

PRIORITIZING THE PROTECTION OF CIVILIANS IN UN PEACE OPERATIONS
SUBMISSION TO THE HIGH-LEVEL INDEPENDENT PANEL ON PEACE OPERATIONS

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“Where conflict occurs nevertheless, the imperative for the UN System is the protection of civilians.”¹

PROTECTION OF CIVILIANS AS A PRIORITY IN PEACE OPERATIONS

Over the last 15 years, the Security Council, the General Assembly, successive Secretaries-General, UN agencies and international non-governmental organizations have acknowledged that the protection of civilians must be a priority in all UN engagements where conflict occurs.² This prioritization recognizes that the UN’s ability to achieve other goals and objectives hinges on the effective protection of civilians. A failure to protect undermines the credibility and legitimacy of the United Nations. Moreover, it scars individuals, communities, countries and regions, undermining security and development for decades.

Despite the commitments and aspirations of Member States, UN peace operations continue to struggle to prevent and respond to protection crises including in their most extreme manifestation of mass atrocities. This white paper makes five recommendations to prioritize protection in peace operations.³

- 1) Develop frameworks to guide the assessments for violence against civilians and planning of missions from their inception through implementation;
- 2) Reorient the political posture of the mission in relation to the host-state government based on the type and severity of threats to civilians;
- 3) Narrow the definition of the protection of civilians in peace operations;
- 4) Sequence the deployment of missions to focus initially on the protection of civilians and limit or delay peacebuilding tasks in contexts of atrocities or potential atrocities; and
- 5) Require the prioritization of protection in special political missions through the adoption of frameworks for assessing and planning missions as well as developing mission-wide protection of civilians strategies.

These reforms can help to address some of the most difficult challenges that UN peace operations face when trying to fulfil their mandates to protect civilians. However, they will only be effective if Member States redouble their diplomatic investment in the effective protection of civilians. The reforms cannot

¹ “UN Rights Up Front Summary,” United Nations, 2014, <http://www.un.org/sg/rightsupfront/doc/RuFAP-summary-General-Assembly.htm>.

² Security Council resolutions on the protection of civilians in armed conflict, mandates that authorize peacekeeping operations to use all necessary means to protect civilians, Member State endorsement of the Responsibility to Protect in the 2005 World Outcomes Document and the new UN Rights Up Front initiative are evidence of this commitment to prioritize protection.

³ Although all UN peace operations are integrated, the term “mission” is used in this white paper to describe the various components of a peace operation, excluding UN agencies.

simply be relegated to the UN Secretariat. The effective protection of civilians requires better coordination between Member State representatives in New York, the UN Secretariat, embassies and donors in country, and the peace operations themselves. Better coordination between these actors is necessary to ensure that the consent of the host-state government and parties to a conflict are maintained and that peace operations can effectively protect civilians in the short term while they strive to achieve longer-term peacebuilding goals.

1) Frameworks are critical to guide the assessments for and planning of missions to protect civilians

At present, there is no standard framework for assessing risk factors and threats to civilians during strategic assessments, which influence the Secretariat recommendations to the Security Council, the peacekeeping operation mandate, the mission concept, the concepts of operation and the configuration of the mission.⁴ As a result, assessments that identify protection threats come too late in the planning process to influence the blueprint of the mission. Peacekeeping operations mandated to protect are required to develop mission-wide protection strategies. While important, these are generally developed at the mission level after a peacekeeping mission is deployed. Once deployed, the political posture, resources and assets and footprint of the mission are difficult to alter.

Assessing and planning for worse case scenarios: The initial intent of the Security Council was to focus on protecting civilians from violence in its most extreme manifestation, mass atrocities (war crimes, crimes against humanity, ethnic cleansing and genocide).⁵ Yet it is unclear the extent to which strategic assessments that shape the Secretariat's recommendation for a peacekeeping operation incorporate an analysis of atrocity risk factors.

In late 2014, the Office of the Special Advisers on the Prevention of Genocide and the Responsibility to Protect released a Framework of Analysis for Atrocity Crimes.⁶ The Framework outlines 14 risk factors with corresponding indicators for each of the four atrocity situations: war crimes, crimes against humanity, ethnic cleansing and genocide. Although broad, the risk factors and indicators provide a useful first step for assessment and planning purposes. If the Framework of Analysis for Atrocity Crimes had been available and applied to initial assessments and planning for UNMISS in South Sudan, the possibility of a crisis of the scale and speed of the December 2013 violence against civilians would likely have been identified and may have been planned for and mitigated.

Planning for a broader spectrum of violence: Once contexts have been analyzed for atrocity risk factors and indicators, assessments and planning should include a broader spectrum of violence. Although proposed by a number of experts and organizations,⁷ perhaps the most detailed assessment guide has

⁴ A 2009 independent study found "little evidence that pre-mandate planning and assessments consistently address threats to civilians—this means that these threats are less likely to inform mission mandates, strategies, structures or resources," and recommended that "[t]hreats to civilians must be considered at the earliest stages of planning, and the Security Council fully briefed ahead of its deliberations on peacekeeping mandates." This recommendation has not been addressed. See Victoria Holt, Glyn Taylor and Max Kelly, *Protecting Civilians in the Context of UN Peacekeeping Operations Successes, Setbacks and Remaining Challenges*, Department of Peacekeeping Operations and Office for the Coordination of Humanitarian Affairs, 2009.

⁵ The first authorizations of Chapter VII mandates to protect civilians in the late 1990s and early 2000s occurred in the wake of peacekeeping operations' failure to protect civilians in Rwanda and Srebrenica.

⁶ *Framework of Analysis for Atrocity Crimes: A Tool for Prevention*, United Nations, 2014.

⁷ Max Kelly, *Protecting Civilians: Proposed Principles for Military Operations*, Stimson Center, 2010; Max Kelly and Alison Giffen, *Military Planning to Protect Civilians: Proposed Guidance for United Nations Peacekeeping Operations*, Stimson Center, 2011.

been developed by the Norwegian Defence Research Establishment (FFI).⁸ Based on in-depth research, this guide provides seven scenarios of violence against civilians that peacekeeping operations may face and five questions that must be considered in assessments and planning. Although the guide was developed for military planning purposes, the proposed questions and process should also be applied to the development of the overarching mission concept, concepts of operation and mission-wide strategies.

<p>Seven scenarios for threat assessment and planning:</p> <ol style="list-style-type: none"> 1) Genocide 2) Ethnic cleansing 3) Regime crackdown 4) Post-conflict revenge 5) Communal conflict 6) Predatory violence 7) Insurgency 	<p>Questions that all threat assessments must consider:</p> <ol style="list-style-type: none"> 1) What type of actor is the perpetrator? 2) What is the motivation for attacking civilians? 3) Which strategies and tactics are employed? 4) Which capabilities are needed to attack civilians? 5) What is the expected outcome?
<p><i>Source: Alexander William Beadle and Stian Kjeksrud, Military Planning and Assessment Guide for the Protection of Civilians, Norwegian Defence Research Establishment, 2014, 13. The full report with the detailed assessment and planning guide is available at www.ffi.no/no/Rapporter/14-00965.pdf.</i></p>	

2) The level and type of protection threats should determine the mission’s political posture

In certain contexts, the Secretariat should recommend and the Security Council should instruct the mission to take a more neutral posture in relation to the host-state government, to avoid being perceived as taking sides in hostilities or lending legitimacy to a state that is implicated in violence against civilians. This does not mean that a mission should remain neutral in the face of violations of human rights or peace agreements, nor does it mean that missions cannot support host-state governments under normal circumstances. However, it may mean that a mission’s peacebuilding activities that require a close relationship with the host-state government, or that involve providing material or technical support to the host-state government, should be temporarily limited or suspended where there is a risk of state actors committing flagrant abuses, including atrocities.

Adopting a more neutral stance could reduce the tensions that result from the need to impartially protect civilians regardless of the perpetrator. This reform could also give missions more leverage with a host-state government by creating incentives of increased peacebuilding support if and when the state achieves clear benchmarks related to the protection of civilians. Moreover, it could allow for greater and more effective engagement by the mission with non-state armed actors committing or threatening violence against civilians.

The mission’s political posture should be considered from the initial stages of mission planning as well as for existing missions where assessments indicate that political, economic or other triggers could cause an escalation in violence. Missions and the international community often have the greatest influence

⁸ Alexander William Beadle and Stian Kjeksrud, *Military Planning and Assessment Guide for the Protection of Civilians*, Norwegian Defence Research Establishment, 2014.

over a host-state government in the initial aftermath of a crisis. This provides a window of opportunity for the mission and Member States to set the right tone with the government. UNMISS provides a positive example of a shift in 2014 to a more neutral stance given the context of a civil war and the government's engagement in abuses that could amount to war crimes and crimes against humanity.⁹

3) Narrow the definition of the protection of civilians in peace operations

Between 1999, when the first peacekeeping operation was mandated to protect civilians, and 2009, a definition of the protection of civilians in peacekeeping operations did not exist. Peacekeeping operations were left to interpret the Security Council's intent, which contributed to ad hoc and often ineffective protection efforts.¹⁰ In 2010, the Secretariat developed and disseminated an Operational Concept which is now used in training and subsequent guidance. The Operational Concept currently includes three tiers:

- Tier 1: Protection through political process
- Tier 2: Providing protection from physical violence
- Tier 3: Establishing a protective environment

However, ambiguities still remain that undermine the utility of this Operational Concept. A 2014 Office of Internal Oversight Services study, found that "[t]he concept has been stretched to cover the majority of mission activities," and "[s]everal interviewees called for narrowing of the definition to make it more practical and focused."¹¹ The broad definition presents a risk to effective implementation. Peacekeeping personnel do not know where the protection of civilian tasks begin and end in relation to their everyday tasks. Tier three, establishing a protective environment, is particularly confusing in this regard. For example, stabilization efforts and security sector reform may contribute to a protective environment in the long term but could exacerbate threats and vulnerabilities in the short-term. The Operational Concept provides no guidance on how to identify or resolve these tensions.

As of the writing of this paper, formal policy guidance on the protection of civilians does not yet exist – a major gap undermining effective protection. A new draft policy has been developed by the Department of Peacekeeping Operations and the Department of Field Support in consultation with peacekeeping operations and UN agencies. The new draft policy will include revisions to the Operational Concept. This new version should replace the three tiers as they currently exist with the following five tiers. Each of

⁹ A review should be undertaken to assess whether a more neutral stance from the outset of the mission in 2011 or when the political situation began to change radically in 2013 could have helped to prevent or mitigate the violence that erupted in December 2013.

¹⁰ In 2009, the Department of Peacekeeping Operations (DPKO) and the Office for the Coordination of Humanitarian Affairs (OCHA) released the independent review, *Protecting Civilians in the Context of UN Peacekeeping Operations*. The review identified a lack of an operational definition of the protection of civilians "around which planning for specific missions can take place," and recommended that this be rectified. See Victoria Holt, Glyn Taylor and Max Kelly, *Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges*, Department of Peacekeeping Operations and Office for the Coordination of Humanitarian Affairs, 2009, 6. The Security Council responded by requesting "the Secretary-General to develop in close consultation with Member States including troop and police contributing countries and other relevant actors, an operational concept for the protection of civilians." See United Nations Security Council Resolution 1894, S/RES/1894, 11 November 2009, paragraph 22.

¹¹ *Evaluation of the Implementation and Results of Protection of Civilians Mandates in United Nations Peacekeeping Operations*, United Nations Office of Internal Oversight Services, A/68/787, 7 March 2014, paragraphs 53-55.

these five tiers describes a type of action that peacekeepers can undertake for the purpose of preventing and mitigating violence against civilians:¹²

- Tier 1: early warning;
- Tier 2: dialogue and engagement;¹³
- Tier 3: presence and witness;¹⁴
- Tier 4: use of force;¹⁵ and
- Tier 5: preventing and mitigating harm that could result from mission activities, including peacebuilding tasks that may contribute to a protective environment in the long term but could exacerbate violence in the short term.

These proposed tiers elaborate the ways in which peacekeepers can provide direct protection from physical violence and excludes long-term peacebuilding tasks. By spelling out specific and limited methods of protection instead of using broad and vague categories, the proposed tiers allow peacekeepers to distinguish protection from other mission activities.

4) Mission mandates should be sequenced to prioritize protection in contexts at risk of or experiencing widespread or systematic violence against civilians¹⁶

Today's peacekeeping mandates often include dozens of objectives and tasks that seek to address both short-term threats and achieve longer-term peacebuilding. This presents two challenges. First, as discussed above, if not planned and implemented appropriately, tasks that are meant to create stability and security down the road can exacerbate protection threats and the vulnerability of civilians in the short-term. Second, broad mandates dilute resources that could be spent on immediate physical protection, ultimately undermining the mission's ability to achieve any of its objectives.

UNMISS's mandate and operation between 2011 and 2013 highlight these challenges. UNMISS's initial mandate included numerous protection and peacebuilding objectives and tasks. Between 2011 and 2013, the mission tried to achieve peacebuilding goals such as the extension of state authority by

¹² As with the current Operational Concept, the numbering of these tiers does not imply that they are meant to be applied in a sequential order. See *Draft Operational Concept on the Protection of Civilians*, UN Department of Peacekeeping Operations and Department of Field Support, 2010.

¹³ This tier could include: providing training for public officials, members of armed forces and armed groups, personnel associated to armed forces, civilian police and law enforcement personnel, and members of the judicial and legal professions to raise awareness among civil society and the civilian population on relevant international humanitarian, human rights and refugee law; mediation and conflict transformation at the subnational level; and diplomatic engagement with state and non-state actors to persuade them to end violence against civilians and take on the responsibility to proactively prevent and mitigate it.

¹⁴ Depending on the motivation and tactics of a perpetrator, the mere presence of international actors could dissuade violence. Every individual associated with a UN peace operation contributes to this presence. Human rights components of missions have a particular responsibility in terms of witness and reporting.

¹⁵ This may include activities undertaken by formed military and police units that deter, compel or neutralize armed actors posing threats to or perpetrating violence against civilians. How force is applied in a specific context will be determined by the mission mandate and rules of engagement.

¹⁶ Fifteen years ago, the Brahimi Report recommended that mandates be issued in two stages to allow "the Security Council and the Secretary-General to build the political and resource support necessary to launch a successful mission." The Brahimi panel suggested that draft resolutions should not be adopted by the Council until there were firm troop commitments made. The New Horizons initiative recognized that the recommendation was never adopted, in part because it is difficult to mobilize political will in the absence of a mandate. However, the recommendation should be revisited and revised to allow for the clarification of mission objectives and the prioritization of resources.

deploying and supplying an UNMISS presence in all ten states and an ambitious number of counties across South Sudan. The cost of transporting and housing personnel, and supplying and protecting these bases, was high and undermined the mission's ability to focus resources on areas at highest risk of violence.¹⁷

To address this challenge, peacekeeping operation mandates, planning and deployment should be sequenced in contexts at risk of or experiencing widespread or systematic violence against civilians. If initial assessments indicate these risks or conditions, the Security Council should mandate the operation to be planned and deployed in multiple phases. Phase one should prioritize and focus on the protection of civilians through the proposed five tiers outlined in Section 3 above, and set out benchmarks that must be met before the mission begins to implement peacebuilding activities. Mission resources should focus on areas or situations of current violence against civilians, areas or situations at highest risk of violence in the near future, and worst-case scenarios of atrocities.

Although assessments and planning for peacebuilding activities should be underway from the initial strategic assessment, their implementation by the peacekeeping operation should not begin until agreed benchmarks have been met. Once the conditions on the ground are appropriate, the Security Council would pass a resolution to move the peacekeeping operation into a second phase, which would include an expansion of objectives and tasks and which would alter the configuration of the mission.¹⁸ It may be appropriate for other actors, including bilateral and multilateral donors, that have more resources, expertise in peacebuilding and leverage over the host-state government to begin peacebuilding activities at an earlier stage. An outline of a sequenced approach to peacekeeping is included in the Annex.

Security Council Resolution 2149 establishing MINUSCA in the Central African Republic was a step in the right direction. The mandate included language that indicated some tasks should be prioritized: "*Decides that the mandate of MINUSCA shall initially focus on the following priority tasks....*"¹⁹ However, the mandate did not go far enough. It listed seven priority tasks with at least 20 subtasks that the mission should focus on in the initial phase. The mandate rightfully included tasks related to the physical protection of civilians, human rights monitoring, good offices and political support for efforts to address root causes of the conflict, and support to reconciliation and mediation at the national and local levels in this initial phase. However, it also included tasks to extend state authority. Furthermore, the mandate decided that MINUSCA should undertake approximately ten additional tasks as resources and conditions permit, but did not identify what conditions were necessary to trigger the additional activities.

5) Require the prioritization of protection in special political missions

Significant progress has been made over the last fifteen years to develop an operational concept on the protection of civilians in peacekeeping operations that expands far beyond the use of force and the presence of UN military and formed police units. Like peacekeeping operations, integrated special

¹⁷ UNMISS did reconfigure to concentrate assets in Jonglei over time, but trade-offs that undermined protection continued up until the 2013 crisis. For more on the trade-offs made in distributing mission resources, see Lauren Hutton, *Prolonging the Agony of UNMISS: The Implementation Challenges of a New Mandate During a Civil War*, Netherlands Institute of International Relations, 2014.

¹⁸ For example, a mechanism to implement the Human Rights Due Diligence Policy should be established and functional before capacity-building activities with the government are initiated.

¹⁹ United Nations Security Council Resolution 2149, S/RES/2149, 10 April 2014, paragraph 30.

political missions have legitimacy, diplomatic capacity and operational reach. As such, they can contribute significantly to protection through four of the five proposed tiers, excluding only the use of force.

In contexts where special political missions work alongside international military interventions (e.g., Afghanistan, Iraq and Somalia), there may be additional challenges and opportunities that demand communication and coordination on shared protection objectives and concerns.

Requiring the Department of Political Affairs to include risks of violence against civilians in their strategic- and operational-level assessments and planning is a natural and necessary extension of UN commitments to protect civilians. Like peacekeeping operations, special political missions should be required to develop mission-wide protection of civilians strategies in consultation with other protection actors, including protection clusters, civil society, conflict-affected communities and (where appropriate) host-state governments.

Annex: Outline of a Phased Approach to Prioritizing Protection in Contexts at Risk of or Experiencing Widespread or Systematic Violence Against Civilians

Phase 0: Assessment and planning for violence against civilians

- A strategic assessment is undertaken which includes an assessment of atrocity risk factors and indicators and other significant threats to civilians.
- Consultation with troop- and police-contributing countries. This should be an ongoing process throughout mission planning.
- The Secretary-General and Policy Committee recommend to the Security Council to sequence the mandate and plan and deploy in multiple phases.
- The Security Council mandate authorizes Phase I of the mission to include objectives and tasks that prioritize the protection of civilians.
- The Secretary-General issues a directive to the Special Representative of the Secretary-General, Resident Coordinator and Humanitarian Coordinator.
- A multi-phased mission concept, concept of operations and Integrated Strategic Framework are developed.
 - These documents should include clear benchmarks that would indicate whether and when successive phases should be implemented.
 - Planning and prioritization of resources should focus on areas or situations of current violence against civilians, areas or situations at highest risk of violence in the near future, and worst-case scenarios of atrocities.

Phase I: Implementing objectives and tasks that protect civilians from physical violence

Focus of mission tasks:

- Protect through early warning;
- Protect through dialogue and engagement;
- Protect through presence and witness;
- Protect through the use of force in accordance with the mission mandate and rules of engagement; and
- Protect through preventing and mitigating harm that could result from mission activities, including peacebuilding tasks that may contribute to a protective environment in the long term but exacerbate violence in the short term.

Tasks:

- Recruit and deploy essential protection-related staff:
 - Mission leadership;
 - Core JMAC and JOC personnel;
 - Harm mitigation advisor;
 - Protection advisors/unit;
 - Formed military and police units and enablers. Individual police who are able to assist in specific tasks aimed at preventing or responding to immediate protection threats may also be appropriate in certain contexts;

- Human rights component;
- Civil Affairs personnel trained in early warning, protection of civilians and conflict mediation and transformation; and
- Community Liaison Assistants to work with military, police and civil affairs.
- Establish a JMAC with an early warning cell and a focus on threat assessment.
- Develop an initial mission-wide protection of civilians strategy in consultation with other protection actors. This strategy should determine how the mission will communicate and coordinate with other protection actors including humanitarians, the host-state government and civil society. The protection cluster should develop a parallel protection strategy.
- Establish mechanisms to vet national military, police and government actors to lay the foundation for the effective implementation of the UN Human Rights Due Diligence Policy.
- Establish a Civilian Harm Tracking, Analysis, & Response Cell.
- Develop a communication and coordination mechanism with embassies and donors to determine a strategy to deal with perpetrators of violence and those with the intention and capability to interfere with the mission fulfilling its mandate.
- Develop communication and coordination mechanisms with other international interventions in or approximate to the area of operations (e.g., other regional, bilateral or multilateral actors, such as unilateral or coalition military or police operations, neighboring peace operations, etc.).
- Undertake additional assessments in advance of state or peacebuilding objectives and tasks:
 - Assess priority state and society-building needs;
 - Assess any possible consequences of future mandated elements of peacebuilding initiatives (such as SSR, DDR, timelines of elections, political transitions or extension of state authority) that could escalate violence and ways to mitigate unintended consequences;
 - Assess the legitimacy of the government and its ability to absorb support from the UN as required by the “United Nations Peacekeeping Operations: Principles and Guidelines;” and
 - Assess the UN’s capacity to recruit and deploy civilian expertise to implement future peacebuilding activities.
- Monitor and evaluate progress on meeting protection objectives and benchmarks.

Transition to Phase II

- An integrated assessment is conducted of progress on protection benchmarks and the broader situation on the ground.
- A report of the Secretary-General is produced on progress and recommended next steps.
- If appropriate, the Security Council passes a resolution triggering Phase II.

Phase II: Protection and Peacebuilding

- The mission continues to monitor and assess threats to civilians and protect through the five tiers outlined in Section 3, and begins to implement mandated peacebuilding activities.