

Protection of civilians strategy: A greater role for the Council

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Introduction

1. Fifteen years ago, the Brahimi Report established the importance of the protection of civilians in UN peacekeeping. Today, the mandate is again in need of clarity. The moral and legal foundations are clear, but the mandate's political and strategic direction often goes undefined. The protection of civilians has raised unachievable expectations and continuing debates about its interpretation inhibit effective action. It has been claimed by a broad swathe of actors, caught between concepts of the responsibility to protect, humanitarian access, and human rights advocacy. Providing strategic direction for the mandate will require greater dialogue between the Council, the Secretariat, and Troop Contributors. It will also require acknowledging that protecting civilians is not always straightforwardly selfless, an end in itself, but rather should form part of the mission's overall goals for bringing stability and security to the country. This idea is simple to state in general terms but difficult to implement without strong support from the Council and its Members.

Background to the mandate

2. **The protection of civilians mandate in peacekeeping was a reaction to the challenges peacekeepers directly faced in Rwanda and the Balkans and more generally a reaction to the 'new wars' of the post-Cold War world.** In these new wars, Some scholars argued that civilians were killed at astonishing rates in these 'new wars', including that civilians accounted for 90 percent of deaths in these wars.² These claims that are now disputed, and many researchers argue that civil wars are actually on the decline.³ Yet it was clear that peacekeepers could not conscientiously operate in the environments to which they were sent without the ability to act to protect civilians. This was not necessarily a new aspect of peacekeeping: The UN Operation in the Congo (ONUC), one of the first peacekeeping mission, took action that today would likely be called 'protection of civilians', despite the absence of an explicit mandate. The Brahimi report similarly implied that the authorization to protect was inherent in the peacekeepers' role.⁴

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² Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era* (Cambridge: Polity Press, 2012).

³ See Human Security Report 2009/2010 (New York, Oxford University Press) 177; Human Security Report 2013 (New York, Oxford University Press) 105-113; Adam Roberts, 'Lives and Statistics: Are 90% of War Victims Civilians?' 52 *Survival* 115-136.

⁴ Brahimi report, UNGA (2000) A/55/305-S/2000/809, para 50. Note that these implied authorizations may not be recognized by the Office of Legal Affairs or others.

3. **The concept of the protection of civilians is traceable to International Humanitarian Law and the protection dialogue is highly influenced by humanitarian practice.** While sometimes treated as an historical footnote, the roots of POC in humanitarian and human rights action continue to be highly influential in discussions of protection: Protection is often considered as an end-in-itself and neutrality or strict impartiality is often viewed as prerequisite for effective protection. These views often do not square well with modern peacekeeping missions, which retain political aims and are generally considered a means towards sustainable peace and security. The closest that the Secretary-General or the Security Council has come to providing a definition of the protection of civilians is in thematic discussions on the protection of civilians in armed conflict, a broad definition encompassing a range of human rights and humanitarian issues.⁵

4. **The protection of civilians mandate has become a standard element of mandates for armed peacekeeping yet remains subject to different interpretations.** A few months after the first thematic resolution on POC in 1999, the Security Council provided the first POC mandate in peacekeeping to the UN Mission in Sierra Leone. This mandate, a Chapter VII authorization to use force, was described at the time as ‘a new, fundamental, legal and moral dimension’, ‘an insurance policy’, ‘deterrent’, and a ‘guarantee [of] protection’.⁶ No armed UN mission since 1999 has been newly deployed without a POC mandate. Whether peacekeepers were sent into active conflicts, such as the Central African Republic, or stood guard in non-conflict nations, such as Haiti and Liberia, they were directed to protect, with force if necessary.

5. **The specific implications of the mandate were never clear, and different understandings continue to exist.** On its face the mandate changed little in the next 10 years, yet a 2009 OCHA-DPKO Study on the protection of civilians in peacekeeping concluded that peacekeepers and civilian staff held widely varying interpretations of the mandate, often within the same mission. The language of Council mandates can be read as supporting these varying

⁵ From the 2006 Report of the Secretary-General on the Protection of Civilians in Armed Conflict: “Protection” is a complex and multi-layered process, involving a diversity of entities and approaches... [including] the delivery of humanitarian assistance; the monitoring and recording of violations of international humanitarian and human rights law, and reporting these violations to those responsible and other decision makers; institution building, governance and development programmes; and, ultimately, the deployment of peacekeeping troops...’ In 2001, a group of humanitarian and human organisations chaired by the International Committee of the Red Cross agreed upon a similarly broad definition of ‘protection’, where protection encompasses ‘all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law... [conducted] in an impartial manner’.

⁶ See the statements, respectively, of the representatives of Argentina, Sierra Leone, Canada, and France, in S/PV.054 (1999)

interpretations, including viewing POC as a specific set of activities,⁷ as a general approach to coordination that linked a range of activities,⁸ or as an authorization to use force as a last resort.⁹

Strategic challenges

6. **The mandate has legal, moral, and strategic elements; only the strategic aspect remains ill-defined.** The Brahimi report made clear the moral importance of protection in peacekeeping, and the legal aspects of the mandate are well established by the Office of Legal Affairs and international legal scholars. These moral and legal elements do not direct a particular strategy or approach to POC, however, and this strategic element remains undefined.

7. **Security Council mandates on POC have become more prominent over time yet they continue to delegate the most challenging strategic questions to the mission.** The Council has been very willing to identify POC as a priority in many missions,¹⁰ and some missions receiving detailed operational instructions that can only be read as a sign of the Council's interest in more dynamic approaches to protection.¹¹ Despite these small technical and operational changes to mandate language in certain missions, the Council is generally silent on the strategic or political direction for the protection of civilians. In some instances, the Council has identified groups in particular need of protection, such as internally displaced persons (IDPs) in Darfur and DRC, yet this direction to protect has often been vague and has never been exclusive; missions have come under regular criticism for protection failures beyond these groups, such as criticism of UNAMID for incidents in Darfur involving settled communities rather than IDPs.

8. **The absence of clear direction from the Council and Member States has placed a great deal of the strategic and political burden on the Secretariat and missions.** The UN and DPKO have no official policy or guidelines on the protection of civilians. The Department of Peacekeeping Operations has developed draft guidelines to try to fill this gap, and military

⁷ MINUSMA, for instance, considers POC within of the overarching goal 'security, stabilization and the protection of civilians'. UNISFA's POC mandate stands alone but may be read as an element of its overall security and stabilization mandate.

⁸ MONUSCO, UNMISS, MINUSCA, UNAMID and UNMIL have all been directed to develop comprehensive POC strategies. UNMISS and UNAMID, and MONUSCO in its past configuration, have been directed to reorient their operations around civilian protection. Security Council resolution 1894 has also called on all POC-mandated missions to prioritise the use of resources in implementing those mandates.

⁹ MINUSTAH and UNIFIL frame their POC mandates in this manner, with POC adding little apparent strategic value to the missions' orientation.

¹⁰ POC has been identified as the priority, or one of a handful of priorities, for UNMISS, UNAMID, MONUSCO, UNMIL, ONUCI. Security Council Resolution 1894 also directs all missions with POC mandates to prioritise resources and capabilities to that mandate's implementation.

¹¹ See, for instance, the Council's calls for 'robust patrolling' (UN Security Council Resolution (Res) 1769), 'early warning mechanisms' (Res 1996), encouraging 'the full use of [the mission's] mandate and capabilities' (Res 1870), regular 'reviews of deployment' (Res 1919), and encouraging 'coordination between civilian and military components' (Res 1906).

guidelines are underway at the time of writing, but the protection of civilians remains highly contested in the Special Committee on Peacekeeping Operations, which maintains that it retains a policy-making role in this area. These policy challenges are rooted in the absence of political consensus over the direction of peacekeeping and the mandate.

9. **Mission-generated protection of civilians strategies have had limited success.** To try to establish context-sensitive strategies without overarching policy, a great deal of strategic responsibility is devolved to the mission. These ‘mission-specific POC strategies’, however, are often ad hoc and tend to compile rather than direct the mission’s ongoing activities related to protection. Importantly, such mission-based strategies may not carry significant weight with the military component or contributed troop contingents. The Office of Internal Oversight Services noted a broken ‘chain’ regarding the protection of civilians, a conclusion that is fundamentally accurate: Where peacekeepers’ lives are placed in danger, policy and operational decisions are not easily ceded to the Secretariat or civilian mission leadership.

10. **Attempts to frame the protection of civilians as a non-military issue have had a limited effect on perceptions of success.** Given the challenges in military resources, capabilities, and will, DPKO and some missions have sought to frame POC as less military issue, linking it to human rights monitoring, humanitarian assistance, rule of law promotion, and developing host state capacities. While all of these issues overlap with protection and implementing POC is never a strictly military activity, military force is a unique aspect of peacekeeping. The Council, the media, and the populations of host countries continually return to questions of troops’ ability and willingness to intercede on behalf of civilians. Evaluating the effectiveness of protection mandates is sufficiently challenging without trying to account for a wide range of activities.

11. **The absence of strategic direction in protection only compounds the resource, capability, and will problems faced by peacekeepers.** The expectation upon peacekeepers to protect—expectations from the media, humanitarians, the Council, or others—is often supremely high regardless of resources, and those expectations are difficult to change when strategic objectives are unclear. The vast disparity in resources between missions further complicates the setting of reasonable expectations.¹²

12. **Failing to better define the protection of civilians can lead to the term’s abuse.** The POC mandate is frequently framed in noble terms, but it is normatively vague in the peacekeeping setting. The use of protection language during the intervention in Libya (Res 1973) and its use to couch language to secure oil facilities in South Sudan (Res 2155), for instance, are both troubling precedents that do not serve the longer term interests of peacekeeping.

13. **Successes in protection have been recognized most frequently in situations where the strategic and political imperatives of the POC mandate are clear.** The current crisis in

¹² The UN Mission in Abyei has one troop for every 2.5 square kilometers and the Mission in Lebanon has one troop for every 0.1 square kilometer, yet the Mission in Darfur has one troop for every 12 square kilometers and the Mission in South Sudan one troop for every 54 square kilometers.

South Sudan, the highly robust operations by MONUSCO (whether through the Intervention Brigade or past operations), and the highly focused security mission in Abyei are all examples of missions that have received plaudits for their protection work. These missions have also faced situations or mandates that made clear a particular strategic direction, whether that is defending civilians in their bases or conducting operations against enemies. Most missions, however, are not faced with crises that force such clarity. A variety of categories of strategy exist for peacekeeping, enumeration of which is beyond the scope of this paper but many of which can contribute to better defining expectations and improving the mission's unity of effort.

Ways forward

14. The challenges above suggest the following:
 - **The Council and Council Members should play a greater role in providing strategic focus for each mission.** This should include greater strategic guidance in mandate language, potentially including the Council's acknowledgement and approval of mission strategies for protection (including acknowledgement of the mission's stated limitations). This will require greater engagement from the Council and from mandate pen-holders, as well as a willingness amongst the Secretariat to relinquish a degree of its operational prerogatives in mandate implementation. Fortunately, all of the peacekeeping pen-holders consistently express support for the protection of civilians mandate.
 - **A stronger Council role will require better dialogue and reporting.** Past examinations of the protection of civilians, such as the OCHA-DPKO Study and the OIOS Report have consistently called for improved reporting to the Council, and better-defined mandates will require dialogue with the mission and the Secretariat. This is eminently possible, of course, and open and closed discussions regularly take place between these parties. Strategies must also match resources and where the resources are not available for a potential approach to protecting civilians, the mission should be able to report this and the Council should be able to modify its strategic direction accordingly.
 - **Political support for strategic protection goals should be expected from Council Members in-country.** Bilateral political support and engagement remains important in implementing difficult mandates, particularly where the protection of civilians is concerned.
 - **Clear policy on the protection of civilians remains important for peacekeeping.** The continued political disagreements between Member States over broad issues in peacekeeping may inhibit the development of broadly applicable policy, but the Council and Troop Contributors can and have found agreement at times. Opportunities for such consensus should be expanded in missions where protection is a priority. The Security Council's Working Group on Peacekeeping Operations and its Informal Working Group on the Protection of Civilians are potential starting points for this conversation,