

I would suggest a number of starting points.

As a general rule, security measures which involve the minimum of coercion, and thus the minimum restriction of refugee human rights, should always be the first to be considered. Military rules of assessment and engagement, in addition to training and accountability structures, tend to harbor different implications for the human rights of refugees. Secondly, it is important to bear in mind that the mere presence of, or engagement with, the military will directly diminish the civilian nature of a refugee settlement – a crucial principle of refugee protection. It is clear also that depending on whether national or multilateral military forces are involved, very different mandates and styles of action will have to be taken into consideration.

A quick survey of the literature shows that there appears to be (*rare!*) NGO consensus about where involvement of the military is seen as appropriate and effective: (a) bringing war criminals to justice and (b) separating combatants from refugees. The ability of the military to contribute to the process of bringing war criminals to justice under international humanitarian law has been broadly welcomed even by humanitarian NGOs.

It is interesting also that in discussions of scenarios that might trigger action (although not necessarily direct military intervention) by the Security Council under SC Res 1296 a similar approach has been indicated by UNHCR. UNHCR has identified two such situations: those in which a bona fide refugee population is at risk of falling under the control of elements who are suspected of genocide, crimes against humanity or serious violations of international law – (excludable elements) – and those in which refugee populated areas have become militarized (separation of combatants)

Separation

It is with this latter issue – separation – that the role of the military is most often associated. There is much confusion, however, about exactly what kind of activities are envisaged by the notion of ‘separation’.

In his recent report on ‘The Protection of Civilians in Armed Conflict’ the SG declared that, *“failure to separate armed elements from civilians has led to devastating situations in and around camps”*. *“[T]he movement of people ... alongside armed elements [can] undermine the security of entire sub regions or regions, and thereby internationalize an initially local conflict”* (paragraph 28).

Preservation of the civilian and humanitarian character of refugee camps and settlements is a vital prerequisite, not only for providing refugee protection and enhancing the security of host states, but also for safeguarding the institution of asylum itself. A refugee protection policy will be hard pressed to garner support in a host State if it is not viewed as being a neutral and humanitarian act. This is especially so where a host population fears a re-enactment of the violence which caused the refugees to flee.

In fact as indicated in the framework discussed above, States and the international community have an obligation to ensure that a distinction is made between refugees, armed elements and others not in need of international protection. Physical separation is one way to maintain that distinction.