase.

A fourth major limitation on the protection provided by the 'safe haven' were the abuses and incursions by Baghdad (along with a degree of dependence on Baghdad, notably in relation to aid operations) Saddam Hussein quickly imposed a systematic blockade on the Kurdish-controlled zone, a blockade that interacted damagingly with continuing UN sanctions on Iraq as a whole (including the Kurdish 'safe haven'). Saddam also wasted little time in massing his troops along the front-line separating Kurdish-controlled from Government-of-Iraq-controlled areas (Keen, 1993). We have also noted that Iraqi ground troops were only excluded from a limited security zone within the 'safe haven' centred on Dohuk governorate. Importantly, the international community's dependence on Baghdad for consent to humanitarian deliveries tended

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[43] Kirisci.
[44] Frelick, 1997; Kirisci.
[45] Landgren, 443, citing Morris, H. Geneva Post, March 23 1995.
[46] Keen, 1993.
[47] Kirisci.

to pollute UN assessments of Iraqi government behaviour and intentions towards the Kurds.[48]

Frelick gives a good summary of the 1996 Government of Iraq incursion:

> In 1996, apparently seeing the writing on the wall, and realizing that the safe havens could not be maintained indefinitely, Massoud Barzani, the leader of the Kurdish Democratic Party (KDP), decided to strike a deal with Saddam Hussein, inviting in Iraqi government forces to bolster his side in a factional struggle with the Patriotic Union of Kurdistan (PUK). Although the KDP's action would seem to be a blunder of the first magnitude, it was based on the evidence of a diminishing commitment by the international community – influenced by Turkey – to maintain the security umbrella and a realization that the international community would never challenge the ultimate sovereignty of Iraq over the Kurdistan region, a position declared in Resolution 688 itself.[49]

Frelick notes further:

> Responding to the KDP invitation, Saddam Hussein's tanks surrounded the city of Erbil, the erstwhile 'capital' of Kurdistan. His agents moved in, searching house to house, executing scores of political opponents on the spot and taking hundreds back to Baghdad, presumably to meet the same fate.[50]

During Baghdad's incursion into Erbil, Turkish restrictions on the use of US and British strike aircraft hindered coalition protection efforts.[51] Another problem, going forward, was that US President Bill Clinton responded to the incursion by evacuating the last of the US officials and aid workers who were implementing Operation Provide Comfort in the north; 'protection by presence' looked even more threadbare now. Clinton then launched two salvos of cruise missiles into southern Iraq, something Frelick describes as "a decidedly mixed message about his willingness to protect the Kurds of the north."[52] Meanwhile, Turkey was still barring refugees from Iraq, and Iran partially so.[53]

In telling the story of Baghdad's incursions, we can already see the importance of the fifth major factor undermining Iraqi Kurdish security: the divisions among the Iraqi Kurds themselves. Baghdad had a policy of playing Kurds against each other and of using the blockade on the north to exacerbate existing intra-Kurdish tensions (Keen, 1993).[54] Turkey also fostered these divisions to a degree, and was wary of any kind of unity - like a united Iraqi Kurdish army – that might bring the threat of an Iraqi Kurdish state.

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[48] Keen 1993.
[49] Frelick 1997, 41.
[50] Frelick 1997, 41.
[51] Hathway and Neve, 136.
[52] Frelick, 1997, 41.
[53] Frelick 1997.
[54] Keen 1993.

If only limited protection was provided to the Iraqi Kurds (for the reasons given), it is also important to note that the 'safe haven' proved entirely compatible with large-scale abuses elsewhere in Iraq, notably against the Shi'ite population. A no-fly zone was imposed in southern Iraq in addition to the one in the north. But, as one analyst noted:

> For years after the failed Shiite uprising in 1991, Saddam initiated a brutal counterinsurgency campaign in the south, building roadways into marshlands to bring artillery within range of Shia insurgents, conducting cordon operations in suspected rebel areas, and draining marshes to eliminate places to hide."[55]

[55] Zenko, 2011a.

§ 5 Bosnia

'Safe zones' in Bosnia-Herzegovina (commonly known as Bosnia) proved just how unsafe these zones could be. After Slovenia and Croatia broke away from the former Yugoslavia, the projected status of Bosnia proved highly incendiary. A 1992 referendum vote in Bosnia went in favour of independence, but the referendum was vetoed by the Bosnian Serbs. Meanwhile, Serbia and Montenegro remained together as the Federal Republic of Yugoslavia under President Milosevic, an elected leader with distinct authoritarian tendencies and a penchant for inciting and exploiting nationalist sentiment among the Serbs. With help from Milosevic and the old Yugoslav army, the Bosnian Serbs fought against the Bosnian army, carrying out a vicious wave of ethnic cleansing against Muslims within Bosnia (the largest ethnic group there). There was also ethnic cleansing within Serbia. Croatia, having allied with the Bosnian government against the Serbs, was soon fighting the Bosnian government. Croatian President Franjo Tudman helped to incite Croatian nationalist sentiment whilst looking to protect the Croatian population within Bosnia and to incorporate parts of Bosnia-Herzegovina into Croatia.

With Bosnian Serbs surrounding a number of Muslim-majority towns in eastern Serbia as well as the Muslim-majority town of Bihac in western Bosnia, the UN Security Council authorized the establishment of a number of 'safe zones' in Bosnia. Six towns and cities were designated as safe havens: Srebrenica, Tuzla, Zepa, Gorazde, and Sarajevo in eastern Bosnia and Bihac in the west. These areas were provided with some humanitarian relief, and some UN military personnel were stationed within these areas.[56] Importantly, the UN Security Council declined to endorse the Secretary-General's call and the UN Force Commander's request for 34,000 troops to implement the 'safe areas' mandate in Bosnia-Herzegovina. Instead, they opted for only 7,600: a figure that presupposed the compliance of the warring parties.[57]

While the UN Security Council did authorise the use of air power to defend the safe areas, in practice successive Force Commanders in Bosnia largely ruled out this option, saying it would sound the 'death knell' of peacekeeping operations.[58] Yet this severely limited the ability of the UN peacekeeping operation to provide civilian protection, including within the 'safe zones'. In practice, while there were some minor NATO air attacks around Sarajevo and Gorazde, the 'safe zones' were generally poorly supported from the air. For example, when Bihac was threatened in November 1994, the UN declined to request NATO air strikes, although the town did hold out against the Bosnian Serbs.[59] Srebrenica and Zepa fell to the Bosnian Serbs in 1995 with only limited NATO air response, and the fall of Srebrenica became particularly

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[56] Posen.

[57] Landgren; Posen.

[58] Landgren.

[59] Posen has pointed out that "Given the limited ground forces assigned to the safe haven task in Bosnia, it is remarkable that four of six havens were never taken by the Serbs." (Posen, 103). Those that did not fall were also the largest (Gorazde, Bihac, Sarajevo, Tuzla) – though, even in the safe areas that did not fall, civilians suffered casualties from shelling and sniping (Posen).

infamous as more than 8,000 Bosnian Muslims were massacred under the watch of Dutch UN peacekeepers.

Significantly, the Bosnian 'safe zones' did not conform to the model envisaged in international law. Hathaway and Neve argue that, "The Bosnian 'safe zones' were never demilitarized as promised by the U.N. Consequently, they were used as launching pads for [Bosnian] government raids, logically attracting Serb reprisals…"[60] A UN Secretary General report on the safe areas in Bosnia and Herzegovina observed that "unprovoked attacks launched from safe areas are inconsistent with the whole concept".[61] At the same time, there was *some* degree of demilitarization of the six 'safe zones'. It began in 1993 and then, when the UN Secretary General proposed further demilitarization in December 1994, the Permanent Representative of Bosnia-Herzegovina argued that "the demilitarization of the safe areas as a stand-alone measure could actually have the counter-productive impact of exposing the safe areas and their population to greater danger".[62] The Bosnian representative added that "UNPROFOR's and NATO's previous responses to attacks on the safe areas do not engender confidence".[63] In Srebrenica, the UN carried out a major disarmament operation, and many people there argued that this actually *increased* the vulnerability of Bosnian Muslims within the 'safe zones' since arms were a form of protection. The alternative (UN protection) was, in practice, weak or non-existent.[64] Some in Srebrenica gave up their weapons on the understanding that UNPROFOR would now be protecting them.[65]

Bosnian history also points to the possibility of capturing peacekeepers and holding them hostage: something that could be a tempting proposition for ISIS in relation to any 'safe zones' in Syria. UN Secretary-General Boutros Boutros-Ghali noted in a December 1994 report that the protective effect of "air power" was limited by the difficulty in identifying suitable targets and by the increased presence of Serb surface-to-air missiles. He added: "extreme and unavoidable vulnerability of UNPROFOR troops to being taken hostage and to other forms of harassment, coupled with the political constraints on a wider air action, greatly reduce the extent to which the threat of air power can deter a determined combatant."[66]

Following limited NATO bombing under UN authorisation, the spring of 1995 saw the Bosnian Serb Army seizing several hundred peacekeepers in many parts of Bosnia. Senior UN officials sensed that there was little political will in the West to stand up to the Serbs. In negotiating for the release of the peacekeepers, [General Bernard] Janvier [overall commander of UNPROFOR] privately assured Bosnian Serb General Ratko Mladic that there would be no further air attacks. But this promise undermined the UN Security Council's own resolutions on protecting safe areas. Daryll Li notes,

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[60] Hathaway and Neve, supra note 11 at 136, in Arulanantham, 22.
[61] Landgren, 446, citing Report of the Secretary-General to the Security Council (S/1995/444, 30 May 1995, para 36).
[62] UN General Assembly, 1999, 40.
[63] UN General Assembly, 1999, 41.
[64] Briggs with Monaghan.
[65] Frelick, 2017.
[66] UN General Assembly, 1999, 40.

As the Bosnian Serb Army slowly encircled and overran Srebrenica several months later, numerous requests for air support from the Dutch soldiers were rejected by Janvier and [Yasushi] Akashi [special representative of the Secretary-General for the former Yugoslavia], even though the conditions under the mandate for using air power had technically been satisfied."[67]

A second Bosnian Serb threat to Gorazde did lead NATO to make its first explicit threat of a substantial air attack on the Bosnian Serb army, and the Serbs did not succeed in taking Gorazde. In August and September 1995, a substantial NATO bombing campaign was launched, directed principally at the Serb siege of Sarajevo.[68] This was matched by ground offensives against the Bosnian Serbs in western Bosnia by the Bosnian Muslims, Bosnian Croats and the Croatian army. These combined international and local offensives created conditions in which the 1995 Dayton peace accords became possible, accords which left the Bosnian army intact and arguably rewarded violence by assigning 49 per cent of Bosnian land to Serb control.

Not only were the Bosnian 'safe zones' not safe; it also appears that safety was not the primary intention behind their establishment. It is very important to understand that, from the beginning, safe zones in the former Yugoslavia were linked with a 'containment' agenda in relation to refugees.[69] July 1992 saw the new Croatian and Bosnian governments announcing an agreement to return able-bodied refugees to so-called safe areas of Bosnia - even though no such areas had so far been designated. Significantly, in July 1992 the 'Benelux' countries (Belgium, the Netherlands and Luxembourg) imposed a visa obligation on Bosnians, and very soon most European states – including Britain and France - had done likewise. These countries were effectively sealing Bosnians' escape routes.[70] Rather disingenuously, some governments cited their desire not to contribute to 'ethnic cleansing',[71] and in September 1992 the UN's High Commissioner for Refugees Sadako Ogata told government representatives gathered in Dublin "If you take these people, you are an accomplice to ethnic cleansing. If you don't, you are an accomplice to murder."[72] UNHCR pushed for admission of refugees from former Yugoslavia under a temporary protection regime, hoping these would promote admissions. But states tended to accept the reduced rights regime while simultaneously implementing non-admission policies.[73]

As Bosnian Muslims fled from Bosnian Serb attacks into the Banja Luka region of northern Bosnia-Herzegovina, the ICRC commented in October 1992:

> Today there are at least 100,000 Muslims living in the north of Bosnia-Herzegovina, who are terrorized and whose only wish is to be transferred to a safe haven… As no third country seems to be ready, even on a provisional

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[67] Li, 36.

[68] Posen.

[69] Woodward; Ali and Lifschultz.

[70] Frelick, 1997.

[71] Frelick, 1997.

[72] Frelick, 1997, 68-69.

[73] Barutciski.

basis, to grant asylum to one hundred thousand Bosnian refugees, an original concept must be devised to create protected zones in Bosnia-Herzegovina which are equal to the particular requirements and the sheer scale of the problem.[74]

Rather than focusing on Banja Luka, UNHCR's humanitarian operations focused on three geographically-isolated Muslim-controlled enclaves in mountainous parts of eastern Bosnia-Herzegovina (Srebrenica, Zepa and Gorazde) that were completely surrounded by Serb military forces.[75] In relation to Bosnia, Britain and France favoured the creation of 'safe areas' in part as a way of avoiding military intervention and in part as a way of deflecting pressure to receive refugees on the scale of Germany in particular.[76] Providing protection played second fiddle to being seen to be doing something (and avoiding more politically painful alternative responses). In reality, the safe areas also held out relatively little prospect of stemming refugee flows, as Barutciski shows, given their location in eastern Bosnia and the desire of local authorities to hold onto their own populations.[77] However, the initiative still took away political pressure for mass admittance of refugees. UNHCR, meanwhile, began to promote a "right to remain", but actions promoting displacement were already illegal so it is not clear what this added other than a further weakening of pressures for granting asylum.[78] As Barutciski notes, it was bizarre to promote this right in a context where states were actually closing their borders to people from Bosnia-Herzegovina: there was no choice involved.[79] The safe havens seem to have significantly reduced the granting of asylum to Bosnians even by the German government, which (as today) had shown a generosity much greater than most European governments.[80]

§ 6: Rwanda: Operation Turquoise

With the approval of the UN Security Council, France set up a 'safe zone' in southwestern Rwanda in June 1994 towards the end of a genocide that began in April 1994 and was carried out by extremist Hutu elements – politicians and *interahamwe* Hutu militias – with assistance from the Rwandan army. Some 800,000 people were

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[74] ICRC, 1992.

[75] Barutciski.

[76] Woodward; see also Ali and Lifschultz.

[77] Civilians here were "hardly represented a threat to western European states fearful of an influx of refugees from Bosnia-Herzegovina. Even in the unlikely scenario that they could somehow have reached the borders of Bosnia-Herzegovina, they would have found a Serbia or Croatia intent on preventing them from continuing their flight." (Barutciski, 87). Also, the civilians' own authorities would not let them leave the enclaves since their escape would weaken Muslim territorial claims. The Mostar not declared a safe area but was about to become the most destroyed site in B-H, caused by heavy fighting between Croat and Muslim forces. The Serbs had been expelled several months earlier.

[78] Barutciski.

[79] Barutciski.

[80] "… in 1993, after the safe havens had been created in Bosnia, German asylum adjudicators granted fifty-nine asylum requests filed by Bosnians and denied 1,913." (Arulanantham, 25, citing Fitzpatrick, footnote 8, 242).

killed in the genocide. These people were mostly from the Tutsi ethnic group though some were Hutus who were members of the opposition or who were simply labeled as 'collaborators'. The Tutsi-dominated Rwandan Patriotic Front (RPF) had first moved into Rwanda from Uganda in 1990, and had been given a share of political power in Rwanda in the 1993 Arusha accords. This power-shift helped to precipitate the genocide, which was organized by extremist Hutu elements that were opposed to power-sharing and democratization.

Following the April 1994 assassination of President Habyarimana (which precipitated the genocide), the RPF renewed its military campaign. Hazel Cameron notes:

> By the end of May 1994, the RPF controlled most of eastern Rwanda and had put a halt to the genocide in this area… By this point in time, it was becoming evident that the RPF were close to toppling the regime in Kagali and achieving military victory.[81]

As members of the *interahamwe* militias fled (along with members of the old Rwandan army), they used civilians as a shield, forcing hundreds of thousands of people to accompany them.[82] Tutsis were still being killed by the *interahamwe*, thought the RPF was reining in these killings in areas it controlled. The French government proposed a resolution to the UN Security Council for a self-funded 'humanitarian intervention' in Rwanda, codenamed Operation Turquoise.[83] The French government declared that this would be 'a temporary multinational force' aiming to establish secure humanitarian areas.[84] The idea was to create a safe haven in southwestern Rwanda, bordering Zaire, an area about a fifth the size of Rwanda itself, and this is where the French troops were sent.

On June 22 1995, UN Security Council Resolution 929 authorised the military intervention (with 5 out of 15 members abstaining). The intervention was authorized under Chapter VII of the UN Charter, allowing the use of "all necessary means, including the use of force". This was in rather startling contrast to the more limited mandate of the UN peacekeeping force UNAMIR, whose commander - Romeo Dallaire – had made repeated requests during the genocide to have UNAMIR's Chapter 6 mandate amended to Chapter 7 with a view to halting or mitigating the 1994 Rwandan genocide.[85]

Apart from protecting the Tutsis, another expressed goal of the operation was to prevent a rapid influx of people into Zaire (soon to be named Democratic Republic of the Congo) from southwestern Rwanda, an influx that threatened to recreate the life-threatening conditions that prevailed in the Zairean camps further north, such as Goma."[86] In a 1995 article, Karen Landgren gave a relatively positive assessment of the French intervention:

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[81] Cameron, 104-5.
[82] Frelick 1997.
[83] Cameron.
[84] Cameron.
[85] Cameron, 105.
[86] Frelick, 1997, 43.

Operation Turquoise was a rapid and forceful military intervention which, whatever its motivation, had humanitarian benefits. It stemmed the flow of refugees to Zaire, thus saving many lives, given the crisis conditions prevailing there. It protected some Tutsis in the zone, although few were left in the area by the time the zone was established, and it protected Hutu troops from revenge killings.[87]

There were indeed some reports that French soldiers were providing limited protection to some surviving Tutsis who were located within the safe zone.[88]

But while the operation was presented as humanitarian, political goals were very much to the fore; moreover, rather than protecting the Tutsis, the operation tended to represent *an additional threat*. As Frelick noted:

> The French rhetoric for Operation Turquoise was humanitarian, but its intentions, to the extent they could be discerned, appeared to be to prop up the deposed, pro-French, Hutu central government and to prevent a total RPF victory, which they believed to be anti-French. This had clearly been the reason for previous interventions of French paratroopers in Rwanda in 1990 and 1993…[89]

By the time of Operation Turquoise, the rebel RPF had swept across eastern Rwanda and was besieging Kigali. In these circumstances, the French-made 'safe zone' offered to sustain elements of the beleaguered Hutu-dominated government as an alternative burgeoning power and authority of the RPF. Yet it was precisely the advance of the RPF that was putting a stop to the genocide in the areas it controlled.[90]

Revealingly, UNAMIR commander Dallaire opposed the Chapter 7 mandate for the proposed French operation, saying "I knew the French were using a humanitarian cloak to intervene in the country for their own ends."[91] On July 5 1994 the New York Times quoted a French captain saying that the French Army task was to draw 'a line in the sand' to prevent the RPF from advancing.[92] As was the case earlier in Rwanda's civil war, France seemed to be trying to tilt the balance of power in favour of a beleaguered Hutu elite. French intervention also helped to reassure France's allies elsewhere in Africa[93] – not least because French troops helped to evacuate *genocidaires* from Rwanda to Zaire. This included some of the leading figures in the genocide.[94]

International scepticism about French intentions was widespread, and even though Britain supported the UN Security Council resolution endorsing Operation Turquoise,

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[87] Landgren, 450-1.
[88] African Rights; see also Frelick 1997, 43.
[89] Frelick, 1997, 43.
[90] African Rights.
[91] Cameron, 105.
[92] Frelick, 1997, 43.
[93] African Rights.
[94] African Rights; Cameron.

Britain's then Minister for Development Lynda Chalker said later "any humanitarian consequences of the intervention were purely a by-product."[95] The French military were joined by a few hundred troops from Senegal and Chad and about 40 from the Republic of Congo and Niger, with Dallaire suggesting that "this was solely to give [the operation] an aura of multilateralism".[96]

One genocide survivor hiding in Kigali at the time of the French intervention told researcher Hazel Cameron that the *interahamwe* militias "gave the French a very warm welcome. There was much shouting and dancing in the street and French tricolours being waved around and the flags were hung even on the Rwandan Army military vehicles. The killers were shouting 'Vive La France!'[97] Cameron observes:

> If the Interahamwe believed that French troops had arrived to stop their activities, this is a very strange response. In fact, rather than quashing the massacres and drawing a halt to genocide in Rwanda, the arrival of the French troops buoyed the spirits of the near-defeated genocidaires who now felt protected by the arrival of their long-term ally and reinvigorated to complete their task of exterminating the few remaining Tutsi. Indeed the arrival of the French military in June 1994 actually facilitated further massacres to continue unchecked for an extra month.[98]

Meanwhile, French weapons arrived in Kigali and in Goma during the genocide. One member of the *interahamwe* who carried out the 1994 genocide told Cameron that the French gave weapons to his fellow militiamen at Goma, reassuring them "You cannot be defeated because we support you."[99] Despite a May 17 1994 UN arms embargo forbidding all arms transfers to Rwanda, even as late as July 18 1994 the French continued to transfer arms to the members of Hutu regime in exile in Zaire under the guise of Operation Turquoise. Hazel Cameron notes, "The sheer scale of French arms sales to Rwanda in the period immediately before and during the genocide played a major role in sustaining and escalating the violence."[100]

Cameron's detailed research – which draws on interviews with survivors and *interahamwe* militiamen – suggests that French troops frequently *facilitated* continued killing of Tutsis, sometimes participating themselves. Cameron notes, "Witnesses have testified that, contrary to their alleged humanitarian mandate, French soldiers involved in Operation Turquoise actively killed Tutsis trapped at the Interahamwe roadblocks."[101] Some French soldiers said their mission did not involve disarming the

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[95] Cameron, 105.

[96] Cameron, 106.

[97] Cameron, 106.

[98] Cameron, 106.

[99] Cameron, 104.

[100] Cameron, 104.

[101] Cameron. "Robert Hakizimana, Jean Inyumba, and Fabien Gara, former members of the Interahamwe, claim that they manned the roadblocks established by Operation Turquoise alongside French soldiers, and it was a common occurrence for civilians to be killed at the roadblocks, including women and children, in the presence of the French soldiers." (Cameron, 108).

Hutu militia,[102] and at least some French troops were told that Tutsis had been killing Hutus; the soldiers were shocked to find that the Tutsis were the main victims.[103] Frelick notes, "Armed, extremist Hutus militia members operated openly in the zone, continuing to kill Tutsis living there and intimidating those Hutus living in camps who wished to go home".[104]

Clementine Gatate, a Kigali-based Tutsi survivor, commented: "… yes, the French did genocide and they helped people who did genocide… During the genocide they would help the Interahamwe with the roadblocks and check the identity cards to try and catch Tutsi civilians."[105] French soldiers were seen loading Tutsis on trucks and driving them to Rwandan army barracks. Didier Gasana, who joined the *interahamwe* before the start of the genocide, said Tutsi prisoners arrested by the French at roadblocks were killed by the militias and taken to Lake Vert with French military escorts, where their bodies were dumped. French soldiers were reported to have provided guns, ammunition, trucks and even used military telescopes to monitor and direct the militias operating on the hillsides.[106] Cameron again:

> Evidence has also been obtained of soldiers deployed by Operation Turquoise torturing persons suspected of being RPF members (often merely being Tutsi 'justified' such suspicions). Interviewees, including a former soldier with the Rwanda army and a former Major in Karama Commune, state that they saw the French soldiers arresting people at roadblocks during the genocide. 'They tied them up and beat them badly. They then took them by helicopter to Nyungwe forest and pushed them out of the choppers from the air [while they were still alive].[107]

One survivor of the genocide, Celestin Mutangana, said he had survived being tortured by French soldiers and then being thrown from one of their helicopters; at the time of interview, he had visible scarring to his body.[108]

Even when it came to protecting *the Hutus*, the French operation proved unreliable. The RPF seized Kigali in early July 1994. Hathaway and Neve observed, "… France effectively abandoned the Hutus it had discouraged from fleeing to Zaire. In the midst of extreme insecurity and instability, the French ended their peacekeeping mission and withdrew their forces."[109] Citing security concerns, and insisting that it was safe for displaced civilians to return, the new Rwandan authorities demanded that the camps in the southwest be closed. This included Kibeho, the largest camp, where up to 120,000 people were living. Frelick takes up the story:

> After France turned over the operation to UNAMIR, the Rwandan Patriotic Army (RPA) moved to force the displaced out of Kibeho. In April 1995, in

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102 Frelick 1997.
103 African Rights.
104 Frelick 1997, 68.
105 Cameron, 106-7.
106 Cameron, 108.
107 Cameron, 107.
108 Cameron, 107.
109 Hathaway and Neve, 137.

full view of UN peacekeepers and international humanitarian relief organizations, RPA troops committed a massacre in Kibeho, killing at least hundreds, and probably thousands of people. Although machete-wielding Hutu extremists had compromised the integrity of the camp and had, from within the camp, attacked RPA soldiers, the response of RPA soldiers was to fire indiscriminately on unarmed civilians in the camp, shooting many in the back, and lobbing grenades into crowds of people.[110]

As with the 'safe zone' in northern Iraq and the 'safe zones' in Bosnia, the Operation Turquoise 'safe zone' in Rwanda was not demilitarised and was not created with the consent of all the parties. It was not a neutral zone and was not perceived as neutral. Frelick notes:

> Ironically, the international community had ignored an earlier call by Pope John Paul II to create a true 'safe area' in Kabgayi in Rwanda's interior, the site of a major religious center. Such a safe area would have been more consistent with the notion of protected areas promoted in the Geneva Conventions, which require the consent of all parties to the conflict, which must be demilitarized and politically neutral, and which are not specifically designed to fit in border buffer zones or to create the basis for territorial claims by parties to the conflict.[111]

The massacre at Kibeho camp underlines the dangers in 'safe zones' that are not demilitarized, since the fears of the incoming Rwandan government in relation to refugees at Kibeho reflected the ineffective disarmament of Hutus in the camp as well as the wider failure to disarm Hutu militias in Operation Turquoise.[112]

Meanwhile, as with other 'safe zones', the Rwandan 'safe zone' had damaging effects on asylum. While preventing migration to France appears not to have been a significant motive for the military intervention, it is nevertheless important to note that "France blocked the applications of Rwandan refugees seeking asylum in France, on the basis of its half-hearted efforts to protect Rwandans inside their own country."[113]

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[110] Frelick, 1997, 68.
[111] Frelick, 1997, 68.
[112] Haspelagh.
[113] Hathaway and Neve, 137.

§ 7 Sri Lanka, 1990-1995: Repatriation from India and the 'Open Relief Centres'

While the initiative did not amount to a formal 'safe haven', in 1990 UNHCR established "something akin to a safety zone" in the form of 'open relief centres' within Sri Lanka. The country's conflict had ignited in 1983, causing many Sri Lankan Tamils to flee to Tamil Nadu in India. The Indian government was keen to limit the exodus, and a significant repatriation of Sri Lankan Tamil refugees from southern India began in 1987, encouraged by the Indian government. The repatriation was less than voluntary, and UNHCR had only limited access to the refugees in India. In 1990, as part of the Indian government's ongoing efforts to limit the influx of Sri Lankan Tamils, the Indian government floated the idea of establishing "an [internal] alternative to flight abroad".[114] India agreed to fund three UNHCR-run 'Open Relief Centres'.[115]

Kendle describes this as an attempt by the governments of India and Sri Lanka and by UNHCR "to establish something akin to a safety zone so that the over 100,000 strong outflow of refugees could be stopped and reversed." When UNHCR set up a camp known as the Pesalai Open Relief Centre on Mannar island, the agency stated explicitly that this was to provide an alternative to the exodus of Tamils to India.

UNHCR claimed that warring parties would have no access to the camp without UNHCR's agreement.[116] However, this promise proved impossible to deliver. After talking with Tamil refugees in southern India, Alihan Arulanantham reported: "Forces of the Sri Lankan Government's army had begun to arbitrarily take people from the UNHCR's camp. Many of those had returned with tales of torture, and still others had not returned at all."[117] The camp's director acknowledged to the refugees that UNHCR could no longer guarantee their safety.

Yet higher up the hierarchy, UNHCR was continuing to send out a different signal. There seemed to be a vested interest in insisting that the centres were in fact safe. Arulanantham notes: "… at a time when disappearances were increasing and thousands of refugees were fleeing the camp, the UNHCR published a report claiming that the camp was open and providing protection and relief for those seeking shelter from the conflict." The UNHCR report made no mention of the fact that protection failures in the camp were rampant and that many refugees were risking their lives on the high seas in order to leave it.[118] Alunanantham suggests that UNHCR's reporting failures reflected it dependence on funding from donors who were often interested in refusing asylum to refugees;[119] we have noted that India was the key donor in this

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[114] Kendle, 528.
[115] UNHCR had originally responded to the Indian government's suggestion by proposing that Sri Lanka's Mannar Island (the main exit point for refugees heading to south India) be turned into a de-militarised zone or 'safe haven' for IDPs (Kendle), though this particular version of the proposed 'safe zone' was never implemented (in part because the Tamil Tiger rebels rejected it).
[116] Arulanantham.
[117] Arulanantham, 1.
[118] Arulanantham, 2.
[119] Alunanantham.

instance.[120] Arulanantham's interviews also suggested that some people were choosing not to leave the camp – and some were even returning to Sri Lanka from India – in part because they still believed UNHCR *would* provide protection.

Following the assassination of Rajiv Gandhi by the Tamil Tigers in May 1991 and the growing hostility to Tamil refugees in India that ensued, UNHCR became involved in helping with a second wave of repatriation in 1992-95.[121] India was again pressuring refugees to leave: as Arulanantham notes, "India… cut off benefits and restricted NGO access to its Tamil refugee camps in 1992 in order to encourage refugees living in camps to return to Sri Lanka and to prevent others from fleeing to India."[122] Once having journeyed back to transit camps in Sri Lanka, many remained trapped there – sometimes for years.[123] In effect, most returnees to Sri Lanka had simply swapped being a refugee in southern India or Europe for the life of an internally displaced person inside Sri Lanka. This was not 'returning home' in any real sense.

UNHCR said the camps were to provide "a relatively safe environment".[124] But there were no accompanying security personnel,[125] and again UNHCR was unable effectively to protect people within Sri Lanka. Nor was UNHCR able to ensure that repatriation was *voluntary*. Significantly, UNHCR claimed that it was acceptable to send people back to Sri Lanka because there was an "internal flight alternative". This particularly referred to southern Sri Lanka, since the conflict was concentrated in the north.[126]

In a detailed analysis, Kendle argues that UNHCR did not have to get involved with assisting internally displaced people in Sri Lanka and that ICRC was in many ways better positioned for the task. However, UNHCR *chose* to do so. In line with Barutciski's critique of UNHCR's organizational adaptations in the 1990s, it appears that some within UNHCR saw this new field of activity as an *opportunity*. Kendle observes:

> For that reason, it would appear that the UNHCR's work with IDPs in Sri Lanka has more to do with limiting the number of people who seek the international legal right to asylum, than it does with helping to find a safe and 'durable solution' that deals with the root causes of why people try to flee that country.[127]

A combination of institutional interests – and India's desire to repatriate or deter refugees – had produced a significant degree of dishonesty around the protection available in 'open relief centres', notwithstanding the intimate involvement of the UN in providing and administering the centres and in encouraging repatriation from India.

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120 Kendle.
121 Kendle.
122 Arulanantham, 15.
123 Arulanantham.
124 Arulanantham, 24
125 Arulanantham.
126 Kendle.
127 Kendle, 531.

§ 8: Sri Lanka, 2009

In early 2009, the Sri Lankan government declared a 'safe zone' for civilians in Mullaitivu, northeastern Sri Lanka, and encouraged civilians to move westwards into this zone. At the time, Tamil civilians in northern Sri Lanka were subject to abuse by both the Tamil Tiger rebels and the Sri Lankan government. The Tigers were using civilians as 'human shields', and government expressed the desire to separate civilians from the Tamil Tigers. However, the Tigers accompanied civilians into the 'safe zone' and civilians attempting to escape from the Tigers' control were often shot by the rebels.

Although the 'safety' of this unilaterally declared zone was precarious or non-existent, the term 'safe zone' was sometimes uncritically adopted by actors within the UN system,[128] which sometimes put inverted commas around the term but sometimes did not. Thus, although the UN agencies and the UN Security Council never endorsed the so-called 'safe zone', criticism of the idea within the UN system was muted and sometimes outright absent.

Yet the dangers were clear enough. In February 2009, Human Rights Watch noted, "Many of the civilian deaths reported in the past month have occurred in area that the Sri Lankan government has declared to be a 'safe zone'.[129] On March 9 in 2009 the International Crisis Group reported that "government forces were shelling civilian areas, including in the no-fire zone which it had unilaterally declared, without any significant pause… While they [an estimated 150,000 IDPs] are mostly in or near the government-declared 'no fire zone' along the coast, the government itself has shelled that zone daily."[130] On May 1 2009, the International Crisis Group's Gareth Evans noted:

> Despite the government's April 2 announcement that the military had been ordered to cease using air attacks artillery, and other heavy weapons against remaining LTTE-held areas, such attacks have carried on with increasing intensity… the government has defaulted on its promises and paid mere lip service to calls for restraint, all the while pursuing its military onslaught.[131]

The unilateral government declaration of a 'safe zone' played a significant role in confusing the international community as well as apparently helping to lure Sri Lankan Tamils into a zone where they would be killed *en masse*. Senior UN workers did not speak out strongly against the Sri Lankan government until very late in the crisis, and they were generally reluctant to confirm figures for civilian deaths in the 'no fire zone'. Importantly, the Sri Lankan government was at the time trying – successfully – to prevent condemnation of government actions in both the UN Security Council and the UN Human Rights Council. The idea that it was launching 'humanitarian initiatives' – proposing a 'safe zone' and attempting the 'rescue' of

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[128] Keen 2013.
[129] Human Rights Watch, 13.
[130] International Crisis Group. UN agency estimates of numbers in the north were generally much lower than local government officials' estimates (Keen 2013).
[131] Evans.

Tamil hostages from the Tamil Tiger rebels – was an important part of that (largely successful) campaign of misinformation.[132]

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[132] Keen.

§9: South Sudan and the Protection of Civilians initiative

The 'Protection of Civilians' (PoC) initiative in South Sudan registered some important successes and involved a number of UN-protected sites that offered significant protection to hundreds of thousands of civilians. Yet the story of the PoC sites should also serve as a further warning about the dangers of 'safe zones' – and a warning to those who believe that UN involvement and endorsement can ensure that 'safe zones' do not have significant drawbacks.

After South Sudan's independence in 2011, a large amount of international aid and oil revenues accruing to the new government ended up being diverted into corrupt and unnecessary spending and into spending on the swollen military.[133] This patronage system depended heavily on buoyant oil revenues; but a dispute over oil with Khartoum and a downward trend in oil prices put the system into jeopardy.[134] The Dinka had been a dominant force within the rebel Sudan People's Liberation Army (SPLA) that had effectively secured independence for the south, and there was growing resentment within South Sudan at perceived Dinka dominance of the newly-independent government in Juba. In particular, ambitious Nuer politicians were challenging the status quo.[135] In December 2013, after a power struggle between South Sudan's President Salva Kiir and Vice President Riek Machar, fighting erupted in the army barracks at Juba. The conflict quickly exhibited a very strong ethnic dimension, and thousands from the Nuer ethnic group were killed in the first week of the conflict. South Sudan was plunged into what was effectively a civil war between the government/SPLA and the breakaway SPLA-in-Opposition (or SPLA-IO), the latter being led by Machar. Outside Juba, violence was for some time concentrated in rural areas of Greater Upper Nile in the north-east of the country, which has a large Nuer population in addition to Dinka, Shilluk and other ethnic groups.

The 'safe havens' that were established in response to escalating violence in South Sudan took the form of 'Protection of Civilians' (PoC) sites that were administered by the United Nations Mission in the Republic of South Sudan (UNMISS), with support from humanitarian aid organisations. While 'safe havens' in Bosnia, Iraq and Rwanda were planned by the international actors, those in South Sudan emerged more spontaneously when desperate civilians sought – and were given – protection at existing UN bases.[136] Within days of the violence erupting in Juba in December 2013, as one report recalls, "tens of thousands of civilians converged on the UN bases in Juba and took up shelter – partially by forcing their way in, partially by UNMISS opening the gates."[137] By June 2015, there were over 200,000 people in six UNMISS PoC sites,[138] with a similar number of people reported to be living in the sites by October 2015.[139]

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[133] de Waal, 2013.

[134] de Waal, 2013.

[135] Gettleman.

[136] Lilly.

[137] Center for Civilians in Conflict, 2. One 2016 evaluation said of the people (around 13,000 in January 2016) living within the UN House base in Juba: "This population poses a safety and security risk to UNMISS." (Arensen, 11).

[138] Johnson.

[139] Center for Civilians in Conflict.

The protective contribution made by the PoC sites has been widely recognised, and the South Sudan case has been touted as a model for elsewhere.[140] Notwithstanding its important successes, the PoC initiative has also been beset by two main problems: the first has been situation *inside* the PoC sites and the second the situation *outside* the sites. These are dealt with in turn in the two sections below.

Problems *inside* the PoC sites

Security problems within the PoC sites have been significant. For example, in December 2013, two UNMISS peacekeepers and several civilians were killed when the UNMISS PoC site based in the town of Akobo was overrun by armed men from the Nuer ethnic group.[141] On April 17 2014, Dinka militias attacked IDPs located within the Bor PoC, where the displaced were primarily Nuer. Forty seven of the displaced people were killed,[142] and many people were critical of UN peacekeepers' response.[143] In his 2016 evaluation of the PoC sites, Michael Arensen recounted a violent episode in Malakal, which brings out strongly the protection problems as well as the ethnic dimension in the violence:

> On 17/18 February 2016, armed militia entered UNMISS Malakal PoC. 19 IDPs were killed and 108 were injured. None of the Dinka or Darfuri shelters were destroyed, but all Nuer shelters were burned to the ground as well as a huge swathe of Shilluk shelters throughout the PoC. All Dinka and Darfuri IDPs departed to Malakal Town before and during the fighting. 30,000 Shilluk and Nuer IDPs fled the PoC area, to seek protection further within the UNMISS base. They now live in horrific conditions. Humanitarians are rebuilding the site.[144]

Significantly, the situation in Malakal PoC was made worse when IDPs were actively blocked by UNMISS from reaching safety in the UN LogBase.[145]

Such problems were on the whole not anticipated.[146] In general, a lack of proper fencing and lighting in the PoC sites has helped to increase security threats both to local residents and to UNMISS and humanitarian staff. An UNMISS official in Juba said, "With each and every POC, this is an issue. Guys go in and out through [breaches in the perimeter], often with arms."[147] Other analysts have confirmed that weapons have sometimes been brought into PoC camps despite attempts at screening.[148] A Center for Civilians in Conflict report noted:

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[140] Briggs with Monaghan.

[141] Lilly.

[142] Arensen.

[143] International Refugee Rights Initiative.

[144] Arensen, 11.

[145] MSF, 2016.

[146] UNMISS's April 2013 *Guidelines on Civilians Seeking Protection at UNMISS Bases* noted "It is not considered likely that UNMISS bases in which civilians have sought protection will be overrun by armed actors in the same way as Srebrenica." (Briggs with Monaghan, 28).

[147] Center for Civilians in Conflict, 24.

[148] Lilly.

The proliferation of arms and other contraband has led, at least in certain POC sites, to a rise in organized gangs and violent criminality. In Bentiu, there are reportedly at least 12 different gangs within the camp, including at least one with around 400 members in it.[149]

As with 'safe havens' in other countries, ensuring disarmament and non-combatant status has been difficult. One report noted that "the POC sites have been host to former SPLA-IO combatants", leading to tensions in regions like Unity State.[150]

Apart from security problems, a second major problem with the PoC sites is that living conditions have often been very poor and humanitarian assistance inadequate.[151] Many of the sites swelled rapidly as violence escalated from December 2013, and PoC sites quickly became congested. Maintaining minimum humanitarian standards – for example on overcrowding and sanitation – proved difficult or impossible.[152] One evaluation noted of the Bentiu PoC site: "The 2014 rainy season came early and stayed long – June to October. IDPs remained at the PoC site in horrific conditions, many areas were flooded in up to a meter of standing water."[153]

In general, there has been a damaging reluctance to acknowledge that PoC sites are likely to endure. One humanitarian official said "the POC mindset [at UNMISS] is always short-term, but the reality is that [these are here to stay] for the medium to long-term. The short-term thinking causes really bad planning."[154] Damian Lilly noted in September 2014, "Because it was envisaged that the PoC sites would be temporary, humanitarian actors did not provide the same level of assistance that they might have done in a typical response in more traditional IDP camps."[155]

Problems *outside* the PoC sites

A second set of problems surrounding the PoC initiative have been the grave shortcomings in protection for those *outside* the PoC sites. While the PoC initiative has rightly been given credit for saving lives within the PoC sites, it would be misleading to present the initiative as a 'policy success', given the devastation of much of South Sudan and the UN Security Council's expressed aim of protecting civilians *in general*. In South Sudan, attempts to be proactive in the provision of protection – and especially attempts outside the PoC sites – were generally unsuccessful and under-supported. An International Refugee Rights Initiative report noted that, "civilians are frustrated that protection appears to be available only inside the camps",[156] and in October 2015 the Center for Civilians in Conflict noted

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[149] Center for Civilians in Conflict, 24.
[150] Center for Civilians in Conflict, 13.
[151] International Refugee Rights Initiative; MSF, 2016.
[152] Lilly.
[153] Arensen, 10.
[154] Center for Civilians in Conflict, 25.
[155] Lilly.
[156] International Refugee Rights Initiative, 1.

… protection of civilian efforts have all too often been limited to within the PoC site gates (3)… only ten percent of the displaced population in South Sudan has made its way to the PoC sites. The protection needs in conflict-affected areas are enormous, and UNMISS should do more to project force and proactively protect people caught in these areas.[157]

One key factor helping to undermine attempts to provide protection beyond the PoC sites has been *a lack of resources.*[158] UNMISS, like other UN peacekeeping missions in a period of global economic contraction and 'austerity', has faced severe resource constraints.[159] Hilde Johnson, Head of UNMISS and the UN Special Representative of the Secretary General from 2011 until 2014, noted

> Both prior to the crisis and during the civil war, the mismatch between UNMISS' mandate and its resources was glaring, making it close to impossible for the mission to deliver on that mandate and provide physical protection to civilians under threat.[160]

Resource shortages meant that some areas of South Sudan got very little attention from UNMISS despite escalating tensions. These areas included Equatoria and Western Bahr el Ghazal. Some states outside the north-eastern areas of Greater Upper Nile have had fewer than 15 UNPOL staff.[161] Meanwhile, in all parts of the country, a serious shortfall in engineering capacity has hit UNMISS's ability to build roads, airstrips and to provide electricity and sanitation.[162] There has been a grave insufficiency of peacekeepers to patrol areas surrounding PoC sites, seriously inhibiting the ability to protect women from sexual violence. Around the Bentiu PoC, for example, many women have been attacked while collecting firewood, with UNMISS struggling to provide a presence in areas surrounding PoC sites.[163]

Significantly, given resource constraints, the swelling of PoC sites seems to have further inhibited the ability to protect people outside them. As the Center for Civilians in Conflict report noted: "The growing number of people housed within the POC sites has… increased the resource burden on UNMISS, including the mission's ability to project force into conflict-affected areas…"[164] In addition, poor security at the perimeters of PoC sites often 'ties up' peacekeepers who might be patrolling away from the sites. One UNMISS official in Bentiu said: "The fence issue should be seen as a way to allow [the Mongolian Battalion]] and [Ghanaian Battalion] to go out [and do proactive protection]… to do patrols, deploy at a longer range. Instead, we have to sit here worrying about our own security."[165]

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[157] Center for Civilians in Conflict, 44.
[158] Centre for Civilians in Conflict.
[159] Center for Civilians in Conflict.
[160] Johnson, 5.
[161] Center for Civilians in Conflict.
[162] Center for Civilians in Conflict.
[163] Center for Civilians in Conflict.
[164] Center for Civilians in Conflict, 21.
[165] Center for Civilians in Conflict, 25.

With resources being stretched tight, local people were sometimes blamed – in many ways bizarrely – for accessing the PoC sites for 'the wrong reasons'. As the Center for Civilians in Conflict report noted, "Perhaps in part because of the frustrations linked to the resource burden, there seems to be a growing narrative within parts of the mission that many people in the POC sites are there only for services, rather than for physical protection."[166] An UNMISS military official said:

> To spare force for patrols, outreach – it's difficult, because of the [POC sites]. We don't have any idle resources, and yet I cannot say we are doing protection of civilians. [The POC sites] are a magnet for people, they are not a solution. More than half [of the people in them], the reason why they are there is services, not security."[167]

The distinction is an odd one, given the context. The Center for Civilians in Conflict report noted in October 2015:

> As many within the humanitarian community stressed, there is rarely a sharp distinction between coming for physical protection and coming for food insecurity. These issues are often intertwined in South Sudan; in carrying out attacks on civilians, armed groups have destroyed houses and crops and looted livestock.[168]

In addition to the resources problem, a second important problem has been what the Center for Civilians in Conflict called "the timidity of some troop contributing countries (TCCs) toward kinetic operations". Some contingents showed great courage, as noted. But those who did not follow orders or failed to push through weak checkpoints have tended to receive little punishment or censure. One UNMISS military official said "We were at a point where [some] TCCs [UNMISS staff from troop contributing countries] were reaching a checkpoint where there was a drunk soldier holding a rope along the road, and that was enough to turn an armored [UNMISS] convoy around."[169] Some saw their role only as to protect the PoC sites through static operations. A related difficulty was UNMISS soldiers receiving different commands from home country and UNMISS force commander.[170]

A third key problem has been obstruction from the warring parties, especially the South Sudan government and SPLA. As usual with complex emergencies, one needs to consider the strategies of the 'interveners' within the context of the strategies of key local actors.[171] The Center for Civilians in Conflict said attempts to extend protection beyond the PoC sits ran into "relentless obstruction [that] the mission has faced from parties to the conflict".[172] In many ways, this represented a 'constraint'. However, the constraint was challengeable in certain respects. One civil society leader said: "The UN is doing a very difficult job, in a very difficult situation, with a very

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166 Center for Civilians in Conflict, 21.
167 Center for Civilians in Conflict, 21; see also Arensen.
168 Center for Civilians in Conflict, 21.
169 Center for Civilians in Conflict, 33.
170 Center for Civilians in Conflict.
171 Keen, 2008.
172 Center for Civilians in Conflict, 3.

difficult government. But it should be more robust in condemning acts against the UN… The government is testing the waters, seeing how [far it can go]." The October 2015 Center for Civilians in Conflict report noted:

> The government and opposition are to blame for the routine SOFA violations, but several people within and outside the mission also expressed that, by UNMISS often not responding robustly to these violations, the parties have pushed the bounds of their obstructionism ever further. The challenge has presented itself most acutely through the flight safety assurances (FSA) process, in which UNMISS de facto asks permission of the parties to the conflict before carrying out its operations. Not surprisingly, this has been used by the parties to block UNMISSS movements into areas where violence against civilians was ongoing or had occurred recently.[173]

Indeed, provision of security outside the PoC sites tends to go directly against much of the objectives of the government of South Sudan has been trying to do. This has been reflected in increasing obstruction of UNMISS by warring parties. A November 2016 UN Panel of Experts report noted that "Peacekeeping and humanitarian operations continue to be relentlessly obstructed, principally by civilian and armed actors affiliated with the SPLM/A in government."[174]

We should note that there has been an ongoing *effort* within UNMISS to project force outside the PoC sites.[175] After the April-June 2015 SPLA offensive in Unity state, UNMISS designed Operation Unity II, which was meant to establish regular long-duration patrolling, dynamic air patrols, and several temporary operating bases – or TOBs – in southern Unity state. This held out the prospect of not only of improved physical protection but also better humanitarian delivery, and this in turn promised to reduce new arrivals to the PoC sites. But the ambitious plans associated with Operation Unity II were slow to materialize.[176] They were impeded by resource constraints (notably the lack of helicopters), by impassable roads, and by extreme difficulty in getting flight safety assurances. In an October 2015 report, an UNMISS official in Bentiu reported that about two-third of UNMISS scheduled movements into southern Unity had had to be cancelled due to lack of air assets or lack of flight safety assurances. This perpetuated the pattern of helping people in camps but not in rural areas;[177] even if one is thinking simply in terms of disease-prevention, then helping people in rural areas tends to be preferable to camps.[178]

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[173] Center for Civilians in Conflict, 13.
[174] UN Security Council, 2016, 3
[175] Center for Civilians in Conflict.
[176] Center for Civilians in Conflict, 29.
[177] Center for Civilians in Conflict.
[178] de Waal, 1989.

§ 10: Conclusion

There is something rather magical in the idea of a 'safe area': it is almost as if by declaring an area to be safe one can make it so. The same goes for 'humanitarian space' (of which 'safe areas' are one manifestation). Yet it would be more accurate to suggest that 'safe zones' are extremely fragile and depend for their existence on the complex and shifting goals of in-country actors and international actors.

Michel Foucault suggested that a proper understanding of the Gulag – the internment of dissidents in the former Soviet Union – was not helped by looking at the Gulag purely as a *dysfunction*. As Foucault put it, "The problem of causes must not be dissociated from that of function: what use is the Gulag, what functions does it assure, in what strategies is it integrated?" This framework can be used to analyse humanitarian disasters like wars and famines.[179] But it can also be used to analyse humanitarian interventions. What use is a 'safe zone'? In what strategies are 'safe zones' integrated? MSF's Fabrice Weissman has gone so far as to argue that in-country governments (and rebels) will not allow relief operations unless they find them *useful*, so that political manipulation is not so much an obstacle to humanitarian relief as a *condition for its existence*. The same might also be said for 'safe zones': such zones would be unlikely to exist unless at least some interested and influential actors (in-country and/or internationally) consider them to be useful. This paper has tried to give a sense of the strategies surrounding past examples of 'safe zones' and of the (considerable) degree to which these strategies have undermined the alleged safety of these zones. Any attempt to implement safe zones in Syria will need to take into account the strategies of those who try to manipulate or undermine them.

'Safe zones' offer a way of helping in the midst of destructive conflicts, and there are certainly examples – in northern Iraq and South Sudan, for example – where an important degree of protection has been provided. However, a number of major pitfalls and problems with 'safe zones' are suggested by the historical record.

First, 'safe zones' may not be very safe. In fact, they have frequently been lethal. 'Safe zones' have been vulnerable to many kinds of violence on the part of both local and international actors. Srebrenica in Bosnia is probably the most famous example of a lethal 'safe zone'. The killings within the 'Operation Turquoise' 'safe zone' in Rwanda are another horrific example. The 'safe haven' in northern Iraq was not safe from attack by either Baghdad or Ankara. Even the 'Protection of Civilians' 'safe zones' in South Sudan, while generally safer than surrounding areas, have been very insecure. In northern Iraq, Bosnia and South Sudan, the UN's commitment of troops on the ground has fallen far short of the numbers necessarily for protection either inside or outside the 'safe zones'.

Such is the emotional and psychological pull of returning to Syria (along with powerful 'push' factors from neighbouring countries) that even a 'safe zone' with wholly inadequate safeguards might exert a powerful attraction on many Syrians. This underlines the grave dangers – all too evident from the historical record – if the relevant safe zones turn out not to be safe.

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[179] Keen, 1994.

Second, 'safe zones' may in practice undermine the right to asylum; indeed, the possibility of limiting flows of refugees into neighbouring or wealthy countries has historically been one of the main reasons for establishing 'safe zones'. A clear example of this was the 'safe haven' in northern Iraq, set up in large part as an alternative to Turkey admitting hundreds of thousands of Iraqi Kurds. Another clear example was Bosnia, where the 'safe zones' were seen by some Western officials as an alternative to large-scale asylum in the West. In Sri Lanka, a key motive for setting up the 'open relief centres' was India's desire to limit the flow of refugees into Tamil Nadu.

A third major problem is that 'safe zones' are subject to extreme manipulation from local actors. In Sri Lanka, the idea of a 'safe zone' was used by the national government to direct people into areas where thousands were eventually killed, whilst implying to the international community that Colombo entertained some kind of humanitarian agenda. Those outside the 'safe zone' were labeled by the Sri Lankan government as 'rebels' or 'rebel sympathisers' who had surrendered the protection of the government (and, by implication, could legitimately be attacked by government forces). The process was mirrored in South Sudan where the government advertised the Bentiu PoC site, encouraging people to leave rural areas and again reportedly saying that those who did not would be treated as rebels. Where peacekeepers are used to patrol safe zones, they themselves sometimes need protection. In Bosnia, we saw how capturing peacekeepers – and the possibility of such capture - could be used to pressure the international community into not using air support to protect the designated 'safe areas'. In South Sudan, in the context of a major peacekeeping effort by UNMISS, we have seen the government threatening reprisals against UN workers if the international community pursues an arms embargo or targeted sanctions.

Any degree of consent to a 'safe zone' from the Syrian government would likely imply some plan to use the 'safe zone' for military purposes – perhaps as part of an attempt to disarm opposition fighters or perhaps as part of an attempt to provide respite while overstretched government military resources are deployed elsewhere. UN peacekeepers in a Syrian 'safe zone' would be a potential 'hostage' population that might inhibit international action on other fronts.

A fourth major problem is that 'safe zones' may be subject to extreme political manipulation by *international* actors. This was the case with France in Rwanda, with French troops even participating in killing operations. With international actors as with local actors, it is the 'humanitarian' air of a 'safe zone' that makes it so useful for propaganda purposes. In Syria, international actors are unlikely to agree to a 'safe zone' unless they feel it will make *them* safer, and this means that agendas beyond protecting civilians will help to shape actions and outcomes.

Fifth, once 'safe zones' have been labeled as safe (often as part of an effort to contain refugee flows), a determination to insist that they are indeed safe is likely to be institutionalised. We saw this when Western governments and the UN played down some of the security threats in the 'safe haven' in northern Iraq, partly because they needed cooperation from Ankara and Baghdad (for humanitarian deliveries and, in Turkey's case, also for the airbase used to patrol the 'safe haven'). We have also noted the reluctance of UNHCR and the Indian government to acknowledge abuses in the 'open relief centres' in Sri Lanka. Once a protective or peacekeeping mission is

established, there may also be a tendency *within the mission* to suggest that it is succeeding. Related to this is a tendency towards over-optimism, as when UNMISS April 2013 Guidelines said it was not likely that PoC sites in South Sudan would be overrun by armed actors in the same way as Srebrenica. These various perverse incentives tend to pollute the quality of information around the protection needs of the population inside the zone. Just as there is an international and local political economy that shapes the possibility of establishing a 'safe zone' and the degree of safety it actually provides, so too there is an international and local political economy that shapes the information flows around this 'safe zone'. In these circumstances, it is vital to find sources of information – perhaps from human rights groups or relatively independent aid agencies – that are relatively untarnished by political and funding pressures.

A sixth major problem is that there may be a political 'price' for setting up and maintaining a 'safe zone'. For example, the setting up of 'safe zones' implies some some kind of deal or agreement over areas that are *not* going to be protected or assisted. Indeed, there may be some willingness among local actors to tolerate, encourage or perpetrate abuses outside the designated safe zone, along with some willingness within the international community to tolerate such abuses. We saw this in the Iraqi Kurdish 'safe haven', which existed alongside major abuses against Kurds in Kirkuk, Shi'ites in southern Iraq, and Kurds in Turkey. In Bosnia, the perceived need to sustain peacekeeping and humanitarian operations on the ground (linked in part to the 'safe zones' initiative) helped to discourage air support for those resisting Bosnian Serb atrocities, particularly given the fears that peacekeepers would be taken hostage (fears that proved well founded). In Sudan in the 1990s Operation Lifeline involved humanitarian corridors for the south (rather than safe havens) but the attempt to carve out some kind of 'humanitarian space' left government abuses in the Nuba Mountains unaddressed – in effect, the Nuba were neglected in a 'deal' over relief to southern Sudan involving the Khartoum government, the rebel SPLA and the international community. In South Sudan, the partial success of the 'Protection of Civilians' sites should not be allowed to obscure a grave neglect of protection needs outside these areas. Indeed, the focus on, and funding for, 'Protection of Civilian' sites has sometimes taken attention and resources from the protection of civilians outside the PoC sites, where the great majority of human rights abuses have taken place.

In Syria, part of the political price to be paid for a 'safe zone' may be Turkish demands for a reduction or cessation in US support for the Kurdish PYD. In many ways, it is difficult to separate Turkey's support for a 'safe zone' in Syria either from its military intervention in Syria since August 2016 or from Turkey's struggle with the PYD (in part over control of civilian populations, a struggle that a Turkish-led safe zone might assist). Yet the PYD has been central to US attempts to defeat ISIS. Turkey's priorities have already been indicated, to a degree, by the exclusion of PYD forces (and ISIS) from the de facto Turkish controlled zone in northern Syria.

A seventh problem is that demilitarisation of safe zones has proven very difficult. In relation to Bosnia, the UN has been criticized for not fully demilitarising the safe havens, and this alleged omission is said to have been provocative for the Bosnian Serbs. In South Sudan, getting rid of arms has been very difficult with PoC site perimeters being so porous; meanwhile, the existence of arms within PoC sites has

sometimes fed fears that camps could be used for military purposes. Yet where a proposed 'safe zone' *is* successfully demilitarised, its vulnerability to future attack might be significantly increased since it will not be able to defend itself and will depend exclusively on international protection that may or may not be forthcoming. This appears to have occurred in Bosnia, notably in Srebrenica.

In Syria the *proliferation* of armed groups suggests it may be *particularly* difficult. Any successful attempt at demilitarization may dramatically alter the military balance of power, perhaps in ways that prove damaging to human welfare; correspondingly, one may expect significant *opposition* to attempts to demilitarize a 'safe zone'.

An eighth problem is that, where 'safe zones' or 'no fly zones' *are* given international protection, this can easily spill over into war that involves the international community. This was the story in Libya and, to a degree, Bosnia. Establishing a 'safe zone' may indeed imply a willingness to go to war in defence of that zone. The possibility of a transformation over time also affects the way that 'safe zones' are viewed internationally: for example, the rapid 'slippage' towards regime change in Libya helped to shape Russian attitudes to limited humanitarian interventions and safe zones in Syria.[180]

A ninth important warming from the historical record is that the existence of some kind of UN mandate does not guarantee any immunity to the set of problems outlined in this report. Many have assumed, for example in relation to Syria, that UN authorization or supervision will guarantee safety in any 'safe zone'. But most of the major 'safe zones' discussed in this report were authorized by the UN Security Council. This is true of the 'safe zones' in northern Iraq, Bosnia, Rwanda, and South Sudan, while the 'safe zones' in Sri Lanka from 1990 were agreed upon by UNHCR. Levels of supervision by the UN varied but were relatively high in northern Iraq, Bosnia and South Sudan and low in 'Operation Turquoise' in Rwanda. Despite all these different types of UN involvement, these various 'safe zones' proved extremely problematic in terms of the protection provided, as we have seen. The major exception, in terms of UN involvement, was Sri Lanka in 2009 when the so-called 'safe zone' was a unilateral Sri Lanka government initiative. Even here, the 'safe zone' term was sometimes used uncritically within a UN system that generally played down Sri Lankan government abuses until it was too late.

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[180] Allison.

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