

Safe Area Theory and Practice: Security for Civilians or Creating New States of Exception during Humanitarian Crises?

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Abstract

Drawing on the notion of “safe area” not only as a geographical but also a social construct, this article argues that the efforts of aiding civilians at risk through confining them to bordered areas increase the insecurities experienced both inside and outside of these areas by multiple actors. Exemplifying four cases – Iraq, Bosnia, Rwanda, and Syria – it revokes Agamben’s concept of *homo sacer* to display how the civilians are reduced to bare lives who are excluded from the political sphere and whose killing has been excluded from political and judicial scrutiny. A comparative study on the four situations indicates widening and deepening insecurities for the civilian populations who lose their manoeuvre capacity to respond to security threats and who become dependent particularly on external aid to survive. While revisiting the main causes of failure to protect civilians at risk during armed conflicts, the article suggests that safe areas should be treated as spatial domains with multiple actors holding competing concerns and interests, and encourages reconsideration of the implications of constructing confined spaces during humanitarian crises without full political and military commitment and liability.

Keywords

Agamben, Homo sacer, Safe Area, Iraq, Bosnia, Rwanda, Syria.

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Güvenli Bölge Teorisi ve Pratiği: Siviller İçin Güvenlik Mi Yoksa İnsani Krizlerde Yeni İstisna Durumları Mı?

Özet

Güvenli bölge kavramının sadece coğrafi anlamda sınırlarla tanımlı bir alan değil, sosyal bir yapı olduğu noktasından hareketle bu çalışmada, silahlı çatışma durumunda risk altındaki sivillerin sınırlı bir alanda tutulmasının güvenlik sorunlarını arttırabileceği tartışılmaktadır. Irak, Bosna, Ruanda ve Suriye örneklerini Agamben'in *homo sacer* kavramı etrafında ele alan çalışma, çatışma durumunda bu bölgelerdeki sivillerin nasıl çıplak hayat kavramı ile tanımlandığını, öldürülmeleri durumunda bu hayatların politik ve hukuki denetimden mahrum bırakıldığını tartışacaktır. Dört örnek olayın karşılaştırmalı bir analizi ile sivillerin güvenlik tehditlerine karşı koyabilme kapasitelerinin ortadan kalktığı ve özellikle dış yardıma bağımlı hale geldikleri, dolayısıyla da yaşadıkları güvenlik sorunlarının genişlediği ve derinleştiği ortaya konulacaktır. Silahlı çatışma durumunda sivillerin korunması noktasındaki başarısızlıkların nedenlerinin irdelenmesinin yanısıra, güvenli bölgelerin farklı çıkar ve sorunları olan çeşitli aktörler barındıran bir alan olduğunun altı çizilecek; insani krizlerde tam bir askeri ve siyasi yükümlülüğün olmadığı durumlarda risk altında insan gruplarının kapalı alanda kalmalarının doğuracağı olumsuz sonuçlar tartışılacaktır.

Anahtar Kelimeler

Agamben, Homo sacer, Güvenli Bölge, Irak, Bosna, Ruanda, Suriye.

Introduction

The concept safe area has been regarded as a “humanitarian space designed to protect the human rights of those in danger.”¹ On the other hand, the devastating consequences of insecurities experienced by civilian groups residing in these areas prompts a (re)consideration on the trajectory of the safe areas as part of proliferating and pervasive humanitarian discourses both in the national and international domains. As the forced migration and settlement in specific havens might render civilians even more defenceless and open to being targeted in mass numbers since they lose their manoeuvre capacity to respond to security threats and become dependent particularly on external aid to survive, the *political* aspects of safe areas carry equal weight with the *humanitarian* aspects. Humanitarian action, in the end, is both political *and* humanitarian, and cannot

1 Hikaru Yamashita, *Humanitarian Space and International Politics: The Creation of Safe Areas*, London, Taylor & Francis, 2017, p. 4.

be thought to be neutral, impartial, or consensual.² Likewise, safe area conceived as a humanitarian action is a “spatial form of protection” which cannot be considered apart from political debates, confrontations or interventions.

However imaginary and artificial the geographic borders might seem for the critical security scholar,³ their implications on human lives are real. In effect, the direct and indirect connections with bordering have already been under the scrutiny of scholars from critical security studies, which largely but not exclusively have gone through a dramatic transformation with the advent of the human security concept. Along these lines, safe areas may be viewed as part of a recent trend towards widening human security, though enduring questions concerning the identity of the human or the refugee or asylum seeker to be protected in safe areas as well as the framework of such protection remain far from being resolved. In other words, conceptualizing what, whom, when and how to protect is a point that merits equal attention equal to the actual geographical borders, logistical and military support of safe areas. The article will exemplify four cases – Northern Iraq, Bosnia, Rwanda and finally Syria – and invoke Agamben’s *homo sacer* concept in order to open a discussion about the contribution of the safe area practice to civilian insecurities, and reveal how the residents of safe areas are reduced to bodies identified simply as bare lives. For Agamben, bare life, or *zoe*, “is the life of *homo sacer* (sacred man), who may be killed and yet not sacrificed.”⁴ On the other hand, *bios* represents the politicized human being that makes sense only within the confines of the ancient *polis* and today’s modern nation state as opposed to the *homo sacer* who is excluded from such political spheres. Though the aim of forming safe areas during armed conflicts is to protect the lives of civilians, the article attempts to display that the meaning of *life* here refers to “bare life”, which includes biological yet excludes political life. When life is understood exclusively as bare life exempt from politics, the consequence is that any political and judicial contemplation, contestation or critical interrogation is terminated and the failure to protect bare life is justified as a result of emergencies in times of armed conflict. Instead of rejecting law altogether, “necessity creates its own law” in the state of exception.⁵ International law also creates its own law in safe areas as zones of exception where civilians become *homo sacers* similar to the barbarian or the slave of the colonial era by virtue of their expulsion from politics.

2 Thomas G. Weiss, “Principles, Politics, and Humanitarian Action”, *Ethics & International Affairs*, Vol. 13, No. 1, 1999, p. 21

3 Michael J. Shapiro, *Violent Cartographies: Mapping Cultures of War*, Minneapolis, University of Minnesota Press, 1997.

4 Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, Stanford, Stanford University Press, 1998, p.8

5 Giorgio Agamben, *The State of Exception*, Chicago, Chicago University Press, 2005, p. 24.

The term “safe area” is a corollary to Agamben’s state of exception, which is taken as a “zone of anomie” where the relationship between law and violence is reproduced.⁶ Though developments in international law in the 20th century represent an endeavor against impunity, leaving the most vulnerable ones in safe areas devoid of the full rights that citizens hold against their state(s) is a corollary of creating new *homo sacers* beyond state borders.

The article uses alternative terms such as “secure humanitarian areas” in Rwanda or “safety zones” in Syria in order to abide by the use of common terminology in particular situations. In the end, the use of several concepts towards the same end, such as “safety zones”, “safe havens”, “protection areas”, “security zones” or “zones of peace”, reflect more of a semantic game than crucial differences with regard to the particularities of the geographical space designed to protect the ones at risk.⁷ In order to display the actual and potential insecurities the safe areas facilitate and engender, Part 1 of the article investigates briefly the historical background of the safe area concept. Part 2 exemplifies Iraq, Bosnia, Rwanda and Syria experiences to display the shortcomings of the safe area theory and practice. While Part 3 argues that the strong association commonly made between safe area practices and humanitarian concerns signifies a particular space with particular normative actions, it also shows that such spaces represent a “state of exception” that allow for rights violations rather than a positive linkage to better protection of human rights.

Safe Areas in the 20th Century

Ironic or contradictory it would sound for the contemporary reader that targeting civilian settlements rather than focusing on civilian protection was regarded as an easy way to reduce the horrors of war during the two world wars. Strategists argued that bombing cities would more quickly destroy the enemy morale and bring decisive victory without mass killing or annihilation of the enemy army at large.⁸ The creation of zones under special protection was first registered by the founder of the International Committee of Red Cross (ICRC), Henry Dunant, in 1870.⁹ The essence of the notion “safe area” was defined to

6 Agamben, *The State of Exception*, pp. 50, 59.

7 Although it is possible to use these concepts interchangeably, Posen separates “safe zone” from “safe haven” as the first protects the victims where they live from assailants, while the latter brings protection and sustenance for the displaced people in a location close to their original homes. See, Barry R. Posen “Military Responses to Refugee Disasters”, *International Security*, Vol. 21, No. 1, 1996, pp. 77, 78.

8 Alex J. Bellamy, *Massacres and Morality: Mass Atrocities in an Age of Civilian Immunity*, Oxford, Oxford University Press, 2012, pp. 135, 136.

9 Rutger Birnie and Jennifer Welsh, "Displacement, Protection and Responsibility: A Case for Safe Areas", *Global Responsibility to Protect*, Vol. 10, No. 3, 2018, p. 334.

establish a location within the country or territory where the dispute took place, which would be neutral and free of belligerent activity and to which humanitarian access was ensured. 1934 Monaco Draft Convention proposed “hospital towns” to be reserved for medical services under the supervision of representatives from neutral powers. Early examples include a unilaterally designated Madrid district during the Spanish Civil War, a similar zone in Shanghai during the Sino-Japanese War, and three safety zones established by the International Committee of the Red Cross (ICRC) in Jerusalem in 1948.¹⁰ In 1949, the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field – the 1st Geneva Convention – with Article 23 provided for “hospital zones” and “protection of military sick and wounded” during both peace time and hostilities. The 4th Geneva Convention, the Convention Relative to the Protection of Civilian Persons in the Time of War, broadened the notion of the “protected” in order to include civilians. The Additional Protocol I of 1977 introduced yet another novelty by enabling the protection of civilians in the locality where they are, which should be taken as a further development than the “hospital zones”.¹¹

Safe areas during the Cold War – for instance a hospital, college and hotel in Dhaka, Bangladesh in 1971; three neutralized zones in Nicosia, Cyprus, in 1974; a neutralized zone consisting of two buildings in Saigon, Vietnam, and a safety zone in Phnom Penh, Cambodia in 1975; a number of centers established for civilians and disarmed combatants in Nicaragua in 1979; and two neutralized zones in Dubrovnik, Croatia in 1992¹² – were designed to provide preventive protection in parallel to the traditional peacekeeping operations with the strict consent element.¹³ Three open relief centers (ORCs) in Sri Lanka in 1990 and a bilateral safe area in Jalalabad, Afghanistan in 1994 also represent the consent-based traditional approach just after the end of the Cold War.¹⁴ Though traditional safe areas with civilian and demilitarized characters appear to be a natural corollary of this first generation of peace operations, the degree of safety differed drastically since the enforced safe areas depended on a credible threat, which in the end complicated the humanitarian access to it and compromised the

10 François Bugnion, "The International Committee of the Red Cross and the Development of International Humanitarian Law", *Chicago Journal of International Law*, Vol. 5, 2004, pp. 206, 207; Karin Landgren, "Safety Zones and International Protection: A Dark Grey Area", *International Journal of Refugee Law*, Vol. 7, No. 3, 1995, p. 439.

11 Alex J. Bellamy, *Massacres and Morality*, pp. 20, 21; Landgren, *Ibid.*, p. 439.

12 Landgren, *Ibid.*, pp. 440-42. Despite the anachronism problem, Dubrovnik, Croatia zones are included into this category as they represent entirely traditional Cold War era characteristics.

13 Jennifer Hyndman, "Preventive, Palliative, or Punitive? Safe Spaces in Bosnia-Herzegovina, Somalia, and Sri Lanka", *Journal of Refugee Studies*, Vol. 16, No. 2, 2003, p. 171.

14 Phil Orchard, "Revisiting Humanitarian Safe Areas for Civilian Protection", *Global Governance: A Review of Multilateralism and International Organizations*, Vol. 20, No. 1, 2014, p. 60.

safety of the locality. The recent safe areas, i.e. Bosnia, Rwanda, Somalia, have been associated with Responsibility to Protect (R2P) corresponding to the second-generation of UN missions combining the three roles of “administrator”, “mediator”, and “guarantor”, while enabling intervening in armed conflicts against the approval of the fighting parties.¹⁵ Though the R2P doctrine still remains complicated and not fully developed in international law – this, given the changing nature, technologies and strategies of armed conflicts as well as the not too rare deadlock situation of the UN Security Council – safe area option with low-intensity military operations as part of a designated R2P operation has become more likely with the exclusion of the strict consent requirement.¹⁶ The increase in opportunities was attended to by contingents far from optimal in training, experience or equipment, which posed difficulties for the UN commanders to impose disciplinary authority.¹⁷ Moreover, it was not only the transformation in peace operations, but also the nature of new wars with occupied territories changing daily amidst an ongoing war as well as the lack of collaboration from parties that created greater complexity for the missions. New wars with blurred lines between combatants and non-combatants, multiple and at times discordant strategies as well as financial resources do hardly ever exclude civilians from violence. Beyond the transformation in armed conflicts, the end of the mutual checks and balances between two blocs has rendered humanitarian interventions more common and possible, while the escalation of human groups’ mobility, including people trying to escape from persecution or other forms of ill treatment, increased the number of safe areas recently.

Within this context, the post-Cold War period safe areas reflect the engagement of humanitarian with political and military concerns.¹⁸ The demilitarized character of safe areas underwent a transformation with increased military engagement in peace operations,¹⁹ and several zones, areas or enclaves were established on the basis of the provisions of the UN Charter regardless of the consent of the states in question.²⁰ The growing xenophobic tendencies accompanied by a fading motivation to accept refugees in this period also led to

15 Steven R. Ratner, *The New UN Peacekeeping: Building Peace in Lands of Conflict after the Cold War*, Macmillan, London, 1996, pp. 44, 50.

16 Paul R. Williams, J. Trevor Ulbrick and Jonathan Worboys, "Preventing Mass Atrocity Crimes: The Responsibility to Protect and the Syria Crisis", *Case Western Reserve Journal of International Law*, Vol. 45, No. 1, 2012, pp. 473-503.

17 Trevor Findlay, "The New Peacekeeping and the New Peacekeepers", *Challenges for the New Peacekeepers*, SIPRI Research Report No: 12, edited by Trevor Findlay, Oxford, Oxford University Press, 1996, p. 20.

18 Katy Long, "In Search of Sanctuary: Border Closures, 'Safe' Zones and Refugee Protection", *Journal of Refugee Studies*, Vol. 26, No. 3, 2013, p. 462.

19 Landgren, *Ibid.*, pp. 441-42.

20 Surya P. Subedi, "The Legal Competence of the International Community to Create 'Safe Havens' in 'Zones of Turmoil'", *Journal of Refugee Studies*, Vol. 12, No. 1, 1999, pp. 27, 29.

an increase in support of safe areas as a fitting alternative to accepting refugees.²¹ As the most basic of all refugee rights is the “right to seek asylum” and “the right to be granted safety from persecution”, the international protection regime for refugees entrusts governments with granting asylum to asylum seekers.²² On the other hand, safe areas provide a pretext for governments in their refusal to grant asylum without a direct and obvious violation of human rights in general and refugee rights in particular.

New Generation of Safe Areas

Revisiting the safe areas in Iraq, Bosnia and Rwanda, and then looking at the Syrian crisis, not only questions the shortcomings of the UN and the international community in terms of safe area practices, but also uncovers a change in policy of these actors in attending to humanitarian crisis. With regard to the war in Syria, the UN has made an effort to support humanitarian aid by allowing for the use of four border crossings initially,²³ then limiting it to two crossings in 2020, rather than establishing safe areas,²⁴ which can be taken as a sign of retreat from the conventional safe area practice in general. The policy change seemingly corresponds to the former UN Secretary General Boutros Boutros-Ghali’s remarks that “peacekeeping has to be reinvented every day,”²⁵ and “[one has] to accept second-best and if not second best (...) third-best” solutions.²⁶ However, the *de facto* safe haven in Liberia between 1990-1996 created by the Economic Community of West African States Monitoring Group (ECOMOG),²⁷ and the current Syrian war shows how safe area rhetoric and practice have begun to be applied outside of an existing UN mission, which raises the question if it indicates a harbinger of a novel generation of safe areas excluding direct, if not indirect, engagement with the UN organs.

Iraq

The safe area in Northern Iraq, which was established after the Gulf War in 1991 when Saddam Hussein assaulted Kurdish and Shiite groups in response to

21 Bill Frelick, "Unsafe Havens", *Harvard International Review*, Vol. 19, No. 2, 1997, p. 40.

22 Landgren, *Ibid.*, p. 438.

23 United Nations 2014, “Middle East” S/RES/2165, 14 July 2014.

24 United Nations 2020, “The Situation in the Middle East” S/RES/2504, 10 January 2020.

25 Findlay, *Ibid.*, p. 17.

26 Richard Dowden, “Boutros-Ghali Accepts UN’s Limitations”, *The Independent*, 27 October 1994, <https://odihpn.org/magazine/boutros-ghali-accepts-uns-limitations/> (last visited 20.08.2021).

27 Quentin Outram, “Cruel Wars and Safe Havens: Humanitarian Aid in Liberia 1989–1996”, *Disasters*, Vol. 21, No. 3, 1997, p. 194. See also, Orchard, *Ibid.*, pp. 61, 62.

their uprising, sheltered more than one million civilians fleeing from violence within Iraq. The collapse of the ceasefire regime envisaged in Resolution 687 triggered the UN to initiate Operation Provide Comfort supplemented with a no-fly zone and a ground component.²⁸ Both as a response to the failure of Resolution 687 and the legal background of Operation Provide Comfort,²⁹ Resolution 688 went beyond the right to self-defence and signalled a wider interpretation of the use of force under Chapter VII. Thereby, it not only challenged the conventional strict prohibition on the use of force, but interpreted the human rights situation in a country as a threat to international peace and security.³⁰

Operation Provide Comfort, which consisted of 17 000 coalition forces at its peak, was assumed to be powerful enough to counter Iraqi forces in the case that the latter decided to resist. Even though the operation and the safe area in Northern Iraq has been regarded as successful in that it enabled most of the displaced Kurds to return to their place of origin through safe corridors,³¹ it should be noted that the Iraqi army was already severely weakened due to the Gulf War and could not retaliate.³² Next to this, concerns about a massive influx of Kurds, coupled with coalition partners' support to a "NATO ally that had proved its loyalty during the Gulf War",³³ allowed Turkey to close its borders to refugees, which in the end prevented Kurds from asylum seeking and imposed their a not so voluntary stay in Iraq as a destabilizing group against the Saddam regime.³⁴ Heavy air cover and deterrence policies also played a crucial role against an already weakened Iraqi army, and in the relative success of the operation.³⁵ Left in a position unable to confront the US and its allies, Saddam Hussein had to agree to sign a Memorandum of Understanding (MOU) on 18 April 1991, according to which Iraq consented to "a humanitarian presence in Iraq" and to

28 Alexander Benard, "Lessons from Iraq and Bosnia on the Theory and Practice of No-fly Zones", *Journal of Strategic Studies*, Vol. 27, No. 3, 2004, p. 463.

29 United Nations 1991, "On the Situation between Iraq and Kuwait", Security Council Resolution 688, UN Doc. S/RES/688, 5 April 1991.

30 James Cockayne and David Malone, "Creeping Unilateralism: How Operation Provide Comfort and the No-Fly Zones in 1991 and 1992 Paved the Way for the Iraq Crisis of 2003", *Security Dialogue*, Vol. 37, No. 1, 2006, p. 126; Christine Gray, "From Unity to Polarization: International Law and the Use of Force against Iraq", *European Journal of International Law*, Vol. 13, No. 1, 2002, pp. 1-5; Kate Seaman, *UN-Tied Nations: The United Nations, Peacekeeping and Global Governance*, New York, Routledge, 2016, p. 114.

31 Cockayne and Malone, *Ibid.*, p.127; Orchard, *Ibid.*, pp. 60, 61.

32 Posen, *Ibid.*, p. 95.

33 Kemal Kirişçi, "Security for States vs. Refugees: Operation Provide Comfort and the April 1991 Mass Influx of Refugees from Northern Iraq into Turkey", *Refuge: Canada's Journal on Refugees*, Vol. 15, No. 3, 1996, p. 20.

34 Frelick, *Ibid.*, p. 41.

35 Michael M. Gunter, "The KDP-PUK Conflict in Northern Iraq", *The Middle East Journal*, Vol. 50, No. 2, 1996, p. 226; Benard, *Ibid.*, pp. 464, 465.

“the voluntary return home of Iraqi displaced persons.” A complementary agreement signed on 25 May in the same year produced contingents of lightly armed UN Guards to support and protect the refugees.³⁶

Against the relative success of safe areas in Iraq, it remains debatable whether the safe areas in Northern Iraq “served state security interests or the security of the refugees.”³⁷ The numbers of UN guards were often far below the adequate number to provide actual protection – at one point in 1992 there were only thirty UN guards in Northern Iraq – and it was never clear whether they had the means to offer such protection. In addition to these flaws, The Iraqi Kurds were exposed to a double economic blockade arising from UN sanctions against Iraq and the Iraqi government’s embargo against Northern Iraq.³⁸ Furthermore, the unilateral policies of the US and the UK, particularly after the French withdrawal from Operation Provide Comfort in late 1996, culminated in the 2003 crisis which still remains as a reminder that coercive protection without consensus increases structural flaws rather than safeguarding civilians. With the enlargement of no-fly zones in 1996, multilateral policymaking and enforcement mechanisms turned into unilateralism and more reliance on air forces.³⁹ The invasion in 2003 by a much smaller US-led coalition continued the downward spiral in all aspects in Iraq, and the so-called project of “securing and reconstructing of Iraq” paradoxically produced a war without an end and more casualties.⁴⁰

Bosnia

During the dissolution of Yugoslavia, which began in March 1991, the most severe armed conflicts took place in Bosnia where three separate parties (Serbs, Croats, and Bosnians) competed for control of the territory. The idea of establishing “safe areas” in Bosnia was first floated in 1992 as both a preferable decision to take in order to keep would-be refugees within the territory of former Yugoslavia, and a principled way of refusing to assist ethnic cleansing.⁴¹ The idea gained more support as the fighting intensified in the eastern part of Bosnia and Herzegovina in March 1993, especially when the UN High Commissioner for

36 Cockayne and Malone, *Ibid.*, p.135; Carol McQueen, *Humanitarian Intervention and Safety Zones: Iraq, Bosnia and Rwanda*, Palgrave, London, 2005, p. 29.

37 Kirişçi, *Ibid.*, p. 18.

38 David Keen, “Short-term Interventions and Long-term Problems: The Case of the Kurds in Iraq”, *The Politics of Humanitarian Intervention*, John Harriss (ed.), Pinter, London, 1995, pp. 171, 173.

39 Cockayne and Malone, *Ibid.*, pp. 130-137

40 See, Michael Schwartz, *War Without End: The Iraq War in Context*, Chicago, Haymarket Books, 2016.

41 Landgren, *Ibid.*, p. 444.

Refugees (UNHCR) reports referred to thousands of Muslims seeking refuge in Srebrenica from surrounding areas that were either under attack or being occupied by Serbian forces. In April, despite both strong political pressure from the international community and the UN Security Council (UNSC), and the efforts of the United Nations Protection Force (UNPROFOR) and UNHCR in the field, the situation in the area deteriorated.

Given the severity of the situation, the Security Council acting under Chapter VII of the UN Charter demanded with Resolution 819 that all parties treat Srebrenica and its surroundings as a “safe area” which should be free from any armed attack or any other hostile act, that Bosnian Serb paramilitary units withdraw from areas surrounding Srebrenica, and that armed attacks should be ceased.⁴² With no guidance on methods and implementation, UNPROFOR commanders decided to implement Resolution 819 in accordance with the Geneva Conventions’ concept of demilitarized zones even though it was not really appropriate for the conditions in Srebrenica. The reason for this is that Srebrenica was under attack, and the demilitarization of Srebrenica was anything but maintaining the territory under Bosnian control.⁴³ Following Resolution 824 which declared also Sarajevo, Tuzla, Zepa, Gorazde, Bihac and their surroundings as “safe areas”,⁴⁴ Resolution 836 expanded the mandate of UNPROFOR in order to deter attacks, monitor the cease-fire, promote the withdrawal of military or paramilitary units other than those of the Bosnian Government, and occupy some key locations on the ground.⁴⁵ UNPROFOR was left in a gray zone between peacekeeping and peace enforcement since Resolution 836 exempted Bosnians from leaving their weapons, while Resolution 819 prohibited the use of weapons for all parties.⁴⁶

Serbian forces taking a number of UN personnel as hostage against NATO air strikes, further pushing the UN soldiers to remain in underground shelters while disappointed Croatian refugees blocking their connection with the outside world for several weeks,⁴⁷ were more than sufficient to show how ill-equipped the UN troops on the ground were and how precarious UN’s position was as

42 United Nations 1993a, “Bosnia and Herzegovina” Security Council Resolution 819, UN Doc.S/RES/819, 16 April 1993.

43 Stuart Gordon, “A Recipe for Making Safe Areas Unsafe”, *Aspects of Peacekeeping*, D. S. Gordon and F. H. Toase edited, New York, Routledge, 2014, p. 215.

44 United Nations 1993b, “Bosnia and Herzegovina”, Security Council Resolution 824, UN Doc.S/RES/824, 6 May 1993.

45 United Nations 1993c, “Bosnia and Herzegovina”, Security Council Resolution 836, UN Doc.S/RES/836, 4 June 1993.

46 Mohamed S. Elewa, “Genocide at the Safe Area of Srebrenica: A Search for a New Strategy for Protecting Civilians in Contemporary Armed Conflict”, *Michigan State University Detroit College of Law’s Journal of International Law*, Vol. 10, No: 3, 2001, p. 435.

47 Andrzej Sitkowski, *UN Peacekeeping: Myth and Reality*, Westport, Praeger, 2006, p. 131.

being caught between traditional peacekeeping and the enforcement actions of another associate organization, NATO.⁴⁸ As a matter of fact, UNPROFOR actually deployed its troops between Bosnian and Serbian forces, which seemed to be in accordance with its mission of preventing any engagement of the fighting parties, though it simultaneously disabled NATO to escalate air strikes.⁴⁹ Since it was extremely difficult to detect heavy weaponry attacks, NATO also established exclusion zones around safe areas to prevent the warring parties getting closer with certain heavy weaponry. However, exclusion zones did not help protecting the safe areas, as the security of the former became jeopardized when the effective control of the latter diminished.⁵⁰

The not fully clear language of the Resolutions and its repercussions in political and military practice fell short of providing the necessary deterrence when the Bosnian Serbs violated the integrity of the safe areas. The Secretary General's request for an additional 34 000 forces in his report to UNSC on the implementation of the safe areas mandate was a direct manifestation of the quite inadequate resources allocated to UNPROFOR.⁵¹ Following the fall of other safe areas in Croatia,⁵² Srebrenica fell to the Serbs after an assault on the town, and thousands of Bosnian Muslims were forced to flee along with the Dutch contingent of UN soldiers who had been given the task of protecting the town.⁵³ With the awareness of what was happening, the Dutch commander in Srebrenica requested air strikes to repel the Serbs as he was entitled to do under Resolution 836. However, UNPROFOR's commander and the Special Representative to the Secretary General, Yasushi Akashi, blocked the demand due to a fear that air strikes would take UNPROFOR beyond its mandate.⁵⁴ Amidst the debates and negotiations on the resources and limits of the UN mandate, the Bosnian Serbs seized the safe area of Srebrenica in July 1995 and massacred more than 7500 civilians.

48 Benard, *Ibid.*, p. 471; Steven R. Rader, "NATO", *Challenges for the New Peacekeepers*, SIPRI Research Report No: 12, edited by Trevor Findlay, Oxford, Oxford University Press, 1996, p. 149.

49 Gordon, *Ibid.*, p. 223.

50 Gregory L. Schulte, "Former Yugoslavia and the New NATO", *Survival*, Vol. 39, No. 1, 1997, p. 23.

51 Yasushi Akashi, "The Use of Force in a United Nations Peace-Keeping Operation: Lessons Learnt from the Safe Areas Mandate", *Fordham International Law Journal*, Vol. 19, No: 2, 1995, p. 315.

52 Seaman, *Ibid.*, p. 117.

53 Subedi, *Ibid.*, p. 32.

54 Alex J. Bellamy, Paul D. Williams and Stuart Griffin, *Understanding Peacekeeping*, Cambridge, Polity, 2010, pp. 201, 202.

Rwanda

Having roots in the Belgian colonial era, differences between Hutus and Tutsis continued until the genocide of 1994 summer to be institutionalized with the minority Tutsis being perceived by the majority Hutus as being oppressors and exploiters to hold higher socio-economic and political status. In fact, the genocidal campaign of 1994 was not the first in Rwandan history and had connections to the 1963 mass killing of about 10 000 Tutsis, which also left between 600 000 and 700 000 refugees in neighbouring countries. These Tutsi refugees in exile being destitute to return to Rwanda formed the Rwandan Patriotic Front (RPF), which put pressure on President Habyarimana rule and at the end pushed him to sign the Arusha Peace Agreement in 1993.⁵⁵ Resented by the egalitarian prospects of the Arusha Agreement, Hutu extremists set in motion a genocidal policy with a contradictory combination of modern communications and administrative infrastructure, such as the wide use of machetes which became a common image of the Rwandan genocide.

The international community's response to the violence in Rwanda came through the United Nations Assistance Mission for Rwanda (UNAMIR) established under Resolution 872.⁵⁶ However, the UN peacekeepers were so lightly armoured and ill-equipped that it was not even fully capable of protecting itself, which was unfolded with the massacre of Belgian peacekeepers just one day after the death of Habyarimana.⁵⁷ The deaths of the peacekeepers initiated a process of withdrawal of troops, which weakened the already poorly supported UN mission. Although the Security Council increased the number of forces in Rwanda with Resolution 918 from 270 to 5 500 and also mandated the establishment of "secure humanitarian areas" in order to protect displaced persons, refugees and civilians,⁵⁸ the UN Secretary General failed to find the necessary troops from member states. However, the genocide in Rwanda was to a large extent over by that time, with more than half a million Tutsi and moderate Hutu victims.

While the UN authorities failed to find the necessary troops before the genocide was almost completed, France initiated a separate multinational operation – *Operation Turquoise* – with reinforcement troops from Chad, Senegal, Guinea-Bissau, Mauritania, Egypt, Niger, and Congo (Brazzaville) in June. The French-led operation was again authorized under Chapter VII though it was

55 McQueen, *Ibid.*, pp. 97-100.

56 United Nations 1993d, "Rwanda", Security Council Resolution 872, UN Doc.S/RES/872, 5 October 1993.

57 Lise Morjé Howard, *UN Peacekeeping in Civil Wars*, Cambridge, Cambridge University Press, 2008, p. 32.

58 United Nations 1994a, "The Expansion of the Mandate of the UN Assistance Mission for Rwanda and Imposition of an Arms Embargo on Rwanda", S/RES/918, 17 May 1994.

independent from UNAMIR.⁵⁹ Though some Tutsis survived in the territory of the humanitarian area backed by the *Operation Turquoise*, it has also been argued to have complicated the approach of the RPF forces and thus facilitated the escape of several genociders.⁶⁰ The skirmishes between RPF and contingents of the *Operation Turquoise* nearby the humanitarian area show the likelihood of a protection mission generating intended or unintended results that contradict with humanitarianism.

Syria

The conflict in Syria began in 2011 and turned from a largely peaceful uprising into a civil war in a short time. The Syrian war also increased the sectarian tension in the region, resulted in widespread violence with the involvement of outside powers, and caused hundreds of thousands of deaths and an unprecedented scale of displaced people. The Syrian government has been a staunch opponent of safe zones, while neighbouring actors and outside powers expressed competing arguments related to the creation of safe zones inside of Syria or abroad for the refugees.⁶¹

While the discussion on establishing safe zones has been based on divergent expectations on the part of different actors, one can easily discern the political and strategic motivations behind the idea rather than an exclusive humanitarian concern. Despite its long history of taking the lead on humanitarian intervention, the US under the Obama administration followed a strict foreign policy to “not to get involved”, and thus turned R2P into a “Responsibility Doctrine” that called for other – particularly regional – actors’ involvement rather than the US. As the killings intensified in 2012, the idea of establishing several safe zones along the Turkish border came on the table together with increased support for US intervention.⁶² However, the strict policy of non-involvement hardly changed, and only in 2015 were there talks between Turkey and the US to coalesce forces against the Islamic State over a 60-mile-long strip of northern Syria along the Turkish border. It would be an Islamic State-free zone controlled by moderate

59 United Nations 1994b, “Establishment of a Temporary Multinational Operation for Humanitarian Purposes in Rwanda until the Deployment of the Expanded UN Assistance Mission for Rwanda”, S/RES/929, 22 June 1994.

60 Sitkowski, *Ibid.*, pp. 118, 119.

61 Esther Meininghaus and Andreas Heinemann-Grüder, “Safe Zone for Syria: Mitigating the Humanitarian Crisis”, BICC Policy Brief, 1/2017, Bonn International Center for Conversion (BICC), 2017, pp. 2-4, <https://www.ssoar.info/ssoar/handle/document/62056> (last visited 20.08.2021).

62 Shadi Hamid, “What is Policy Research for? Reflections on the United States’ Failures in Syria”, *Middle East Law and Governance*, Vol. 7, No. 3, 2015, pp. 378, 379.

insurgents that could also develop into a safe zone for displaced Syrians.⁶³ Immediately after being elected, Trump declared that he supported safe areas in Syria, not out of humanitarian concerns, but simply to prevent refugee outflows for which he criticized the European countries for making a tremendous mistake by allowing millions through their borders.⁶⁴

In effect, the shift in Turkey's foreign policy discourse from a status-quo oriented, cautious and calculating diplomatic tradition to a precipitous and attemptive one did not clear away the obvious fluctuations in its policy decisions. The moral justifications for an R2P mission and criticism of Western inertia on the humanitarian crisis in Syria notwithstanding, Turkey maintained its security concerns similar to the Iraqi experience in the 1990s while also trying hard to construct a great power identity under the AKP rule.⁶⁵ Turkey's support for the humanitarian intervention in Northern Iraq was due to concern with both a possible Kurdish influx that could deepen the security problem it had to deal with since 1980s, and prospective criticism from the Western world for its hesitation in granting refugee status to the victims of the Halabja massacre in 1988.⁶⁶ Likewise, Turkey regarded the establishment of a safe zone as a measure against large-scale cross-border migration from Syria on the basis that it would have a destabilizing effect both in the region and in the country.⁶⁷ However, it is not given to what extent the Turkish initiative announced in 2019, which included the construction of towns with complete infrastructure, would deepen the insecurities of different Syrian groups. Since the majority of the Syrians in Turkey escaped from the violence that they were subjected to under the Assad regime, their security will once again be under threat in case the zone will be controlled by the Syrian government.⁶⁸

63 Anne Barnard, Michael R. Gordon, and Eric Schmitt, "Turkey and U.S. Plan to Create Syria 'Safe Zone' Free of ISIS", *New York Times*, 27 July 2015, <https://www.nytimes.com/2015/07/28/world/middleeast/turkey-and-us-agree-on-plan-to-clear-isis-from-strip-of-northern-syria.html> (last visited 20.08.2021).

64 Tim Lister, "Trump Wants 'Safe Zones' Set Up in Syria. But Do They Work?", *CNN*, 27 January 2017, <https://edition.cnn.com/2017/01/27/middleeast/trump-syria-safe-zone-explained/index.html> (last visited 20.08.2021).

65 Özlem Demirtas-Bagdonas, "Reading Turkey's Foreign Policy on Syria: The AKP's Construction of a Great Power Identity and the Politics of Grandeur", *Turkish Studies*, Vol. 15, No. 1, 2014, pp. 139-155.

66 Nur Çetinoğlu Harunoğlu, "A Turkish Perspective on the Ethics of 'Safe Zone': The Evolution of the Concept in Turkish–American relations from Iraq (1991–2003) to Syria (2012–2016)", *Journal of Transatlantic Studies*, Vol. 17, No. 4, 2019, p. 436.

67 Lokman B. Çetinkaya, *Safe Zone: A Response to Large-Scale Refugee Outflows and Human Suffering*, Cham, Springer, 2017.

68 Sinem Adar, "Repatriation to Turkey's 'Safe Zone' in Northeast Syria", *German Institute for International and Security Affairs*, No. 1, 2020, p. 3.

The capricious and uncertain nature of short-term policies notwithstanding, the controversy over a safe zone in Syria indicates that it would function as a buffer zone for almost all the related parties: for the US, it would reduce the probability of Russia, Iran and the Assad regime filling the power vacuum after its withdrawal, while preventing direct confrontation between Turkey and Syrian Kurds; for the Syrian Democratic Forces (SDF), it would be a protection from Turkey; for Turkey, it would be a space both to confront the SDF and the People Protection Units (YPG).⁶⁹ It has also been a growing concern for Western governments that the safe areas could well be opportune locations for Salafi-Jihadist terrorists to disguise themselves and attack the West from Syria. Torn between competing directives, doctrines, policies and concerns are the Syrian civilians, who are most of the time left with hardly any control over their lives just like it happened in Bosnia, Iraq or Rwanda.

Safe Areas: A Place for New *Homo Sacers*?

The post-Cold War safe area practices present different features in terms of political will and the credible military presence problem, as well as the successful implementation of the peace mission. The safe area in Northern Iraq succeeded at least in contributing to humanitarian efforts and preventing mass atrocities with a credible military presence. On the other hand, positioned in between conventional consent-based safe areas and the credible military presence model, the Bosnia and Rwanda cases should be recalled as complete failures in terms of getting consent from the parties and inactivating the atrocities with a credible military force, thereby turning the international community into not only witnesses of but also accomplices in the mass atrocities.⁷⁰ Posen argues that if the Serbian army believed they were going to face the same type of force which the Iraqi did in 1991, then they would have behaved rather differently.⁷¹ Likewise, the clear unwillingness for a massive and all-encompassing mission in Resolution 872, which was a result of the Mogadishu disaster, presaged the coming genocide in Rwanda.⁷²

In order to overcome the problem of military personnel in a situation such as Rwanda and maintain a more permanent unit that could respond rapidly to humanitarian crises, it was suggested to establish a standing volunteer force “under the exclusive authority of the Security Council and the day-to-day

69 Galip Dalay and Fuat Keyman, “Turkish-US Strategic Decoupling through the Prism of Syria”, GMF, No: 4, 2019, p. 2.

70 Orchard, *Ibid.*, p. 59.

71 Posen, *Ibid.*, p. 85.

72 Kwame Akonor, *UN Peacekeeping in Africa: A Critical Examination and Recommendations for Improvement*, Springer, Cham, 2017, p. 18.

direction of the Secretary-General".⁷³ However, there is no guarantee that such a standing force would prevent atrocities and safeguard the people under risk. Given the fact that the UN authorities had the chance to take the initiative to prevent atrocities but chose to ignore the warning signs of genocide during the two most epic failures in the organization's history – namely, Bosnia and Rwanda – the problem of resources, equipment, or organization seem to fall behind a more severe problem related to the will to act. In both cases, the ground commanders actually informed the UN headquarters about the mass killings and asked for authorization to take action. In Rwanda, it was UNAMIR Force Commander Roméo Dallaire who asked for permission from New York to conduct a cordon and search operation upon receiving information about a major weapons cache,⁷⁴ and later argued that only a force of 5 000 personnel would be able to stop the killings in the South and West of Rwanda.⁷⁵ In Srebrenica, observers and high-rank officials were able to foresee the bloodshed coming already in 1993 and were calling for evacuation or strict protection of the civilians.⁷⁶ Besides, not only the UN but also other primary organizations such as NATO proved not fully efficient and capable of dealing with ethnic or religious conflicts in the aftermath of the Cold War.⁷⁷ Rather than categorizing these incidents as a failure on behalf of the international community, one has to note that such places of exclusion/exception keep the international system open, and the loss of lives in exclusion zones allow recognition of the ones included in the system.

In consequence, neither prediction or assessment error nor lack of clarity of the mission and political will stand as the main barriers before protecting civilians. In fact, the system requires barriers to function. Barriers in the form of exclusion and inclusion are not fixed and uncompromising, but have to be adjustable depending on context. The Somalia and Yugoslavia experiences, for example, have made it clear that UN peacekeepers or NATO air strikes cannot completely deter the parties from fighting if the latter are convinced that they would gain more on the battlefield than on the negotiation table.⁷⁸ Hence, the type and quantity of military power is concluded to be dependent on the specific situation, which implies that the use of air strikes might be sufficient in some

73 Stephen Kinloch Pichat, *A UN 'Legion': Between Utopia and Reality*, New York, Frank Cass, 2005, p. 145.

74 McQueen, *Ibid.*, p. 102.

75 Kofi Nsia-Pepira, *UN Robust Peacekeeping: Civilian Protection in Violent Civil Wars*, New York, Palgrave Macmillan, 2014, p. 52.

76 Elewa, *Ibid.*, p. 454.

77 Joyce Kaufman, "NATO and the Former Yugoslavia: Crisis, Conflict and the Atlantic Alliance", *Journal of Conflict Studies*, Vol. 19, No. 2, 1999, p.5.

78 Shashi Tharoor, "The Changing Face of Peace-Keeping and Peace-Enforcement", *Fordham International Law Journal*, Vol. 19, 1995, p. 416.

cases while not in others. This approach supports the idea of “cosmopolitan peacekeeping” and “cosmopolitan soldiers”, which combine and merge traditional peacekeeping tasks such as separating belligerents, maintaining ceasefires and controlling airspace with new tasks such as protecting safe areas or capturing suspects for international crimes.⁷⁹ The latter category of new tasks assigns peacekeepers also with policing tasks, which are deemed to decrease the propensity of people to leave and become refugees.⁸⁰ If cosmopolitan peacekeeping dominates prospective humanitarian interventions, it is going to be another power mechanism producing *homo sacers* as outlaws in a different spatial domain. Arguing it is the same political mechanism enabling Hitler’s concentration camps and *homo sacers* in Western democratic states, Agamben hints at the miscellaneous ways of exclusion and surveillance that one can observe in urban zones of exception based on ethnicity or income,⁸¹ irregular migrants,⁸² or prisoners in Guantanamo.⁸³ While failing in many instances to protect the bare life of civilians, peacekeepers will soon begin keeping the civilians under surveillance to ensure their *homo sacer* status.

Supplementing the humanitarian mission with new tasks and resources is a continuation of Posen’s point that “as long as real military power corresponding to the delicate nature of the conflict and willingness is on the scene to protect the vulnerable civilian population, the entry of the assailant to the safe area will not be likely”.⁸⁴ However, the fact that the “assailant” does not always belong to the belligerent parties is an indication of the civilians remaining in an obscure zone excluded from the ordinary legal protections of political societies. Evidence shows that the practice in the field actualizes the unthinkable and unforeseeable: UN soldiers in Mozambique recruited children into prostitution;⁸⁵ peacekeepers belonging to both ECOMOG and the United Nations Mission in Sierra Leone (UNAMSIL) sexually exploited women and solicited child prostitutes as well as

79 Mary Kaldor, *New and Old Wars: Organised Violence in a Global Era*, Cambridge, Polity, 2012, pp. 133, 134; David Curran, “More than Fighting for Peace”, *Conflict Resolution, UN Peacekeeping, and the Role of Training Military Personnel*, Cham, Springer, 2017, p. 119.

80 Gary Uzonyi, *Finding Soldiers of Peace: Three Dilemmas for UN Peacekeeping Missions*, Washington D.C., Georgetown University Press, 2020, p. 34.

81 See, Willem Schinkel and Marguerite Van den Berg, “City of Exception: The Dutch Revanchist City and the Urban Homo Sacer,” *Antipode*, Vol. 43, No. 5, 2011, pp. 1911-1938.

82 See, Prem Kumar Rajaram, and Carl Grundy-Warr, “The Irregular Migrant as Homo Sacer: Migration and Detention in Australia, Malaysia, and Thailand,” *International Migration*, Vol. 42, No. 1, 2004, pp. 33-64.

83 Magnus Fiskesjö, “Outlaws, Barbarians, Slaves: Critical Reflections on Agamben’s Homo Sacer,” *HAU: Journal of Ethnographic Theory*, Vol. 2, No. 1, 2012, pp. 161-180.

84 Posen, *Ibid.*, pp. 93, 94.

85 Graca Machel, “Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children”, U.N. Doc.A/51/306, 26 August 1996, https://sites.unicef.org/graca/a51-306_en.pdf (last visited 20.08.2021).

raped children on several occasions;⁸⁶ and relief workers and peacekeepers in Guinea, Liberia, and Sierra Leone sexually exploited women and girls in refugee camps.⁸⁷ This does not represent an exhaustive list of crimes conducted by international peacekeeping mission personnel, but exemplify the vulnerability of people seeking for protection and support even when they are under the auspices of peacekeepers. Though there are states initiating prosecution processes for their citizens accused of such violations, it is in the end the sovereign power who decides who and when to prosecute just like the decision on who to kill.

In addition, safe areas hardly prevent internally displaced persons, or irregular migration beyond the contended territory, especially when the belligerents pursue ethnic cleansing policies. At the same time, safe areas might lead to the refusal of the right to seek asylum,⁸⁸ and humanitarian organizations and governments compromise the freedom of asylum for various reasons.⁸⁹ Putting the UN-backed interventions in perspective, Dubernet's conclusion is that such operations are designed particularly to prevent civilians from escaping the conflict zones.⁹⁰ Whether established within or beyond the country of conflict, safe areas may bring temporary and even false safety rendering the civilians visible and, therefore vulnerable as easy targets. The tragedy in Bosnia, for example, came under the auspices of the UN mission when UN soldiers with special night vision equipment were able to detect any movement in and through the safe areas. Once an escapee was identified, a manhunt was initiated with a spotlight shining on the former, which then allowed Serb snipers to see their targets.⁹¹ The vulnerability problem also leads to refugee flows that generate return and repatriation challenges in the post-conflict stage. Returning in "safety" and "dignity", to use the UNHCR terminology, includes legal safety next to material and physical safety. In cases where physical and material safety is ensured, displaced people might endure persecution or discrimination upon return. Kosovo Albanians, for example, had to return in mass numbers despite knowing that the conditions upon their return would bring next to nothing in the form of safety and security.⁹²

86 Human Rights Watch, "We'll Kill You If You Cry: Sexual Violence in the Sierra Leone Conflict", 15 (1), January 2003, pp. 48, 49. <https://www.hrw.org/reports/2003/sierraleone/sierleon0103.pdf> (last visited 20.08.2021).

87 Sarah Coleman, "Sex for Food Scandal", *World Press Review*, 49 (5), 2002, https://www.worldpress.org/print_article.cfm?article_id=612&dont=yes (last visited 20.08.2021).

88 Orchard, *Ibid.*, pp. 57, 58.

89 Long, *Ibid.*, p. 459.

90 Cecile Dubernet, *The International Containment of Displaced Persons: Humanitarian Spaces without Exit*, New York, Routledge, 2017.

91 Peter Maass, *Love Thy Neighbor: A Story of War*, New York, Vintage, 1997, p. 170.

92 Walpurga Englbrecht, "Bosnia and Herzegovina, Croatia and Kosovo: Voluntary Return in Safety and Dignity?", *Refugee Survey Quarterly*, Vol. 23, No. 3, 2004, p. 141.

International humanitarian assistance also carries the potential risk of bolstering conflicting parties in the case that access to and control of aid resources fall into their hands. The benefits of controlling and/or allocating humanitarian aid as mentioned here should not be taken exclusively to be of a material character. The intertwined nature of the Syrian government's sovereignty claims and cooperation with international organizations stands as only one of the recent examples of such benefits.⁹³ The most recent debates on a civilian-run safe zone that would allow further evacuations in Afghanistan and the contradictory nature of prospective collaboration with Taliban⁹⁴ is yet another example of the unwillingness as well as incompetency of the international community in situations of humanitarian catastrophes for which some of its members have direct responsibility.

Conclusion

Safe area theory and practice naturally imply political aspects. Rendering humanitarian action to create safe areas as an initiative that *is* or *ought to be* apolitical is a drawback that restrict, if not totally eliminate, competing concerns and interests of different individuals and groups. Thus, the failure to protect civilians in designated safe areas is more a result of its depoliticization than politicization. In other words, a political confrontation is the primary way of reversing the already political deficiencies of safe area practices. Such political confrontations should address the versatile nature of insecurities of various actors with competing concerns and interests. For instance, public or private sector actors, civilians with different gender and sexual identities, age groups, or disabilities are exposed to different types of violence both during and in the aftermath of a conflict. Given the extreme vulnerability of civilians within confined areas, it has to be admitted that partial engagement is equally hazardous as complete inertia on behalf of the international community.

93 Reinoud Leenders and Kholoud Mansour, "Humanitarianism, State Sovereignty, and Authoritarian Regime Maintenance in the Syrian War", *Political Science Quarterly*, Vol. 133, No. 2, 2018, pp. 225-257.

94 Patrick Wintour and Rajeev Syal, "France and UK to Propose Kabul Safe Zone at UN Meeting, Says Macron", *Guardian*, 29 August 2021, <https://www.theguardian.com/world/2021/aug/29/france-and-uk-to-propose-kabul-safe-zone-at-un-meeting-says-macron> (last visited 29.08.2021).

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