THE ROLE OF UN PEACEKEEPING MISSIONS IN THE PROTECTION OF CIVILIANS

Overview: Oxfam's position on the role of UN peacekeeping missions in the protection of civilians

The UN Security Council's (UNSC) role, to maintain international security, includes protecting civilians in armed conflict. Made explicit in 2009, the UNSC noted that 'the deliberate targeting of civilians… may constitute a threat to international peace and security, and [the UNSC] reaffirms… its readiness to consider such situations and, where necessary, to adopt appropriate steps.'[1]

States bear the primary responsibility for protecting their civilians, even though they may be unable or unwilling to do this. For this reason, the UNSC has developed means to improve the protection of civilians (PoC), including through UN peacekeeping missions. Since 1999, a number of missions have been explicitly mandated 'to afford protection to civilians under imminent threat of physical violence.'[2]

Conflict-affected communities where there is a peacekeeping mission present expect to be protected and consistently request better protection. This requires an ongoing effort by the UNSC, the UN Department for Peacekeeping Operations (DPKO), Troop and Police Contributing Countries (TCCs and PCCs), and individual UN missions. There have been significant normative and technical developments to explain what PoC means and how PoC mandates should be implemented. There remain, however, many challenges to implement these mandates and guidelines to effectively protect civilians on the ground.

Peacekeeping is a temporary solution. But it can help the state take on its responsibility to protect civilians, by supporting security sector reform and rule of law development.

1 Background

UN peacekeeping missions[3] have shifted from traditional peacekeeping (monitoring an agreement between two parties) towards 'multi-dimensional' missions whose tasks include anything from supporting elections to protecting civilians.[4] In 1999, the UNSC for the first time included PoC as an explicit task in a UN peacekeeping mandate,[5] and acknowledged its importance in a dedicated UNSC Resolution.[6] Since then, it has mandated 10 PoC operations and, in 2010, stated its determination to 'upgrade the strategic oversight of peacekeeping operations, mindful of the important role peacekeeping operations play for the protection of civilians.'[7]

In 2009, DPKO and the UN Office for Coordination of Humanitarian Affairs (OCHA) commissioned a study on implementing PoC mandates in UN peacekeeping operations, which made specific recommendations.[8] DPKO has also developed a number of guidelines, handbooks, frameworks and other resources.[9] The challenge, as always, remains in implementing them.

Every mission with a protection mandate must act to *prevent* and *respond to* threats to civilians – with its police, military and civilian resources – as a matter of urgency and priority.[10] This does not solely mean the use of force. Rather, it has **complementary strands**, some civilian, some civil-military, and others requiring force or the threat of it.

Protection of civilians

For Oxfam, 'protection'[11] means acting to improve the safety of civilians exposed to widespread threats of violence,[12] coercion,[13] or deliberate deprivation.[14] For UN peacekeepers, it means what their UNSC mandates regularly say, that:

> Acting under Chapter VII of the Charter of the United Nations, [the Council] decides that [the UN mission] is authorized to take the necessary action (or 'all necessary action'), in the areas of deployment of its forces and as it deems within its capabilities, … and without prejudice to the responsibility of the Government of [the country], to protect civilians under imminent threat of physical violence.

Peacekeepers are bound by international humanitarian law (IHL),[15] and to the extent applicable, international human rights and refugee law.[16] Those oblige parties to specifically protect civilians and ex-combatants from a range of threats.

The DPKO and the UN Department for Field Support (DFS) have developed an *Operational Concept on the Protection of Civilians in United Nations Peacekeeping Operations*.[17] This proposes a three-tiered approach, which will:

- Protect through political process: e.g. through peace negotiations, and developing governance institutions. This can also include conflict management and reconciliation.
- Protect from physical violence: e.g. through patrols and human rights monitoring. It can also include defensive positions or cordons, such as around a community or refugee site.
- Establish protective environments: e.g. through reform to the police, judicial and defence sectors.

The protection of civilians by peacekeeping operations also requires political will and concerted action at every level – from the **UNSC** to **member states**, the **UN Secretariat** and each **individual field mission**, as well as **regional organisations**. All of them must act in concert to increase the capacity of peacekeeping missions to protect civilians.

2 Oxfam's experience

Oxfam has engaged with peacekeeping missions on these issues in the Democratic Republic of Congo (DRC), Sudan, South Sudan, Chad and Somalia. Through its work with communities Oxfam has learned about the threats facing them and the greater protection many want from peacekeepers. It has tried to share this with missions, DPKO, and the UNSC, including consistent requests for better protection and communication, sharing information, listening to community views, and responding to their needs.

Oxfam values effective discussion with UN missions, such as on the protection matrix in DRC, which identifies priority areas for peacekeepers' deployment. Despite such contact, Oxfam is careful not to appear close to peacekeepers, to always be impartial, and to be seen to be impartial by every party to a conflict – while peacekeepers may be perceived to be one of the parties to a conflict themselves. Oxfam will not travel with peacekeepers or accept escorts but in exceptional circumstances.

3 UN Security Council

The UNSC must give clear leadership in protecting civilians, including through mandating peacekeeping operations, as its Resolutions 1265 and 1894 have stated. It should endeavour to:

- **Acknowledge that governments and parties to armed conflict bear primary responsibility for protecting civilians and should take all feasible steps to do so; it should** publicly call on them to do so, and condemn any breach of IHL or human rights;

- Ensure UN missions tasked with PoC have **clear, credible and achievable mandates**.

- Make mandated **PoC activities a clear priority** for missions with a PoC mandate, as required in UNSC resolution 1894;[18]

- Deploy missions capable of implementing PoC mandates, with **adequate military, police and civilian staff**. The PoC Resources and Capabilities Matrix is useful in this regard;

- Ensure missions serve the interests of women, men and children by explicitly mandating them to **work directly and proactively with conflict-affected communities**, to identify and militate against threats, and to involve them **in monitoring and evaluation** of mission performance. How peacekeepers engage with communities can improve their safety or put them at risk. Clear guidelines for this engagement are needed;

- **Support national actors (such as army and police) to better protect civilians, through security sector reform and rule of law support**. Clearly **condition such support on adherence to IHL, human rights and refugee law**, as a matter of standard procedure and practice, **ensuring that monitoring mechanisms measure progress**, in accordance with the UN Human Rights Due Diligence Policy;

- Request all peacekeeping missions **systematically collect, aggregate and analyze data on protection issues**, including killings, displacement, rapes, forced recruitment, and looting, to ensure accurate assessments and appropriate responses;

- Ensure regular **UN Secretary-General reports on missions including sections on 'protection of civilians'**, detailing events, data and trends regarding threats, including detailed data on sexual and gender-based violence (SGBV), and child soldiers, the response of the mission, and the constraints it has faced in implementing its mandate. Reports should include what has been done to protect civilians, not a list of activities, but **analysis of threats** and how they have been addressed;

- Consider the **drawdown of missions against clear benchmarks, including improved security for civilians and a national security sector able to provide it**. These should be assessed on the basis of objective criteria and **communities' views**.

4 Troop and Police Contributing Countries

Peacekeeping missions can only function with the necessary troops, equipment, resources and training. We recognise the enormous contribution made by a number of countries, in particular from Africa and Asia, and encourage others to contribute more troops.

TCCs and PCCs should:

- Ensure personnel are **trained in IHL and PoC** prior to and during their mission;

- Provide troops or police with the **orders** and **equipment** to implement each mission's PoC mandate;

- Learn from their experiences and ensure that PoC principles and approaches are **integrated into national military doctrines and training materials**.

5 UN Secretariat

- The Secretariat, including the UN Secretary General, DPKO and DFS, must support missions to carry out their PoC responsibilities. It should:

- Continue **prioritising PoC in peacekeeping reform debates** and ensure that long-standing weaknesses in resources, training and ability for rapid deployments of capable military, police and civilian staff are urgently addressed under current reforms;

- Compile accurate information on the situation on the ground and develop realistic assessments of threats to civilians, in consultation with all relevant stakeholders.[19] Such **assessments** should be undertaken prior to mandating a mission, enabling the UNSC to understand the threats and **design the mission** to address them;

- **Provide missions with guidance and support on PoC responsibilities,** at doctrinal, strategic and operational levels. This includes ensuring that recent guidelines are disseminated and implemented, including the Human Rights Due Diligence Policy, within missions and in pre-deployment training;

- Develop guidelines for how missions engage **directly and proactively with conflict-affected communities** to identify and militate against protection threats, as well as guidelines to ensure such engagement does not harm communities or put them at risk;

- Require missions to **include conflict-affected communities in the monitoring and evaluation of their performance** (including initial deployments, discussions around major mandate revisions, development of benchmarks for mission drawdown, and assessing whether these benchmarks have been met);

- **Report in the Secretary General's and other reports on protection threats and efforts to address them**. This should set out whether and how specific activities addressed the threats. The PoC indicators under development will be crucial for this;

- **Evaluate and share lessons throughout the mission and with other missions.**

6 Mission staff

Military, police and civilian staff in the field[20] must work together closely to:

- **Press national governments to assume their responsibility for protecting civilians**, where relevant supporting the army, police, justice officials and others through training, capacity-building and resources;

- **Incorporate comprehensive protection strategies into the mission's plans**, and provide clear guidance and strategies to each section on what actions are expected of them. This process should engage local government, humanitarian agencies and communities, in accordance with the *Framework for Developing PoC strategies*;

- Work closely with military officers to **prepare and design contextually appropriate military responses to common threats to civilians**, such as presence patrolling, ground domination, interposing tactics, and, where appropriate, the threat or use of force (up to deadly force) according to the second tier of the DPKO and DFS framework for conceptualizing the role of peacekeeping operations;

- Work closely with **police officers to design contextually appropriate training and mentoring, and law enforcement tasks** around common threats, such as crowd and riot control, crisis management, and countering small-scale looting or banditry;

- Ensure that relevant military, police and civilian staff, including senior mission leadership, receive **pre-deployment and mission-specific training** on their protection responsibilities, based on lessons learned from past and existing missions. This should include training on applying the UN Human Rights Due Diligence Framework;

- **Ensure that civilian units within the mission are empowered to carry out their protection responsibilities** and work closely with senior mission management to inform the prevention and response activities by military and police officers;

- Regularly discuss the mission's mandate and capacities, communities' protection needs, and opportunities for affected people to report threats **with the conflict-affected communities** and directly involve them in **monitoring and evaluating** the mission's performance and in **measuring public perceptions of the mission**;

- Ensure **key posts are well-staffed** – including translators (not least female translators), staff with local language capability, community liaison positions, and female officers mandated to follow-up on SGBV threats;

- Systematically consult with local organisations and humanitarian agencies to improve the analysis of existing threats and discuss appropriate responses with other mandated protection actors. The Office for the Coordination of Humanitarian Affairs (OCHA) and the protection cluster offer an entry point to **establish communication with independent humanitarian actors in the most appropriate manner**;

- Ensure that global civil-military policies[21] are translated into **context-specific civil-military guidance** and respected by all mission personnel.

7 Other military operations that the UN Security Council authorises

The UNSC also authorises missions deployed by regional bodies like the African Union or NATO. Unlike traditional peacekeepers, the AU mission in Somalia is fighting an insurgency in support of the Transitional Federal Government, while NATO's ISAF is doing the same in support of the Government of Afghanistan. Such missions do not have PoC mandates (though ISAF has a NATO Directive to protect civilians and prevent civilian casualties), but they still must comply with IHL.

The UNSC may authorise such missions *with* or *without* the consent of the government of the country where they are deployed. Afghanistan being an example of the former, and Libya the latter, when the Council authorised 'all means necessary' to protect civilians in 2011. In either case, both the UNSC and the relevant regional body should take account of the following points.

The regional body should ensure that all forces deployed:
- Comply with IHL, human rights law, and other international and domestic laws;
- Make every effort to prevent harm to civilians and minimise civilian casualties;
- Have and follow guidelines, concept of operations, and strategies to do so; and
- Have all personnel trained in the relevant laws, guidelines, and how to apply them.

The UNSC – when authorising any such regional force – must stress the responsibility of all forces to comply with IHL and:
- Ensure that the force has the:
    - Command, control and training to do so;
    - Effective mechanisms and capacity to monitor, report and enable improvements in this compliance (e.g. using civilian casualty tracking cells); and
- Properly address allegations of IHL, human rights or refugee law violations – and that the UNSC withdraws support from forces that do not;
- Ensure that any UN support complies with the UN Human Rights Due Diligence policy.

Notes

[1] UNSC Resolution 1894 (2009), operative paragraph 3.

[2] UNSC Resolution 1270 (1999), operative paragraph 14, on the mandate of UNAMSIL. Subsequent missions have used similar terminology.

[3] This note only covers peacekeeping and other missions mandated by the UNSC. For a wider analysis of what governments and others can do to better protect civilians, please see: E. Cairns (2008) *For a Safer Tomorrow: protecting civilians in a multipolar world*, Oxford: Oxfam, http://www.oxfam.org/en/policy/safer-tomorrow-protecting-civilians

[4] UN peacekeeping adheres to five core principles outlined in the Capstone Doctrine:

Consent of the host government to the presence and mandate of the mission; **Impartiality**: peacekeepers should not take sides, but monitor the conduct of all sides; **Minimum Use of Force**; **Credibility**; and **National Ownership**.

Ideally, there should also be a 'peace to keep'.

[5] Under UNSC Resolution 1270 of 1999, UNAMSIL was the first mission with 'protect civilians under imminent threat' in its mandate.

[6] UNSC Resolution 1265 (1999).

[7] UNSC Resolution 1894 (2009).

[8] V. Holt and G. Taylor (2009) *Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, setbacks and challenges*, New York: UN DPKO/OCHA, http://ochanet.unocha.org/p/Documents/Protecting%20Civilians%20in%20the%20Context%20of%20UN%20Peacekeeping%20Operations.pdf

[9] Early documents included: Guidelines for UN Peacekeeping Operations (1995); Handbook on Multi-Dimensional Peacekeeping Operations (2003); Principles and Guidelines or 'Capstone doctrine' (2008). Recent developments include the PoC Concept Note, Framework for developing PoC Strategies, Protection Capabilities Matrix, and interactive training modules on PoC.

[10] UNSC Resolution 1894 (2009), operative paragraph 19.

[11] See Oxfam International Humanitarian Dossier, p. 23; and Oxfam GB Humanitarian Handbook, section 3.9.2.

[12] **Violence** – includes deliberate killing, wounding, torture, cruel and inhuman and degrading treatment, sexual violence including rape, and the threat of the above.

[13] **Coercion** – includes forced prostitution, sexual slavery, sexual exploitation, forced or compulsory labour, forced displacement or return, forced recruitment into armed forces, and being forced to commit acts of violence against others.

[14] **Deliberate deprivation** – includes destroying objects such as homes, wells, crops and clinics; preventing the delivery of relief or access to land and jobs; or demanding illegal 'taxes' or tolls.

[15] Although peacekeepers are not generally considered parties to armed conflict (i.e. as fighters or combatants), the *Secretary General's Bulletin on the Observance by United Nations forces of International Humanitarian Law* (ST/SGB/1999/13) stipulates that peacekeepers will, when involved in hostilities, adhere to the principles of IHL as it relates to the use of force and the treatment of civilians and other non-combatants, as well as persons placed *hors de combat*. It is worth noting that in exceptional circumstances peacekeepers may, in fact, become full parties to the conflict. In these circumstances UN Peacekeepers will become subject to the full extent of IHL.

[16] In armed conflicts, states may exceptionally derogate from certain rights under strictly defined circumstances. However, a number of rights, central to protection, can never be suspended.

[17] UN Department for Peacekeeping Operations, internal document, shared with Oxfam.

[18] *Ibid.*

[19] UNSC Resolution 1894 (2009), operative paragraph 20; Special Committee on Peacekeeping Operations report (2010), paras 144, 145, 151.

[20] - In particular, senior management (Special Representatives of the Secretary General (SRSGs), Deputy SRSGs, Resident Coordinators/Humanitarian Coordinators, Force Commanders and Police Commanders), Political Affairs, Military officers, Police officers, Civil Affairs, Human Rights, Child Protection, Public Information, and the UN Department for Safety and Security.

[21] As outlined in key IASC documents (including Reference paper on Civil-Military Relationship in Complex Emergencies: http://ochaonline.un.org/DocView.asp?DocID=1219).

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