

Policy Department External Policies

THE PROTECTION OF CIVILIANS DURING PEACEKEEPING OPERATIONS

DEVELOPMENT

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EXECUTIVE SUMMARY

The realisation that, in recent years, civilian populations have become increasingly the main targets of fighting between hostile belligerents rather than indirect victims has led to reflection on the concept of civilian protection which was successfully introduced to the wider audience by the International Commission on Intervention and State Sovereignty (December 2001) with its report *The Responsibility to Protect*. The report acknowledged that whilst the responsibility to protect civilians falls primarily with the state, where the latter fails to meet the requirements of protection, international intervention may be needed.

Adoption of the “responsibility to protect” as a framework for intervention was met with general endorsement at the United Nations World Summit in September 2005 and highlighted the need for the UN to specifically reflect on the mandate that peacekeeping operations should take, in order to protect civilians from mass killing and support independent humanitarian action, including humanitarian protection, as opposed to the mandate to protect civilians from much lesser risks. Hence there is a need to develop the concept of civilian protection as the primary mission goal, where saving civilian lives would become the central purpose and organising principle of the mission. As Holt and Berkman say: “It is not sufficient to deploy forces and hope they figure out an effective protection strategy once they arrive”.

Furthermore, it is important to recognize that the protection of civilians does not rest only with peacekeeping operations. The primary responsibility for providing solutions to the issue of protecting civilians falls unequivocally upon the respective governments, authorities and other bodies which control a given territory. These include armed groups or international forces, such as peacekeepers, but the reality in the field is somewhat more complex and includes: the authorities, the affected individuals and communities (from the grass-roots up), and humanitarian and human rights organisations. Thus, diverse action by the different actors and mechanisms (including regulatory ones) must be complementary to foster an environment conducive to protection. At the same time protection and relief must be seen as complementary agendas: the former responds to violations whilst the latter is about alleviating the consequences of such violations.

“Protection” can refer to very diverse practices, actors and agendas. In spite of the acceptance in policy-making circles of the principle of protection and progress in policy discourses in reference to it, the international community still grapples with different understandings by different actors over agendas, roles and responsibilities, as well as a lack of clear methods and guidelines on how to implement them. This leads to ineffectiveness, confusion and most importantly, exacerbates the gap between expectations to be protected by local populations and the concrete capacity by peacekeepers and humanitarians alike to respond to them.

The debate on the protection agenda is particularly relevant at the EU level considering the multiplication of EU crisis management initiatives and the precedent established by the military operations in the DRC. This demands the development of an EU understanding and identification of a concept of operation for how its missions will involve protection of civilians and of the measures required to implement it. The European Parliament and the ACP Parliament are excellently positioned to raise awareness and stir debate on how to put the protection agenda at the centre of the EU ESDP operation mandates. The parliaments should also consider their specific role as providing a bridge between political and civil society’s interests with regard to security and protection needs and help strike a balance between member states’ and citizens’ priorities.

The EU should encourage reflection on the distinction between humanitarian protection and military coercive use of force to protect civilians and on ways to harmonise such measures *in an EU context*. This is all the more important considering the complexity of the demands for protection, the multitude of instruments at the EU's disposal as well as the variety of actors that can intervene to implement either one or the other concept. Such reflection is currently missing within the EU in concrete terms, even though the EU has experiences of both humanitarian and military protection particularly since the development of ESDP. The question of tarnishing impartiality and awareness through intervention in a conflict theatre, as well as of the consequences of being perceived as partial and politically motivated, deserves also serious consideration.

Aiming to be a major global player in civilian protection, it is all the more important for the EU to reflect on its communication and information strategies in relation to the population at the receiving end of its interventions. Whilst it makes sense for the EU to engage only in operations where it has the capacity to contribute to make a difference for civilian safety without incurring in the pitfalls of an overstretched mandate, it does not make the same sense for those that are massacred just a few kilometres away from the EU area of intervention. Thus it is necessary to gauge the benefits versus costs of limited operations in theatres that obviously require a larger mission with a broader mandate.

It is important to recognise specific training needs in relation to the protection of civilians as well as the importance of lessons learned. The EU tries to harmonise its intervention approaches amongst Member States in particular through the provision of joint training activities. The notion of protection of civilians should become part and parcel of such training and refer also to the body of reflection ongoing at the UN level on the same topic. Lessons collected in operations with a clear protection mandate such as Artemis and EUFOR RD Congo, should also be elaborated and offer material to enhance the EU's training. This is particularly important if one considers that at the moment the EU trend for intervening favours a 'leading-nation' formula. It is thus important that lessons learned do not remain restricted to the 'leading nation'. In terms of appropriate Rules of Engagement, these are drawn with respect to the UNSC mandate that legitimizes EU intervention but a European doctrine for intervention in humanitarian situations should be developed, particularly drawing on experiences of those EU member states that are most forward looking in this regard, in order to enhance the appropriateness of such ROE.

Finally, cases of peacekeepers abusing their power and becoming involved in sexual exploitation of civilians on the ground or in corruption practices have been well reported. The response by national contributors in this case is very important and the UN and EU have been slow in exercising pressure on national authorities to adopt the necessary disciplinary measures against such abuses, not least because the UN is in dire need of troop contributors.

The present report intends to contribute to ongoing reflection on the development of a culture of protection and drawing particularly on UN experiences offers some guidelines on how to conduct it within an EU framework that could be relevant also for other regional organisations.

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I. Introduction

The concept of civilian protection first arose in the UN Secretary-General's report on the Situation in Africa of 13 April 1998 (S/1998/318 or A/52/871), where Kofi Annan identified protecting civilians in situations of conflict as a "humanitarian imperative"¹. This stemmed from the realisation that, in recent years, civilian populations have become increasingly the main targets of fighting between hostile belligerents rather than indirect victims. Following this realisation, the idea of civilian protection was successfully introduced to the wider audience by the International Commission on Intervention and State Sovereignty (December 2001) with its report *The Responsibility to Protect*. This report acknowledged that whilst the responsibility to protect civilians falls primarily with the state, where the latter fails to meet the requirements of protection, international intervention may be needed.

Adoption of "responsibility to protect" as a framework for intervention was met with general endorsement at the United Nations World Summit in September 2005. It has also highlighted the need for the UN to specifically reflect on the mandate that peacekeeping operations (PKOs)² should take, in order to protect civilians from mass killing as opposed to the mandate to protect civilians from much lesser risks. Such mandates should be clearly oriented towards the protection of civilians as well as being supportive of independent humanitarian action, including humanitarian protection.

Historically civilian protection has been a rather *implied* goal of peacekeeping operations, whose primary goals have been political in nature. UN peacekeeping missions have been traditionally deployed to support negotiated ceasefires and to prevent a return to warfare. In this context the protection of civilians was intended as the result of such activities rather than their direct or immediate objective³ and it was viewed as one requirement amongst others. Even in recent, multidimensional operations, the primary aim has been one of supporting stability so that political reconciliation and governance reform can take place. Robust "peace enforcement missions" like the NATO-led forces and international coalitions in Bosnia Herzegovina and the US-led multinational force in Haiti, have also focused on compliance with political agreements rather than explicitly on protecting people⁴.

Ultimately the absence of political will to back up an already weak mandate to protect civilians (excluding coercive action⁵), as well as the failure to provide peacekeepers with all the necessary capabilities to meet their tasks, undermines the notion of protection. Hence there is a need to develop the concept of civilian protection as the primary mission goal, where saving civilian lives would become the central purpose and organising principle of the mission.

Furthermore, it is important to recognize that the protection of civilians does not rest only with peacekeeping operations. The primary responsibility for providing solutions to the issue of protecting civilians falls unequivocally upon the respective governments, authorities and other

¹ UN Security Council. *The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa*, S/1998/318, 13 April 1998. Available at: <http://www.un.org/esa/africa/reports.html>

² The definition of peacekeeping operation adopted in this study, refers to William O'Neill's definition as an "internationally mandated, uniformed presence, either under United Nations auspices or under the authority of a regional organisation", see: O'Neill, William G. *A New Challenge for Peacekeepers: The Internally Displaced, An Occasional Paper*, The Brookings Institution- John Hopkins SAIS Project on Internal Displacement, April 2004, p. 1. For the purpose of this study the terms "peacekeeping operations" and "peacekeeping missions" are used interchangeably.

³ Holt, Victoria K. and Berkman, Tobias C. *The Impossible Mandate? Military Preparedness, the Responsibility to Protect and Modern Peace Operations*. The Henry L. Stimson Center, Washington, 2006, p. 3.

⁴ *Ibid.*, p. 4.

⁵ By coercive action we mean here the willingness and capability to use force in a proactive manner in order to effectively protect civilians under attack or threatened by attacks. Coercive tactics include search and cordon operations and combat operations.

bodies which control a given territory. These include armed groups or international forces, such as peacekeepers, but the reality in the field is somewhat more complex and includes: the authorities, the affected individuals and communities (from the grass-roots up), and humanitarian and human rights organisations. Thus, diverse action by the different actors and mechanisms (including regulatory ones) must be complementary to foster an environment conducive to protection⁶. At the same time protection and relief must be seen as complementary agendas: the former responds to violations whilst the latter is about alleviating the consequences of such violations⁷.

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II. The long path to protection: a developing policy

The UN Office for the Coordination of Humanitarian Affairs (OCHA) defines the “Protection of Civilians in Armed Conflict” as “an umbrella concept of humanitarian policies that brings together protection elements from a number of fields, including international humanitarian and human rights law, military and security sectors, and humanitarian assistance”⁹. After the UN Secretary-General’s (UNSG) report on the Situation in Africa of 13 April 1998 (S/1998/318 or A/52/871), the UN Security Council (UNSC) heeded the UNSG’s recommendation that more attention must be paid to the monitoring and reporting of respect for human rights during armed conflicts and requested that the UNSG prepare a report with recommendations for how the Council could improve the physical and legal protection of civilians (POC) in situations of armed conflict.

Since then, the UNSG has presented six reports to the UNSC on POC¹⁰, and, in turn, the UNSC has issued four resolutions¹¹, as well as six further presidential statements¹². ‘Protecting the Vulnerable’ and developing a ‘Culture of Protection’ were also identified as priorities in the UNSG’s Millennium Declaration of September 2000, which noted the need to expand and strengthen the protection of civilians in complex emergencies in conformity with international humanitarian law.

OCHA has been at the forefront of developing the policy framework for this culture of protection, in close collaboration with other UN departments, humanitarian partner agencies and interested Member States. Indeed, the protection of civilians is rapidly becoming a core element of OCHA’s role. Among its activities, OCHA’s Policy Development and Studies Branch (PDSB) has developed an “*Aide Memoire*” on POC as a diagnostic tool to assist the UNSC and associated

⁶ ‘Protection in practice’. Roundtable discussion hosted by the Humanitarian Policy Group with the support of the Canadian Ministry of Foreign Affairs and the Displacement and Protection Support Section of OCHA. Available at: http://www.odi.org.uk/hpg/meetings/genevaroundtable_meetingreport.pdf

⁷ Ibid..

⁸ Holt, Victoria K. and Berkman, Tobias C. *The Impossible Mandate?* Cit., p. 182.

⁹ <http://ochaonline.un.org/HumanitarianIssues/ProtectionofCiviliansinArmedConflict/InstitutionalHistoryofProtectionofCivilians/tabid/1197/Default.aspx>

¹⁰ S/1999/957, S/2001/331, S/2002/1300, S/2004/431, S/2005/740 and S/2007/643.

¹¹ In 2006 S/RES/1738 and S/RES/1674; 1999 (S/RES/1265) and 2000 (S/RES/1296).

¹² In 1999 (S/PRST/1999/6), 2002 (S/PRST/2002/6), 2002 (S/PRST/2002/41), 2003 (S/PRST/2003/27), 2004 (S/PRST/2004/46) and 2005 (S/PRST/2005/25).

departments, such as the Department of Political Affairs (DPA) and the Department of Peacekeeping Operations (DPKO). This Aide Memoire helps in defining threats that arise to the protection of civilians in conflict situations, in drafting resolutions that better safeguard civilians and in reviewing peacekeeping operations and threats to international peace and security. The Aide Memoire was adopted by the UNSC in March 2002, with the understanding that it would be updated periodically to reflect new trends.

It is also worth noting that the High Level Panel on Threats, Challenges and Change, published the report “A More Secure World: Our Shared Responsibility” (2004). Paragraphs 231 to 239 are dedicated to the protection of civilians, urging “emphatic responses from the international community, including from the UNSC acting under Chapter VII¹³ of the UN Charter to respond to “particularly egregious violations”¹⁴. Similarly the World Summit held in New York in 2005, reaffirmed the responsibility to protect civilians from crimes against humanity.

The policy discourse on protection has greatly developed since the adoption of the “Responsibility to Protect” principle. This principle has led to a broad understanding of protection through the deposing of abusive regimes; creation of newly accountable political structures and reconstruction of national law enforcement and security mechanisms; and to an understanding that robust intervention may be needed from external sources when the state fails to protect its population. Whilst this should be saluted as a positive step towards improved protection of civilians, ‘soft’ interventions, designed to enhance the state’s responsibilities and capacities to engage in protection of its civilians should not be neglected¹⁵.

III. Evolution of UN peacekeeping

Since the first UN PKO in 1948, peacekeeping *per se* has undergone important changes. Classical peacekeeping (meaning those operations that took place during the Cold War) was meant essentially to separate belligerents, after the signing of a cease-fire. Peacekeepers would then engage in the surveillance of border lines, the creation of demilitarized areas and, if included in the accords, the monitoring of prisoner exchanges and demilitarization. Underlying assumptions of this type of approach were that any intervention should rest on the parties’ consent, once hostilities were suspended and it was always implied that peacekeepers would use force only in self-defence. Peacekeeping was thus conceived as part of a “routinised process” intended to provide political space for the parties to conduct negotiations and reach a settlement of their dispute.

From the late 1980s with operations such as UNTAG in Namibia, the peacekeepers’ mandates and tasks were revised and developed further to include supervision of free and fair elections and restoration of law and order. Operations in Somalia (UNOSOM) and ex-Yugoslavia (UNTAES) allowed UN PKOs to use force to protect humanitarian agencies, whilst deployments in Cambodia (UNAMIC), Sierra Leone (UNAMSIL), Kosovo (UNMIK) and Timor East (UNTAET) were characterized by the introduction of “transitional administrations”¹⁶.

¹³ Chapter 7 of the United Nations Charter, entitled ‘Action With Respect To Threats To The Peace, Breaches Of The Peace, And Acts Of Aggression’, specifically allows the UNSC to mandate the use of force. UNSC decisions under Chapter 6 cannot use force. <http://www.un.org/aboutun/charter/chapter7.htm>

¹⁴ Report of the High Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*. United Nations, 2004, p. 73.

¹⁵ Darcy, James, ‘Political and Humanitarian perspectives on the protection of civilians’, Prepared for the Humanitarian Policy Group Roundtable on Protection in practice. Geneva, 22 January 2007. Available on: http://www.odi.org.uk/events/civilians_conflict_07/19_April/index.html

¹⁶ International administration essentially means involvement of an international organisation in running state-like functions within a specific, delimited territorial entity; whether this means sole or shared administrative powers. Depending on an agreement with the target country, these powers are executive, legislative and judiciary, Thus four typologies can be drawn: 1) “international territories”

Interposition between belligerents was no longer the main or only task for peacekeeping operations. A much broader and more ambitious political role consisting of restoring peace and rule of law as well as providing the basis for the reconstruction of the state became prominent. This marked a turn in the complexity of PKO mandates and peacekeepers' roles, as well as interactions with other actors in the field.

IV. Peacekeeping operations and the shift to civilian protection

From the early 1990s the new "model" for peacekeeping operations included four dimensions: political, military, electoral and humanitarian and reflected the characteristic ambivalence of the international community which goes from short term humanitarian action to the longer term ambition of reshaping internal political structures¹⁷. By the end of the 1990s, the emphasis placed on state sovereignty and just war principles was, if not abandoned, seriously reduced, and peacekeeping operations have irreversibly moved from 'classic' to complex. Such a paradigm shift has been further reinforced by the current debate and attempts to operationalise the principle of the Responsibility to Protect. As such, the focus has now shifted from the notion of state sovereignty and the legitimacy of intervention, to the modalities of intervention for protection of civilians.

The DPKO provides a basic definition of peacekeeping:

"Peacekeeping is a way to help countries torn by conflict create conditions for sustainable peace. UN peacekeepers—soldiers and military officers, police and civilian personnel from many countries—monitor and observe peace processes that emerge in post-conflict situations and assist conflicting parties to implement the peace agreement they have signed. Such assistance comes in many forms, including promoting human security, confidence-building measures, power-sharing arrangements, electoral support, strengthening the rule of law, and economic and social development.

*[...] Most of these operations are established and implemented by the United Nations itself with troops serving under UN operational command. In other cases, where direct UN involvement is not considered appropriate or feasible, the Council authorises regional and other international organisations such as the European Union (EU), the African Union (AU), the North Atlantic Treaty Organisation (NATO), the Economic Community of West African States (ECOWAS) or "coalitions of willing countries" to implement certain peacekeeping or peace enforcement functions"*¹⁸.

However, what is strikingly problematic with this definition is that there is no direct reference to protecting civilians beyond a generic mention of "promoting human security". Thus in relation to protecting civilians, the report by the International Commission on Intervention and State Sovereignty (December 2001) provided the major turning point. The basic argument of the report was that sovereignty carries with it the responsibility for the welfare of the state's citizens. When a state abrogates this responsibility by failing to prevent genocide, ethnic cleansing and mass killings,

of the pre- and post- World War I, the League of Nations and early UN governance operations; 2) The peacebuilding efforts of the UN, most notably in Namibia and Cambodia; 3) the extensive civilian administration and democracy building or institution building efforts in Kosovo, East Timor and Bosnia and Herzegovina by the UN and the EU; 4) the governance of Iraq and Afghanistan, in which the UN plays an assisting role. See: Korhonen, Outi, Gras, Jutta and Katja, Kreutz, *International Post-Conflict Situations: New Challenges for Co-operative Governance*, The Erik Castrén Institute Research Reports 18/2006, Helsinki, 2006, p. 11. See also: Wilde, Ralph and Delcourt, Barbara, 'Le retour des 'protectorats'. L'irrésistible attrait de l'administration de territoires étrangers', in : Delcourt, Barbara, Douez, Denis and Remacle, Eric, *La guerre d'Irak. Prélude d'un nouvel ordre international?*, Bruxelles, I.E.P. Peter Lang, 2004, pp. 219-247.

¹⁷ Pouligny, Beatrice. 2004. *Ils nous avaient promis la paix. Opérations de l'ONU et populations locales*. Presses de Sciences Po, Paris : 31.

¹⁸ See : <http://www.un.org/Depts/dpko/dpko/faq/q1.htm>

the responsibility falls on the international community. The basis of action for the international community thus shifted from one of a “*right* of humanitarian intervention” to a *responsibility* to protect” civilians facing mass violence.

Adoption of “responsibility to protect” as a framework for intervention at the United Nations World Summit in September 2005 highlighted the need for the UN to reflect on the mandate PKOs should take in order to protect civilians. The end of “old peacekeeping” from the late 1990s onwards became clear, particularly following on from the debate on the seminal Brahimi Report (2000) on review and reform of peacekeeping¹⁹ with changes in focus of peacekeeping mandates, efforts to increase the numbers and size of forces, changing norms on the use of force and the focus of UN PKOs being mostly in Africa. In addition, the UN peacekeeping budget significantly increased during the same period. In spite of such progress, immense challenges remain and some PKOs have simply failed to protect civilians from massive killings or even support sustainable peace due to a combination of unclear mandates or lack of harmonized understandings on the mandates themselves; shaky political will particularly at the UN Security Council level; and more often than not, inadequate capabilities²⁰.

V Challenges for protection

V. a) Problems associated with ‘military’ protection of civilians

The protection of civilians has now become part and parcel of international political discourse. POC is also regularly referenced in UN-led or coalition-led PKOs, since its inclusion in the 1999 UNAMSIL (Sierra Leone, 1999) mandate which *inter alia* stipulated “within its capabilities and areas of deployment, to afford protection of civilians under imminent threat of physical violence, taking into account the responsibilities of the government of Sierra Leone”²¹. However, the peacekeeper’s job in protection remains ambiguous and undefined²², particularly in regards to use of force. Civilian protection is increasingly included in PKO mandates, but this has not been accompanied by clear, defined expectations about the use of force, who should be defended against whom and when the job should be considered done; furthermore many military actors are not yet accustomed to identifying and protecting civilians in hostile environments as part of an international or third party intervention²³.

Halting violent actors intent upon attacking civilians implies a willingness to resort to coercive protection and therefore requires mandating peacekeeping operations firmly under a Chapter VII of the UN Charter²⁴. The absence of clear definitions of roles and mandates creates an uncomfortable tension where peacekeepers are pulled in different directions between traditional peace operations (which impartially uphold political mandates) and war fighting (where the goal is to defeat a designated enemy and neutrality is not an attainable goal)²⁵.

V. b) Operational challenges

Various conditions challenge the peacekeepers’ ability to protect civilians, the first of which is a lack of common understanding about what protection means both within and across military and

¹⁹ Published in response to Kofi Annan call for a review and reform of peacekeeping operations.

²⁰ Othieno, Timothy and Samasuwo, Nhamo, ‘A critical analysis of Africa’s experiments with hybrid missions and security collaboration’, *African Security Review*, vol 16, n. 3, September 2007, p. 26-27.

²¹ See: <http://www.un.org/Depts/dpko/missions/unamsil/mandate.html>

²² See: Holt, Victoria K. and Berkman, Tobias C., Op. cit.: 5.

²³ Holt, Victoria K., ‘The military and civilian protection: developing roles and capacities’, in: *Respecting the rules of engagement. Trends and issues in military- humanitarian relations*. HPG Report n. 21, March 2006, p. 53.

²⁴ See footnote 12.

²⁵ Ibid.

civilian communities. This in turn makes preparation for operations and dividing responsibilities between military, humanitarian and other civilian actors difficult²⁶. Other problems include:

- i) Unclear authority to act: troops sent to regions where civilians face violence usually operate with the presumed consent of the parties on the ground and with the understanding that the sovereign nation is responsible for the protection of its citizens. This is not so obvious in situations such as Darfur or the Democratic Republic of the Congo (DRC), where government forces ignore, are incapable of halting or take part themselves in abuses against civilians. At times UNSC mandates themselves do not authorize force robustly enough and peacekeepers are often prohibited from acting in a pre-emptive way and are instead confined to responding to the actions of opposing forces. Conversely, even when under a strong UN mandate for using force, contributing countries may have their own national caveats as to the use of force and PKO contingents may be reticent to incur casualties through overemphasizing 'force protection' - at the expense of civilian protection²⁷.
- ii) Lack of contributors: contributing countries may be unwilling to send their troops to engage with armed groups or challenge the authority of a sovereign state. They are also aware that a forceful military operation could result in a deeply traumatized population, with some portions of society ambivalent or even hostile to the intervention force.
- iii) Lack of sufficient capacity to act: the sheer geographical scale of some theatres of operation (such as in Darfur or in the DRC) and of the killings or violence that takes place, makes it virtually impossible for any operation to have the size, equipment, mobility, funding and coordination capacity to effectively protect the millions of civilians that are being threatened. When General Dallaire claimed that more troops could have helped prevent genocide in Rwanda, he was talking of a country the size of Sicily, not the DRC which is the size of Western Europe. In situations where the UN has progressively increased the number of troops, such as with the UN peacekeeping operation in the Democratic Republic of Congo (MONUC), the claim that sheer numbers can increase the effectiveness of civilian protection is open to dispute and one could argue that clarity of mandate and political and military willingness are at least as important.
- iv) Lack of operational guidance and military preparation: if authorised to intervene, forces must make tactical and strategic judgments about how to react. Careful decisions have to be taken on whether to strive for pacification or to defeat the abusive group; whether to establish broad security or to provide force in a specific area; and how to ensure long term stability and security. Due to their limited resources and capacities, PKOs must also decide which civilians to protect and which to leave vulnerable, and how to allocate resources to programs with long term and short term benefits. Furthermore they must be able to strike a balance between protecting the maximum number of civilians in as large an area as possible, and sustaining the protection of the force itself.

At the same time the use of force in a coercive way may cause physical damage to people and property as well as casualties, which will be perceived as aggression by those under attack. Controlling the continuum of violence and the reaction of those engaged is difficult and highlights the importance of political leadership and good, transparent and effective public information²⁸.

V. c) Political challenges

- i) Lack of harmonization: the difference in perception and understanding about the concept of protection can generate problems, not least due to the mix of coercive and non-coercive measures and strategies that need to be adopted. Protecting civilians is a complex and multifaceted goal that engages a variety of actors. One challenge therefore is to clarify how the different types of protection can be harmonized and identify situations in which only specific approaches should be

²⁶ Holt, Victoria K., 'The military and civilian protection: developing roles and capacities', cit.

²⁷ 'Operation Challenges to Protecting Civilians: Questions from civil and military experience'. Meeting Report. Thursday, 10th May 2007. Available at: http://www.odi.org.uk/events/civilians_conflict_07/10_May/index.html

²⁸ Holt, Victoria K. and Berkman, Tobias C. *The Impossible Mandate?*, Op. cit.

implemented. Sometimes a particular type of protection strategy may be inappropriate, like the use of unarmed observers in the middle of a genocide; in other situations cooperation between actors may enable them to achieve more than if they were acting on their own.

ii) Lack of coherence: the multitude of tasks implied by civilian protection mandates pulls peacekeepers in different directions. In UN operations, forces are increasingly engaging in 'soft security' issues – such as development, reconstruction and long-term peacebuilding, all activities for which militaries do not typically train²⁹. At the same time many peace operations have a Chapter VII authority and are expected to use robust force to dissuade armed groups from targeting civilians or to set up robust search operations, or to forcibly disarm belligerents. As a consequence forces on the ground are put in a position to make the necessary choices between having a broad agenda and conversely concentrating on a few tasks, which may lead to increased expectations locally and the incapacity to meet a mission's objectives.

iii) Political inertia: the language of protection may also mask political problems as some may interpret peacekeeping missions as protecting vulnerable populations when their real objective is to support a political process and development of governance. The fundamental principles of PKOs run counter to robust, coercive military protection as they are expected to be impartial. As a consequence, deploying peacekeepers without a clear vision of what is intended by 'the protection of civilians' or a lack of means and authority to do so, may result in tragic consequences.

iv) Strategic disconnect: political inertia is also a result of the disconnect that may exist between UN leadership in New York and the situation on the ground; between the UN leadership and political leadership (i.e. the UNSC) and between military and civilian leadership. Such is the case when the UN peacekeeping system warns the UNSC of important security concerns and challenges and the UNSC fails to recognize them and take decisions accordingly. Similarly, force commanders in the ground may assess the situation and recommend a certain course of action only to be contradicted by their civilian counterparts in far-removed capitals.

v) Distinction between physical, legal and humanitarian protection: the former UN Secretary General Kofi Annan drew a clear distinction between measures to strengthen physical protection and measures to strengthen legal protection and recommended the adoption of appropriate enforcement action in the face of massive and ongoing abuse. Nevertheless it is important to guard the distinction between humanitarian protection and the use of force to protect civilians. The question is not the validity of coercive action in extreme circumstances, which may even be essential, but that this should be considered only as a last resort. The International Community has several other means at its disposal to consolidate the security of populations and the important thing is to distinguish between political action aimed at addressing the causes of conflict; military action aimed at addressing its symptoms; and humanitarian action aimed at addressing its effects³⁰.

V. d) Credibility

The UN peacekeeping operation in the DRC (MONUC) illustrates the persistent problems encountered by it and other peacekeeping operations in protecting civilians - in spite of the increasing use of force to keep civilians safe and even when such force is used in a coercive mode. It is particularly illustrative because of the evolution of the mission's mandate, force composition, command, its duration, its areas of deployment, etc. MONUC's experience is representative of other UN PKOs and it is a good example of the fact that invoking civilian protection in UN mandates has implications that the missions may not be able to satisfy completely, considering that in the DRC (as elsewhere), peacekeepers "face an environment where consent is partial, governance is limited, spoilers are rife, and the political commitment to peace is low"³¹. Although deployed under difficult

²⁹ See: De Coning, Cedric, 'Civil Military Coordination and UN Peacebuilding Operations', *African Journal of Conflict Resolution*, vol. 2, n. 5, 2005, available on: http://www.accord.org.za/ajcr/2005-2/AJCRvol5no2_pg89-118.pdf

³⁰ 4130th Meeting of the United Nations Security Council. Protection of Civilians in Armed Conflict. Address by Dr. Jacob Kellenberg, President of the International Committee of the Red Cross. New York, 19 April 2000. Available at: www.icrc.org/Web/Eng?siteeng0.nsf/html/57JQEK

³¹ Holt, Victoria K. and Bekman, Tobias C., *The Impossible Mandate?*, op. cit, p. 156.

conditions, it is important to notice that over time MONUC has been differently praised and appreciated by civilians for its role in escorting them to safety, chasing and disarming militias, carrying out advocacy with the government on human rights issues and on the government forces' abusive behaviour, and generally contributing to saving lives in an environment where few seem to be dedicated to doing so.

Some of the challenges to credibility, using the example of MONUC:

i) Failure to protect: MONUC started its operations in 1999 following the signing of the Lusaka Agreement, initially as an observer mission with a traditional peacekeeping role focused upon monitoring ceasefire lines or supervising truces. In 2000, UNSC Resolution 1291 contained the first explicit mention to civilian protection³² but the mandate was not met with either a strong commitment or the capacity to enforce it³³. This resulted, two years later, in the Kisangani massacre, during which 180 civilians were killed whilst MONUC was apparently unwilling to risk UN lives, watched idle and the then UN Special Representative for the DRC, Ambassador Amos Ngongi, declared that the force had not been created to ensure the security of the population³⁴. In 2003, Uganda's withdrawal from Ituri led to ferocious violence between the Hema and Lendu groups. In spite of a 712 strong Uruguayan UN peacekeeping presence, the Hema managed to capture the capital Bunia and killed 400 people. The EU had to intervene to provide space for the UN to strengthen its mandate as well as reinforce its troops. By the end of 2003 the UN force reached 10,800 troops and its budget was increased by 86%, helping to reduce the gap between mandate and capacity and improving the mission's chances of protecting civilians³⁵. Finally in 2004 armed clashes erupted between Congolese troops and supporters of RCD Goma - who laid siege to the town of Bukavu, killing, looting, raping and causing 2000 civilians to flee. The UN peacekeepers there failed to intercept the arrival of the rebel troops and in spite of superior capacities they withdrew when confronted and abandoned the airport without any resistance³⁶.

Assessment of MONUC in this period indicates that the mission suffered from insufficient troop strength and equipment to engage in coercive protection and from conflicting interpretations on the meaning and scope of its protection role from its mandate.³⁷ In the case of the Bukavu crisis, the disconnect between the UN leadership in Kinshasa and in New York created a confused response to the situation in the field. There was a complete misunderstanding over notions such as neutrality (which had shown all its dramatic consequences in the Srebrenica massacre in Bosnia in 1995) and impartiality (which was favoured at the top by the UN leadership but not accepted by MONUC's leadership). A 2007 report on the situation in the North Kivu by Human Rights Watch, testified to the same problems continuing four years later, in spite of changes in the mandate and composition of the force³⁸.

ii) Weak civilian support despite robust peacekeeping operations: In 2006-2007 MONUC's mandate, capacities and operations were transformed. UNSC Resolution 1565 (2004) and UNSC Resolution 1592 (2005) stated explicitly that the mission was to use all necessary means to build confidence and discourage violence, calling explicitly on UN troops to back up Congolese soldiers in disarming foreign armed combatants and to use cordon and search tactics to prevent attacks on civilians and disrupt the military capability of illegal armed groups. Pakistani and Indian peacekeepers replaced the more reluctant Uruguayans and the new force commander, Patrick

³² See: 'MONUC: historique et mandate', Available at: <http://www.operationspaix.net/MONUC>

³³ Marks, Joshua, 'The pitfalls of action and inaction: civilian protection in MONUC's peacekeeping operations', *African Security Review*, vol 16, no. 3, September 2007, p. 70.

³⁴ *Ibid.*, p. 71.

³⁵ *Ibid.*, p. 73.

³⁶ *Ibid.*, p. 75.

³⁷ Holt, Victoria K. and Berkman, Tobias C., *The Impossible Mandate?* Op. cit., p. 157.

³⁸ See: Human Rights Watch, 'The role of the international community', in: *Democratic Republic of the Congo: renewed crisis in the north Kivu*, Chapter 9, 2007. Available on: <http://hrw.org/reports/2007/drc1007/11.htm>

Cammaert, was more prepared to use force as well as to support an impartial, rather than neutral, approach for the operation. Operations were stepped up and Pakistani peacekeepers helped local villagers to set up a village early warning system designed to alert peacekeepers of imminent attacks.

Although succeeding in providing greater protection for civilians these PKOs also exposed civilians to retaliatory attacks from the enemy. This resulted in a reduced NGOs' willingness to cooperate with MONUC and led to accusations towards the UN forces vis-à-vis human rights abuses for use of excessive force³⁹. In response to deliberate targeting of the population following MONUC's increased operations in South Kivu in 2005, civilians took to the streets of Bukavu in protest against MONUC's intervention⁴⁰.

iii) Association with combatants: association with local governmental forces can lead to a disaffected population and a crisis of credibility for PKOs. Since late 2005 MONUC has been increasingly operating alongside the Congolese National Army (FARDC). The FARDC have consistently been accused of inflicting abuses on the Congolese population, at times on a scale larger than the armed groups. During 2005 and 2006 abuses by the Congolese army were especially damaging to MONUC's image and popular support. Furthermore, FARDC's abusive behaviour during joint operations with MONUC has been deemed responsible for the militias gaining strength in Ituri⁴¹. Understandably, mission forces may find it difficult to denounce human rights violations committed by what is, officially, an ally and find themselves in a difficult position to implement fully their protection mandate⁴². At other times, peacekeepers may be concerned about the sensitivity of speaking out publicly against the practices of the belligerents, such as with regard to the recruitment of both adults and children to join Nkunda's forces from across the border in Rwanda which could be interpreted as critical of that country's role in facilitating such recruitment⁴³.

iv) Corruption and abusive behaviour by PKO troops: In the case of MONUC, the credibility of the mission has been jeopardized further by reports of corruption in its own ranks, both in Ituri and North Kivu where MONUC's soldiers have been accused of trading information to rebel groups in return for gold⁴⁴. Indian troops have been accused of gold trading, and Bangladeshi troops of beating and killing some detainees in Ituri in 2005. Pakistani peacekeepers working with MONUC have also been accused of gold smuggling and arms trading (including through facilitating accommodation, transportation and access to UN flights of traders involved) as well as selling arms collected during disarmament operations back to rebel groups, leading to an official investigation by the UN Office of Internal Oversight Services. In spite of such allegations the UN has not made the report public and Pakistan has denied charges against its troops without further investigation⁴⁵. Finally, all troops involved have been repeatedly accused of sexually exploiting the local population, both adults and children, confirming a pattern of sexual abuse that is not unique to the DRC, but has been observed also in Bosnia, Sierra Leone, Liberia and elsewhere⁴⁶.

³⁹ Holt, Victoria K. and Berkman, Tobias C., *The Impossible Mandate?*, op. cit., p. 157.

⁴⁰ Mzrk, Joshua, Op. cit., p. 77.

⁴¹ Ibid, p. 77.

⁴² HRW, Renewed crisis in North Kivu, Op. cit.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Human Rights Watch, 'UN: hold peacekeepers accountable for Congo smuggling' Letter to the Chief of UN Peacekeeping Urges Follow Through, 23 July 2007. Available at: http://hrw.org/english/docs/2007/07/23/congo16448_text.htm

⁴⁶ Human Rights Watch, "MONUC: a case for peacekeeping reform", Testimony of Anneke Van Wodenberg before the US House Committee on International Relations, Subcommittee on Africa, Global Human Rights and International Operations, March 1, 2004. Available at: http://hrw.org/english/docs/2005/03/01/congo10222_txt.htm; Martin, Sarah, *Must Boys be Boys? Ending Sexual Exploitation and Abuse in UN Peacekeeping Missions*, Refugees International, October 2005. See also: UN General Assembly, A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations, A/59/710, United Nations, 24 March 2005; and Lynch, Colum, "UN Faces More Accusations of Sexual Misconduct", *Washington Post*, 13 March 2005, p. 22.

A final comment on credibility, in cases of well established allegations of abuses, UN civilian staff are fired and repatriated and uniformed staff are sent home and barred from future service in UN missions. Nevertheless, one has to note that military personnel in peacekeeping are not directly recruited by the UN or regional organisations, rather, they are seconded from troop contributing countries which retain jurisdiction over the disciplining measures to be adopted towards their troops. Practically speaking this means that a peacekeeper found to have a credible charge against him/her can only be prosecuted in his/her home country, leaving victims with little or no knowledge of actions taken against their abusers⁴⁷. Considering the limits of leaving the redressing of peacekeepers' abuses to be dealt with only at the national level, the EU should consider the adoption of broader European standards with regard to this aspect as well as policies to adopt in case of a proved member state troops involvement in them. Furthermore the EU, and other donors, can play an important role in putting more public pressure on troop contributing countries to take more seriously the responsibility to prosecute those accused of sexual exploitation and abuse (SEA) and to address SEA issues in national training modules.

VI. Humanitarian actors and protection

Humanitarian actors such as NGOs and also UN agencies like the United Nations High Commissioner for Refugees (UNHCR) and OCHA, and EU agencies such as the European Community Humanitarian Aid Department (ECHO)⁴⁸, etc. hold differing views to the military on the protection of civilians. For some, protection is tantamount to upholding International Humanitarian Law and assumes a legalistic understanding. This is the case for the ICRC. For others, POC assumes an advocacy character, such as for Médecins Sans Frontières or Human Rights Watch and for others still, POC is strictly associated with assistance programmes, such as for Oxfam. Thus protection is not limited to legal efforts but it also relates to physical security and material wellbeing. Humanitarian protection, even when essential and precious in times of violence, cannot replace the forceful political action that may be required to bring about peace and security and ensure the safety of civilians; though it can enhance civilian security by reducing vulnerability and exposure to violence.

VI. a) Factors shaping humanitarian protection

Beyond the deliberate targeting of civilians, a series of factors have come together to shape the role of humanitarian actors in protecting civilians. These are:

- A decline in powerful states' interest in non-strategic wars,
- The weakening of absolute notions of state sovereignty,
- A tendency for humanitarian action to substitute for international political engagement,
- The fact that humanitarian actors are now significant actors in their own right in many conflict situations, and in international political arenas⁴⁹.

The requirements for impartiality, independence and neutrality for humanitarian actors is paramount amongst their concerns. This is not least because their own security could be put at risk if they are

⁴⁷ Refugees International Bulletin, "UN Peacekeeping: Responding to Sexual Exploitation and Abuse", November 1, 2007.

⁴⁸ECHO is the European Commission service responsible for humanitarian aid. The European Union's mandate to ECHO [[Regulation \(CE\) n° 1257/96](#)] is to provide emergency assistance and relief to the victims of natural disasters or armed conflict outside the European Union. The aid is intended to go directly to those in distress, irrespective of race, religion or political convictions. Thus ECHO's main operational approach rests on impartiality.

⁴⁹ IRIN In-Depth. *Civilian Protection in Armed Conflict*.

<http://www.irinnews.org/InDepthMain.aspx?InDepthId=31&ReportId=70545>

seen as favoring civilians in need that are associated with one group rather than another, or are located in one region rather than somewhere else, or if they are closely associated with the work of peacekeeping troops and become a target in themselves. Thus humanitarian and relief agencies jealously protect their neutral stance in conflict settings, whilst military operations are deployed in support of particular political aims. This means that if humanitarian actors are enjoying the confidence of all, and the associated security this is meant to result in, then association with military actors is deeply problematic.

Realising such neutrality in practice is very difficult. For instance in Goma, soon after the Rwandan genocide, the principle of neutrality meant that victims and perpetrators were both benefiting from humanitarian intervention in refugee camps established across the border from Rwanda. This raised serious criticism, where for instance UNHCR, a humanitarian agency of the UN, became particularly resented because of its role in Goma and still has relationship problems with the Government of Rwanda. This now makes it difficult for UNHCR to work in the context of the regional implications of the conflict in the DRC. Similarly in Sudan, humanitarian actors have been reticent to be associated with the African Union which is implicated at the political level in the peace process, which in turn is perceived as implicating humanitarian agencies associated with the AU and a contested political settlement⁵⁰.

At times, neutrality may hinder relations between humanitarian actors and UN military missions. For instance in Sudan, many humanitarian agencies have refused to share information on abuses with UNMIS (UN Mission in Sudan) on the grounds that engaging with a political actor undermined their neutrality. At other times, UNMIS' capacity for protection is so reduced that humanitarian actors complain about being left exposed in their dealing with authorities that resent protection work. Conversely, in the DRC, it was decided that MONUC would co-chair with UNHCR meetings on protection. Albeit, questions of politicisation were raised. Hence, humanitarian actors have adopted a pragmatic approach to coordination which has resulted in common analysis and advocacy strategies, information sharing and in some instances, peacekeepers' deployments in at-risk-areas⁵¹.

Besides considerations of neutrality, the context in which humanitarian actors are engaged is also important. In the past most humanitarian activities were located far from the conflict context, often in refugee camps across the borders, and was mostly focusing on relief, rather than protection issues. Protection work, in particular by the ICRC and UNHCR, also tended to focus on legal obligations - with agencies encouraging national actors to abide by international humanitarian law or human rights law. In contemporary conflicts, humanitarian workers are more directly in contact with episodes of violence, becoming first-hand witnesses of abusive behaviours, and having to deal more regularly with it⁵². As such, the understanding of 'protection' has expanded to include questions of safety as well as basic needs and 'sectoral' activities such as child protection, sexual and gendered-based violence programmes and return-monitoring have proliferated⁵³.

The protection role developed by humanitarian agencies since the early 90s has diversified considerably to include:

⁵⁰ "Operational challenges to protecting civilians: questions from civil and military experience", op. cit.

⁵¹ O'Callaghan, Sorcha and Puntilliano, Sara. *Protective Action. Incorporating civilian protection into humanitarian response*. Overseas Development Institute, London. December 2007, p. 15.

⁵² Ibid. p. 5.

⁵³ Ibid.

- 1) monitoring and reporting mechanisms (for instance UNICEF⁵⁴ work on children in armed conflict, or the High Commissioner for Human Rights work on human rights investigations and capacity building);
- 2) developing guidelines: OCHA has established in 2002 a department exclusively charged with developing policies and guidelines to meet the need of internally displaced people (IDPs);
- 3) developing specialist protection expertise: such as that done by many NGOs in areas including rule of law and access to justice, sexual and gender-based violence or child protection in conflict; or bearing witness, which has become a central part of Médecins Sans Frontières' work;
- 4) developing research and advocacy programmes: for instance the Norwegian Refugee Council runs an International Displacement Monitoring Centre.

A consultative process in the 1990s led humanitarian actors to reflect upon how best to protect civilians in conflict. A three tier approach was developed for protective activities which were described as:

- 1) protective: activities that aim to halt or prevent a specific pattern of abuse and alleviate its immediate effects;
- 2) remedial : taking place after abuse with the aim of restoring people's dignity and ensure adequate living conditions through reparation, restitution and rehabilitation;
- 3) environment building: activities aiming to foster an environment conducive to respect for the rights of individuals and in accordance with the relevant bodies of law⁵⁵.

Alongside this overall framework, humanitarian agencies have also been focusing on recasting the protection agenda in a non-legal language and in ensuring that protection principles are incorporated into their assistance programmes in order to reduce the threats that civilians are exposed to⁵⁶ (this might mean for instance paying attention to the architecture of a refugee camp: lighting arrangements around the sanitation areas; or considerations on where to locate such areas to reduce women's exposure to sexual violence; or by understanding the impact of how aid is delivered, for instance through the provision of agricultural assistance to communities (such as in Somalia) in order to reduce people's needs to seek relief in refugee camps).

Finally, whilst it is generally accepted, adoption of the principle of protection by humanitarian agencies varies due to widespread concerns regarding 1) capability: humanitarian actors are generally unable to protect civilians physically; 2) substitution: there is a danger that humanitarian actors substitute for more effective protective action by the responsible authorities; 3) the potential risks to program staff and beneficiaries due to protection being a contentious and politically oriented form of humanitarian action; and 4) expectation gap: humanitarian agencies may not have the skills or capacities to be involved in specialist protection programmes⁵⁷.

The point is that for many agencies the issue is no longer *whether* humanitarian organisations have a responsibility to consider issues of civilian safety, but rather *how far* this responsibility extends and *how* to include it in an integrated peacekeeping operation⁵⁸.

⁵⁴ United Nations Children's Fund, UNICEF, works for children's rights, their survival, development and protection, guided by the Convention on the Rights of the Child.

⁵⁵ *Ibid.*, p. 11-12.

⁵⁶ *Ibid.*, p. 12 ff.

⁵⁷ *Ibid.* p. 17. In Darfur for instance, governments were keen to be seen as taking action and have pushed humanitarians to engage in protection activities in response to what were difficult political issues. Under pressure from their governments, many new actors engaged in protection without the necessary skills and experience. HPG, "Protection in practice: concepts, strategies and dilemmas", *Op. cit.*

⁵⁸ *Ibid.*, chapters 3 and 4.

VII. Civilian strategies for protection

In spite of widespread recognition that civilians do play a role in helping their communities, the effectiveness of the strategies they rely on should not be overestimated, as it is directly proportional to the control armed groups exert on such communities and the willingness by armed groups to take into account the protection agenda. Individuals and communities' capacities to protect themselves from direct and indirect consequences of threats rely heavily on the circumstances, the nature of the conflict and the organisational level and development of a given society⁵⁹.

As documented by Andrew Bonwick in the case of Colombia, the government, the paramilitaries and the guerrillas all engage in battles to control the civilian population and economic resources, by seeking control of the territory and the land they intend to exploit⁶⁰. Some communities have managed to maintain sustained and sometimes effective dialogue with the armed groups in the areas where they live⁶¹. Three factors seem to work as a prerequisite for the continuation of such dialogue, they are: social cohesion, the ability of communities and individuals to manage risk, and reduced political isolation. Similarly, the cluster of actions that civilians set up to increase safety options are: fleeing home (and become IDPs); do what they are being told to do and learn to live alongside armed groups; or resist armed actors that seek to control them. Each gives risks and sometimes none of these alternatives provide adequate protection⁶².

Avoidance strategies are the most common. Families tend to flee to displacement camps or, such as in Darfur, to rebel-held areas to avoid the government's own attacks. Very often the option of displacement is pursued on a temporary basis. This is the case of the so called night commuters, who leave the countryside in the evening to move to the relative overnight safety of towns, such as in Burundi or in Uganda⁶³.

Civilians may also decide to engage with armed groups to negotiate or purchase safety⁶⁴. In Darfur, as well as in the DRC, researchers have demonstrated the widespread tactics of "paying taxes" in cash or food to pay for protection. Similar strategies have been adopted also in Burundi. These tactics nevertheless, have only a limited impact in enhancing the protection of local communities who are almost invariably accused of supporting rebel groups and are targeted by those left out from such system. The net result of these accusations is that communities may become more vulnerable to attacks and reprisals.

Communities may also resist by setting up defence groups, vigilantes or more formalised militias⁶⁵. In Colombia, resistance strategies have resulted in entire communities declaring their neutrality vis-à-vis all the armed forces. These have often received substantial international assistance, both politically and financially. However, such strategies, having attracted a label of "left-winged ideological initiatives", can expose communities to higher risks than if they did not engage in them⁶⁶.

⁵⁹ Aechlimann, Alain, "Protection in practice", Report of meeting, Op. cit.

⁶⁰ See: Bonwick, Andrew, "Protection in Colombia: a bottom-up approach", HPG Background Paper, London, Overseas Development Institute, December 2006.

⁶¹ Ibid. p. 7.

⁶² Ibid.

⁶³ O'Callaghan, Sorcha and Pantulliano, Sara, *Protective action*, Op. cit., p. 4.

⁶⁴ It must be noted that very often it is not in the free will of these communities to decide to support or not certain groups but is rather the result of the circumstances in which they find themselves when facing armed actors and having very limited options for protecting their community.

⁶⁵ Ibid.

⁶⁶ Bonwick, Andrew, "Protection in Colombia: a bottom-up approach", Op. cit., p. 7.

In countries where abuses of power by the administration and widespread human rights violations and killings by the army are part and parcel of the threats faced by civilians, the population buy-in for government's protection strategies is late in forthcoming⁶⁷. Again, in Colombia state-protection programmes have received support from major humanitarian organisations (such as UNHCR) but are dismissed by local civil society organisations because of their failure to exert influence over the armed actors or government forces that are in a position to keep civilians safe.

From a civil society perspective, individuals and positive forces in the government that could act as 'drivers of change' are not exploited strategically by external actors - who could help strengthen their position with those who do not share an interest in protection and present an alternative to the polarization that is currently preventing humanitarians from exerting their influence⁶⁸.

VIII. Regional Organisations: willingness and capability to protect

Recent years have seen an increase in the number of regional responses to conflict and humanitarian situations. The regional and sub-regional organisations that have the capacity to carry out interventions with military forces to protect civilians from mass killings are essentially NATO, the EU, the African Union, and ECOWAS. The use of regional and subregional actors for intervention in a crisis situation, presents important advantages such as: the proximity to the theatre and the actors involved; the knowledge of the situation on the ground and acquaintance with the context; and a greater political acceptance. It also presents some important disadvantages: notably with regard to legitimacy of the intervention (with or without UN mandate); the impartiality required; and the fact that only a few such organisations have the capacity to act. Furthermore regional organisation initiatives may become an umbrella for the reinforcement of hegemonic claims by the strongest actors in the region, such as is currently the case with South Africa.

Important cultural differences exist, which have direct repercussions on the protection approach adopted. For instance, the Organisation of American States is reluctant to engage in coercive action, as is the case for other Latin America regional alliances⁶⁹. Similarly in Asia, coalitions of the willing would probably be chosen over regional arrangements in cases of intervention. Important points to be considered in regard to regional and sub-regional organisations' concern widely varying training programs and equipment; lack of interoperability on the ground; different civil-military relations approaches; lack of clear lines of communications between them; and so on⁷⁰.

VIII. a) NATO: NATO is designed to intervene and can do so when directed by its member states. It has the capacity to organise and lead military interventions, it is also willing to operate without a UNSC mandate⁷¹. This was the case in former Yugoslavia, where NATO responded with airstrikes after UNPROFOR forces were attacked⁷². Rather controversially, NATO has also proved willing to intervene without UNSC in Kosovo in 1999. The same year, NATO's Strategic Concept was updated to include the protection of peace and stability in the NATO region and periphery, allowing it to undertake military operations as 'non-article 5 Crisis Response Operations' such as peace support operations. Operations carried out by NATO include: the Implementation and Stabilisation Force (IFOR and SFOR) in Bosnia, in Kosovo (KFOR) and ISAF in Afghanistan. It has also expanded its membership and undertaken an ambitious programme of military reform, setting up a

⁶⁷ Ibid. p. 9.

⁶⁸ Ibid.

⁶⁹ Taft, Patricia, *Realising "Never Again". Regional Capacities to Protect Civilians in Violent Conflicts*. The Fund For Peace, Washington, January 2006, p. 3.

⁷⁰ Ibid. p. 6.

⁷¹ Holt, Victoria and Berkman, Tobias, *The Impossible Mandate?* Op. cit., p. 58

⁷² Although some analysts argue that these were consistent with the sanctions and resolutions establishing no-fly zones and safe areas

NATO Response Force (NRF) consisting of 25,000 rapidly available, self-sustaining troops, deployable within 5 days and including air, land and maritime components. Finally, it has also carried out two crisis response missions: in response to hurricane Katrina in New Orleans in 2005 and in response to the 2005 earthquake in Pakistan⁷³.

In spite of evident willingness and capacity, the NATO doctrine does not specifically mention 'civilian protection'. However it refers to protection tasks such as the imposition of no-fly zones, separation of belligerents, the establishment of protected areas and the creation of 'safe corridors'⁷⁴.

VIII. b) The EU: Since the establishment of the European Security and Defence Policy (ESDP), the EU has stepped up efforts to increase its crisis response capacity. According to the Petersberg Tasks, the EU has authority to pursue a limited range of military tasks, including humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management including peacemaking. The EU Security Strategy (2003) has also detailed areas of engagement such as joint disarmament operations, support for third countries in combating terrorism and security sector reform. Nevertheless, to date the EU lacks a detailed strategic document to clarify how the EU understands protection in the context of its ESDP operations and how it would intervene to halt genocide or mass killing⁷⁵. Capacity and capability building is well under way, as shown by the adoption of Headline Goal 2004 and the Headline Goal 2010, complemented by the Civilian Headline Goal 2008⁷⁶. There certainly is, on the part of the EU, a willingness to intervene - as testified by the eleven ESDP missions currently ongoing - further supported by a commitment to increase EU response capacity. This includes creating more flexibility for deployment of Battlegroups⁷⁷ to respond to crisis situations where civilians need protection. EU member states provide Battle group 'packages' for periods of 6 months at a time, whose deployment may reflect the type of operation that was carried out by Artemis and that could allow the EU to use coercive force for protective aims⁷⁸. However, Battlegroups have yet to be used.

i) Comparing UN and EU approaches in DRC: representative of the EU different approach to peacekeeping compared to the UN in the same period, the EU ESDP Operation ARTEMIS, deployed in 2003 in the capital of Ituri, Bunia, had as its chief objective, a mandate to: contribute to the stabilisation of the security conditions and the improvement of the humanitarian situation in Bunia; to ensure the protection of the airport; protect the internally displaced persons in the camps in Bunia; and to contribute to the safety of the civilian population, UN personnel and the

⁷³ Ibid.

⁷⁴ Holt, Victoria K., "The military and civilian protection: developing roles and capacities", HPG Research Briefing, n. 22, March 2006, p. 3.

⁷⁵ Holt, Victoria and Berkman, Tobias, *The Impossible Mandate?* Op. cit., p. 59.

⁷⁶ The Helsinki Headline Goal was a military capability target set for 2003 and built on the premise of the 1998 St Malo Declaration which stated that the European Union ought to have the capability for "autonomous action backed up by credible military forces" as part of a common defense policy. Under this plan, the European Union pledged itself to be able to deploy rapidly and then sustain forces capable of the full range of [Petersberg tasks](#) which include include humanitarian and rescue tasks; peacekeeping tasks; and tasks of combat forces in crisis management, including peacemaking. As the Helsinki Headline Goal became fulfilled, the [European Council](#) of June 2004 approved to further develop the EU's military crisis management capability and a new target was set: the "Headline Goal 2010". EU members made the commitment that by the year 2010, at the latest, they would be capable of responding "with swift and decisive action applying a fully coherent approach" to the whole spectrum of crisis management operations covered by the [Treaty of the EU](#) and the 2003 [EU Security Strategy](#) (i.e. humanitarian and rescue tasks, disarmament operations, support to third countries in combating terrorism, peacekeeping tasks and tasks of combat forces in crisis management, and peacemaking). The Civilian Headline Goal (CHG) in particular advocates a systematic approach to civilian crisis management. The Capabilities Requirements List as outlined in the CHG, sets out needs in terms of personnel, equipment, planning, logistics and mission support, as well as command and control requirements and the multifunctional capability packages required. The approach also looks at illustrative scenarios, assessment of national contributions and identification of capability shortfalls and a review of capabilities. <http://europa.eu/scadplus/leg/en/lyb/l33239.htm>

⁷⁷ See: Boyer, Yves, *The Battle Groups: Catalyst For A European Defence Policy* -EP/EXPO/B/AFET/FCW/2006-10/Lot4/13, Directorate General for External Policies of the Union, Directorate B, Policy Department, Brussels, October 2007.

⁷⁸ For an overview of EU's crisis management approaches, institutional arrangement, capacities and experiences, see: Delcourt, Barbara, E. Klimis and M. Martinelli (eds). *Evaluer la gestion des crises par l'Union Européenne. Aspects civiles et militaires*. ULB, Presse Universitaire, Brussels, 2008.

humanitarian actors in Ituri. The UN mandate also authorised the “Member States participating in the interim Emergency Multinational Force in Bunia to use all necessary measures to fulfill its mandate”⁷⁹. This squarely framed the EU mandate within Chapter VII of the UN charter and EU troops showed their willingness to use force and respond to provocations by militia groups. Similarly, the EU ESDP mission EUFOR RD Congo deployed in 2006, was authorised under UNSC Resolution 1671 to take all necessary measures, within its means and capabilities to carry out a series of tasks including “to contribute to the protection of civilians under imminent threat of physical violence in the areas of its deployment, and without prejudice to the responsibility of the government of the Democratic Republic of Congo”⁸⁰.

The EU’s willingness to use force and deter attacks on civilians or the state institutions, has been saluted with appreciation by the population in the DRC. The EU’s role in stabilising both Bunia in 2003 (Artemis) and the environment in Kinshasa during the period leading up to the 2006 elections (EUFOR RD Congo), has highlighted differences with MONUC’s approach in the eyes of the population. The EU has been appreciated for clearly and unequivocally communicating to the population the objective of its presence in the country as well as its ‘working methods’; its troops have been noted for befriending the population, including importantly women, and not avoiding but rather encouraging contacts with the locals during their functions. An important part of this strategy was an emphasis in supplying clear information to the public and to promote positive perceptions of the operation, facilitated by the fact that most EU troops did speak French and could communicate effectively with the Congolese as well as collect intelligence. EUFOR RD Congo were appreciated for their visibility, professional behaviour, and appearance, their equipment and most of all for their display of resolve making people *feel* protected⁸¹. This was possible thanks to a clear mandate, good equipment and good logistics that allowed for effective operational support⁸². With regard to the risk of abuses by EU forces, EUFOR was characterized by the use of zero tolerance against sexual exploitation and violence and although the troops themselves were not mandated to respond directly to rape episodes, they were trained and given information to direct civilians in need to appropriate contact points⁸³. Nevertheless it is important to note that EUFOR units still followed their own national doctrines, practices and instructions which were more or less adapted to the local requirements. This issue is becoming increasingly important with the growing number of multinational engagements and could lead to friction among the countries involved, with some being more exposed (and having to bear greater responsibilities) than others. Furthermore with regard to Bunia, whilst preserving the town’s safety, EU troops did not and could not prevent massacres and rapes from happening just outside of Bunia leading civilians to hold mixed feelings with regard to their appreciation of the EU’s mission in the area⁸⁴.

The Artemis military intervention in the DRC in 2003 was the first ESDP initiative in Africa. It was a 1,500 troop strong operation deployed in the capital of Ituri at the request of the UN Secretary General, when the region lapsed into violence that MONUC was unable to control. With France as the ‘leading nation’ responsible for the operational command, the mandate for the operation was limited to the town of Bunia. Artemis had a UN Chapter VII mandate and proved willing to use

⁷⁹ See: UNSC Resolution 1484 (2003), adopted on 30 May 2003, p. 2, points 1 and 4.

⁸⁰ See: UNSC Resolution 1671 (2006), adopted on 25 April 2006, p. 3, point b.

⁸¹ Author’s interview with various representatives from the Congolese National Assembly and the diplomatic community, Kinshasa, June 2007.

⁸² Holt and Berkman note that the EU emergency force could: use the airport in Entebbe just 40 minutes from Bunia which allowed for deployment of effective air assets; use overflights to monitor the situation on the ground and deter militias; deploy special forces even outside the force’s area of operations to target and counter militia’s threats; use satellites to monitor militia movements and intercept cellular phone communications. Holt, Victoria K. and Berkman, Tobias C., *The Impossible Mandate?*, Op. cit., p. 170

⁸³ See *Final Report on Gender Work inside EUFOR RD Congo*. The mission Operation Commander of EUFOR RD Congo was Lt General Karlheinz Vierecke and the first ESDP mission gender advisor was Charlotte Isaksson.

http://www.honvedelem.hu/files/9/8008/eu_operation_headquarters_final_gender_report_eufor_rd_con.pdf

⁸⁴ *Ibid.*, p. 162

force. Although of short duration – it lasted from June to September – the operation secured the town and thus prepared the ground for a reinforced MONUC to take over.

Artemis was a case of successful UN-EU co-operation, representing in concrete terms what the European Security Strategy would term, later on that same year, ‘effective multilateralism’. It demonstrated the EU’s operational readiness and proved a good indicator of its ability to act outside its neighbourhood without the use of NATO assets. Finally, it confirmed that ESDP can be put to the service of the wider objectives of other organisations, when such objectives are shared by the EU⁸⁵. Far from being a ‘one off’ operation, Artemis provided a precedent for subsequent operations such as EUFOR RD Congo.⁸⁶ Nevertheless judgments are not unanimous: Artemis was geographically very limited, leaving civilians in areas outside of Bunia exposed to attacks. Furthermore, with it being essentially a French led mission, lessons learned in terms of civilian protection may very well have been collected in France but may not have been incorporated as EU lessons learned on the protection of civilians. This is a subject that requires further attention and study, and it highly recommendable that any report on the EU position with regard to the protection of civilians takes into account the lessons learned from the Artemis and EUFOR RD Congo missions.

VIII. c) The African Union: the AU Constitutive Act affirms the principle of non-interference and bans the use of force against other Member states. But since its adoption, African leaders have displayed increased commitment towards the responsibility to protect, in particular, accepting that the principle of non interference should not lead to indifference. Article 4 of the Constitutive Act entrusts the African Union with “the right (not the responsibility) to intervene in a member state pursuant to a decision of the Assembly in respect to grave circumstances, namely war crimes, genocide and crimes against humanity”⁸⁷. The AU Peace and Security Council can assess a potential crisis situation, send fact-finding missions to potential crisis areas and recommend to the AU Assembly intervention in a member state⁸⁸. Nevertheless it recognizes that such operations are best conducted by a coalition under a lead nation, as it develops its capacities to do so without relying on such lead nations. The major obstacle in making substantial progress in terms of implementation is to be found in lack of resources, and at times, lack of political will⁸⁹. The AU’s record on POC is mixed.

In 2003, the AU has adopted a Policy Framework for the Establishment of a Standby Force by 2010 to cooperate with the UN and subregional African organisations (namely the Economic Community of West African States (ECOWAS), the Intergovernmental Authority on Development (IGAD), the Southern Africa Development Community (SADC), the Economic Community of Central African States (ECASS), and the Arab Maghreb Union (AMU)) in conducting peace operations. The standby force will comprise five brigades from each of Africa’s sub-regions. An early warning system is also being developed and a ‘Panel of the Wise’ is meant to assist with preventing the outbreak or escalation of conflict⁹⁰. With the exception of ECOWAS, few regional groups currently have the capacity to organize standby forces. Problems that regional brigades face include: logistics, finances, troop pledges from participating countries and setting up a regional military logistic depot.

⁸⁵ Martinelli, Marta, “Helping Transition. The European Union Police Mission in DRC (EUPOL KINSHASA) in the Context of EU’s Policies Towards the Great Lakes. *European Foreign Affairs Review*. (11) Autumn, 2006, pp. 379-400.

⁸⁶ Interview with Mr Aldo Ajello, EU Special Representative for the Great Lakes, 19 January 2006.

⁸⁷ Koko, Sadiki, “Whose responsibility to protect? Reflections on the dynamics of an ‘abandoned disorder’ in Somalia”, *African Security Review*, vol. 16, no. 3, September 2007, p. 9.

⁸⁸ Murithi, Tim “The responsibility to protect, as enshrined in article 4 of the Constitutive Act of the African Union”, *African Security Review*, vol 16, no. “, September 2007, p. 16.

⁸⁹ Mpyisi, Kenneth and Murithi, Tim, “Editorial”, *African Security Review*, vol. 16, n. 3, September 2007, p. v.

⁹⁰ Murithi, Tim “The responsibility to protect, as enshrined in article 4 of the Constitutive Act of the African Union”, *Op. cit.*, p. 17.

The AU is strongly relying on support from the UN and the EU for deployment of its troops in crisis areas⁹¹ and in practice it has a mixed record with respect to the protection agenda. The 2003 AU mission in Burundi (AMIB) was the first such operation wholly initiated, planned and executed by its members. Amongst its tasks, the force had to: protect returning politicians who could then take part in the transitional government; open secure demobilisation centres; and improve AMIB's ability to integrate former militia back into society. Finally it was tasked with establishing the conditions that would allow displaced persons and refugees to return from Tanzania, as well as preparing the ground for UN operation to enter into the country. AMIB's role has been acknowledged as being essential in de-escalating a potentially volatile situation and creating the conditions of a fragile peace⁹².

If the record with regard to AMIB is positive, the same cannot be said in regard to the African Union Mission in Sudan (AMIS)⁹³. In 2004, the Peace and Security Council of the African Union helped broker the Humanitarian Cease-fire Agreement and later mandated setting up and financing a ceasefire verification commission. However, the monitoring mandate entrusted to the AU proved totally inadequate to alleviate the suffering of civilians in the Darfur crisis and the mission was under-resourced, under-funded and ill-equipped. The monitoring mandate has since been transformed into a hybrid operation, causing the UN Mission in Sudan (UNMIS) and AMIS to engage in cooperative peacekeeping⁹⁴. The hybrid operation force began to deploy in January 2008 but it is still far from reaching its full potential and has been unable to provide any meaningful contribution to protecting civilians in the area. It should also be noted that hybrid operations are designed as a response to Africa's political, financial and operational constraints. Hence, they do not constitute real alternatives to UN-led peacekeeping, until Africa has the capacity to develop its own autonomous peacekeeping capacities⁹⁵.

VIII. d) ECOWAS: the security responsibilities of ECOWAS were laid out in its 1999 'Protocol Relating to the Mechanisms for Conflict Prevention, Management, Resolution, Peacekeeping and Security'⁹⁶. The Protocol seeks to resolve internal and intrastate conflicts, to strengthen conflict prevention and to support the deployment of peacekeeping operations and humanitarian relief missions. According to the Protocol, ECOWAS has authority to intervene with military forces in a range of scenarios, including those that require enforcement action.

ECOWAS has earned an extensive experience of participation in peace support operations. It intervened for the first time in Liberia in August 1990 marking the first time that an African sub-regional organisation proved willing to act as an enforcer of security⁹⁷ and the first time that both the UN and the then Organisation of African Unity (OAU, now the AU) redefined traditional ideas of sovereignty to allow for external intervention⁹⁸. The ECOWAS Monitoring Group (ECOMOG) received a broad mandate which included both peacekeeping and peace enforcement. Since its inception the mission was faced with political divisions (between Francophone and Anglophone actors and over Nigeria's dominance⁹⁹), problems of military capabilities¹⁰⁰ and uncertain funding.

⁹¹ See: Vines, Alex and Middleton, Roger, *Option for the EU to support the African Peace and Security Architecture*, EP/EXPO/B/AFET/FWC/2006-10/Lot4/13, Directorate General for External Policies of the Union, Directorate B, Policy Department, Brussels, February 2008.

⁹² Ibid. p. 19.

⁹³ See: Chin, S. and Morgenstein, J. *No Power to Protect. The African Union Mission in Sudan*, Refugees International, November 2005.

⁹⁴ Othieno, Timothy and Samasuwo, Nhamo, Op. cit., p. 32.

⁹⁵ Ibid., p. 37.

⁹⁶ *Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security*, adopted in Lome on 10 December 1999. Available on: http://www.chr.up.ac.za/hr_docs/african/docs/other/ecowas4.doc

⁹⁷ Taft, Patricia, Realising "Never Again". Op. Cit., p; 11.

⁹⁸ Howe, Herbert, "Lessons of Liberia: ECOMOG and Regional Peacekeeping", *International Security*, vol. 21., no. 3, Winter 1996-1997, pp. 145-176.

⁹⁹ See: Wippman, David, "Enforcing the Peace: ECOWAS and the Liberian Civil War", in: Fisher Damrosch, Lori, *Enforcing Restraint: Collective Intervention in Internal Conflicts*, Council on Foreign Relations, N.Y., 1993, pp. 157-203. Deme, Mourtada,

In spite of this, ECOMOG tough stance against Taylor's rebels¹⁰¹, led them to sign a cease fire in November 1990 thus contributing to saving thousand of lives by preventing further battle and by creating the political space for the delivery of food and medical supplies¹⁰².

Assessment of ECOMOG's success and ability to protect civilians remains mixed. ECOMOG concentrated efforts in Monrovia and disregarded the situation in the surrounding region, where Taylor's forces continued looting undisturbed. The 1990 cease fire lasted two years, allowing belligerents to rearm, to start fighting again and to then sign a second cease-fire in 1993, further challenged in 1994. ECOMOG allied with rebel factions¹⁰³ in the hope of putting pressure on Taylor's forces to agree to a further ceasefire, thus losing its impartial stance and becoming part and parcel of the conflict dynamics¹⁰⁴. Furthermore, cooperation with the UN mission deployed in Liberia (UNOMIL) in 1994 to support ECOMOG following the Cotonou Agreement, was at best very unsound. UNOMIL observers complained that ECOMOG did not want them to observe activities relating to arm flows, human rights abuses and food shipments. This attitude led the ECOMOG force to further lose its neutrality and public acceptance¹⁰⁵. Following a relapse into violence in the early 2000s, ECOWAS was called upon to broker the negotiations leading to the signing of the Accra Agreement in 2003. ECOMOG was transformed into ECOMIL to support its implementation. The international support enjoyed by the ECOMIL mission gave it the necessary political legitimacy, reduced diplomatic, legal and political problems and helped clarify the division of labour between ECOWAS and the UN¹⁰⁶. ECOMIL was then replaced by the United Nations Mission (UNMIL) in Liberia in October 2003.

It is not the scope of this study to investigate further ECOWAS activities. Suffice here to say that it has gained further intervention experience in Sierra Leone, Guinea Bissau, and Cote d'Ivoire. It has also developed a stand-by force (ECOBIRIG) made of a total of 6,500 troops of which 1,500 which should be deployable within 30 days. These experiences may in the future lead to further enhancing ECOWAS' abilities in responding to protect civilians.

VIII. e) Coalitions of the willing: are usually led by a single, powerful country. In Sierra Leone a British-led intervention was essential for de-escalating violence and bringing about stability; similarly for an Australian-led intervention in East Timor. The French have taken the lead in Cote d'Ivoire as did the US in Haiti and the Italians in Albania.

The legitimacy for 'coalitions of the willing' stands on shakier grounds than regional organisations if they act without UN authorisation, whilst their capacity will depend on which countries will join the coalition. They are often used in short term, urgent operations with specific goals, thus they can prove very useful in providing quick answers to urgent situations although they may be perceived as akin to "neocolonial" or hegemonically driven initiatives. Interestingly, they can provide a bridge between an urgent situation on the ground and the time required to secure a UNSC mandated mission¹⁰⁷.

Law, Morality and International Armed Intervention. The United Nations and ECOWAS in Liberia, Routledge, New York and London, 2005, especially pp. 81-95.

¹⁰⁰ Exacerbated by differing interpretations of ECOMOG's mandate and lack of adequate intelligence, with direct consequences on tactical decision-making.

¹⁰¹ Charles Taylor, former warlord and then President of Liberia, now facing war crime charges for his role in allegedly backing Sierra Leonean rebels.

¹⁰² Howe, Herbert, "Lessons of Liberia: ECOMOG and Regional Peacekeeping", Op. cit., p.155.

¹⁰³ By providing them with ammunition, intelligence, transport and free passage.

¹⁰⁴ Ibid., p. 155-158. See also: See: Wippman, David, "Enforcing the Peace: ECOWAS and the Liberian Civil War", op. cit.

¹⁰⁵ Ibid., p. 163.

¹⁰⁶ Aboagye, Festus B. and Bah, Alahji B.S., "Introduction", in: Festus Aboagye and Alhaji M S Bah (eds.), *A Tortuous Road to Peace: the Dynamics of Regional, UN and International Humanitarian Interventions in Liberia*, Institute of Security Studies, Pretoria, May 2005, p. 13.

¹⁰⁷ Taft, Patricia, Realising "Never Again". Op. Cit., p; 11.

IX. Implications for mandates, Rules of Engagement and training

The International Commission on Intervention and State Sovereignty has pointed out broad requirements for a successful operation to protect civilians. These are:

- a strong coalition with substantial political determination;
- a unified military approach; and
- unified operational objectives.

Successful operations also require:

- clear and appropriate mandates;
- sufficient resources;
- a strong command structure;
- effective civil-military relations;
- the appropriate use of force;
- a willingness to incur casualties and
- an appropriate communication strategy.

The specific requirement to protect civilians in UN mandates and Rules of Engagement (where, when and how to use force) are important steps forward to make for effective protection of civilians. Nevertheless troops on the ground may still not use force and cite restrictive Rules of Engagement (ROE) and mandates to explain their behaviour¹⁰⁸. This may be because their own National ROE clash with UN ROE, or because operations lack capacity.

One example of this problem is provided by the UN PKO, MONUC. Deployed in the North of Kivu (4,500 troops are based there) the mandate includes protecting civilians including by the use of armed force if necessary. Whilst MONUC has intervened with resolve in the area, UN troops have also pulled out of combat areas in North Kivu when they believed that their own lives were at risk¹⁰⁹. Similarly, when Nkunda's (leader of a rebel faction operating in the province of [Nord-Kivu](#))¹¹⁰ forces attacked the town of Sake on 25th November 2006, MONUC troops did not intervene to prevent the town from falling into the hands of the insurgents; two days later though, they responded robustly to an impending assault by Nkunda's men in Goma, capital of North Kivu. Apparently MONUC's troops had understood that serious loss of life may result from Nkunda's victory in Goma and ordered the peacekeepers to push him back to his original positions, but without moving to defeat him, favouring a negotiated settlement instead. These choices are hard for local populations to understand and whilst locally many inhabitants of the Kivus have expressed appreciation for MONUC's efforts at protection, when combats between Nkunda and government forces started again in August 2007, residents of Goma took to the street to demonstrate against MONUC who, in their opinion, has not done enough to tackle the problem of Nkunda¹¹¹.

The above demonstrates that troop contingents that are operating under ROE that allow for the use of force, should be thoroughly trained on the ROE themselves and their political leadership must understand fully what ROE allowing for coercive force actually entail. These elements could be better included in current training programmes (such as UN Integrated Training Service or bilateral

¹⁰⁸ Holt, Victoria K., 'The Military and Civilian protection. Developing roles and capacities', in: Wheeler, Victoria and Harmer, Adele (eds), *Resetting the Rules of Engagement. Trends and Issues in Military Humanitarian Relations*, HPG Report 21, March 2006, pp. 53-66.

¹⁰⁹ Human Rights Watch. *DR Congo: Warring sides must protect Civilians*. 11 December 2007. Available at: <http://hrw.org/english/docs/2007/12/11/congo17534.txt.htm> See also: Human Rights Watch. *DR Congo: Civilians in Peril*. 22 October 2007. Available at <http://hrw.org/english/docs/2007/10/22/congo17143.txt.htm>

¹¹⁰ Laurent Nkunda, former General in the Armed Forces of the DRC, then rebel leader against Kabila's government, was indicted for [war crimes](#) in [September 2005](#) and is [under investigation](#) by the [International Criminal Court](#).

¹¹¹ See Human Rights Watch. *Democratic Republic of Congo: Renewed Crisis in North Kivu*. Chapter X. Vol. 19. N. 17. October 2007. Available at: <http://hrw.org/reports/2007/drc1007/drc1007web.pdf>

and regional training efforts) and should better address how ROE work in the field to protect civilians.

Understanding the overall mission strategy and mindset is equally important. Effective communication should ensure that all troops and contributing countries understand their responsibilities, the nature of the mission and the types of situation they may encounter on the ground. For instance MONUC staff trained some Nepalese officers prior to deployment in the DRC and informed them of the high number of child soldiers and rape used as a weapon of war. Consequently the Nepalese were able to adjust both the medical equipment of the mission and the personnel, bringing more doctors and more experts to deal with gender issues¹¹².

The UN and regional organisations need to clarify how protection of civilians is interpreted in the mandates of their missions and in joint missions. They should support the preparation of their troops and personnel for such operations and identify prospective challenges¹¹³. Pre-mission training as well as ongoing training is essential. Training for multinational troops deployments can occur both at the national and multinational levels, nevertheless training of military personnel for UN-led missions is considered a national responsibility. DPKO offers some pre-deployment training to senior staff and troop contributors, focusing especially on Rules Of Engagement, but states are not required to participate. In the past, the UN has had no guarantee that personnel offered by nations for peace operations met basic UN standards, such as speaking the mission language. Today, DPKO deploys assessment teams to identify gaps in training and offers to certify that countries that have trained their forces meet UN standards. The EU is also undertaking similar developments with the Headline Goal and the Civilian Headline Goal, but is still behind in a systematic approach and again has the problem that training ultimately falls under the domain of state responsibility.

The UN is also able to provide some training in the field after personnel arrive, and DPKO has developed some generic modules for standardized training, which are made at the disposal of national and multinational training centres. Nevertheless they are understood as guidance that needs to be complemented by national training material and they are fully used only by very few contributing countries. On its part the UN Institute for Training and Research (UNITAR) does not deal directly with civilian protection or intervention for that purpose¹¹⁴.

An important part of the training modules provided for peacekeeping personnel, be it UN or regional, should include issues of abusive behaviour. Too often information on how to report abuse and what will happen to the perpetrator is unclear to UN mission personnel, their colleagues in humanitarian agencies and most importantly, the local community. Part of the response consists in tackling the problem through training at the troop level. This is all the more important in fostering a protective culture, considering that at the moment disciplinary actions, beyond the repatriation of personnel found guilty of such behaviours, is left to contributing countries many of which have weak or non-existent sexual assault laws themselves and rarely follow up accusations with any legal action against their troops. Furthermore the adoption of Memoranda of Understanding in advance of deployment between the troop contributing country and the recipient country, could help refer cases of sexual exploitation and abuse to the troops' competent national or military authorities, as recommended in the UN document "A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations"¹¹⁵.

¹¹² Holt, Victoria K. and Berkman, Tobias C., *The impossible mandate?* Op. Cit., p. 171.

¹¹³ Holt, Victoria K., "The military and civilian protection", Op. cit., p. 3.

¹¹⁴ Ibid., pp. 136-140.

¹¹⁵ See: UN doc. A/59/710 *A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations*, March 2005.

X. Defining strategies and methodologies for intervention

A clearer definition of the object of protection (protection of whom or what, against what kind of threats by whom?) and a focus on the issue of *civilian security* and its determinants could help actors engaging in protection to realize a shared protection agenda. It would also assist acceptance that urgent and selective priorities for collective action on identifying domains of protection in which political-military as well as humanitarian and human rights actors can work¹¹⁶. A focus on *civilian security* should be understood in relation to defined threats of violence, coercion and denial of access to subsistence, including relief. Participatory approaches to POC, involving local state representatives and civil society, will help to identify vulnerability factors in order to develop appropriate responses.

Understanding of the determinants of civilian insecurity in a given context should be based on an in-depth analysis garnered from civilians' own perceptions of security and safety as well as their attitudes and strategies in relation to protection. The various actors also need to agree upon the 'metrics of civilian insecurity' (such as risk factors; threats/vulnerabilities; perception and behaviours; and incidence and prevalence of violence) and recognise the limits of third party protection interventions. Such analysis could also lead to identification of both primary and secondary security threats, helping establishing priorities and would clarify the protection environment (including gaps and problems) where different actors intervene¹¹⁷. For instance it is well known that in times of conflict only a small percentage of civilian casualties result from direct physical attack, most of the death toll relates to the morbidity caused by conditions associated with conflict: such as insufficient access to food supply; illnesses caused by lack of access to sanitary and medical facilities; and the conditions associated with internal displacement and refugee status such as increases in sexual exploitation and gender based violence leading to related health risks. Obviously, a type of response based only on military coercive action, rather than reducing such security threats to civilians may even increase them by causing further displacement.

Supporting the setting up of local early warning systems and observatories would help clarify those 'signals' that are emanating from civil society warning of risks faced by the civilian population, gathering and cross-checking information. As an example, in Colombia, local ombudsmen (*Defensor*) work with such observatories to increase the effectiveness of early warning. When the situation is grave, a standardised risk assessment and recommended actions are presented by the *Defensoria* to an interinstitutional committee of rapid reaction comprising the responsible ministers, army, police and secret services representatives, who consider the report and recommendations before deciding on a course of action¹¹⁸.

Importantly, any protection strategy has to be holistic in nature avoiding overemphasising of one approach over others and incorporating human rights, humanitarian, military, political and development efforts. In situations where protection has been defined predominantly in military terms, such as in the DRC, humanitarian and human rights actors tend to define themselves in opposition to military counterparts and miss out on opportunities for coordination. In this sense it is important to acknowledge that political and military notions of protection may be at odds with humanitarian notions and measures to strengthen dialogue between humanitarian, military and political actors both at headquarter and field level are key to a coordinated and effective protection agenda.

¹¹⁶ Darcy, J., Op. cit., p.3.

¹¹⁷ Humanitarian Policy Group, "Protection in Practice: concepts, strategies and dilemmas", Op. cit., available at: http://www.odi.org.uk/hpg/meetings/genevaroundtable_meetingreport.pdf

¹¹⁸ Bonwick, Andrew, "Protection in Colombia", Op. cit., p. 10-11.

A further, important element is the establishment of a ‘protection regime’ in a given context whereby the roles of different actors are clearly defined at the same time as the primary role and responsibility of belligerent actors is stressed.

Finally, communication is also essential for creating support for PKOs and their effective implementation. Well-planned information sharing and communications systems linking humanitarian and military actors can enhance operational efficiency, thereby saving lives and resources. Communication officers deployed in PKOs have the primary responsibility for publications coordination and management, and are an integral part of the mission, promoting the activities of the UN system. This falls into *two* main categories: general public/media and government/donors. An important aspect of this communication consists in supporting local broadcasting mechanisms, such as Radio Okapi, in the DRC or in engaging in information activities on specific issues such as UN information offices, including on the ground (for instance Bureau Intégré des Nations Unies au Burundi (BINUB) in Burundi) have done in support of International Women’s Day.

Beyond providing information it is important to establish an environment conducive to communication, thus liaising with the local population is a very important aspect of peace support operations (including PKOs) For instance during operation ALTHEA in Bosnia and Herzegovina (BiH), a critical point for the EU force was the concept of the Liaison Observing Teams (LOT). The LOTs were spread over the whole area of responsibility (AOR) of the mission and lived and operated amongst the local population. Their main task was to provide early warning of any critical development of the situation and to identify new high risk areas. The objective was to improve liaison between EUFOR, the local population, BiH authorities and other organisations working in their AORs. Similarly, a liaison officer was charged with communication between the EU mission and NATO. EUFOR RD Congo also had a good liaison with local population – particularly women – giving and receiving information through the role of the gender advisor in the mission. This was particularly important, given the widespread abuse of women in the DRC, and also assisted in the success of the mission, giving a “positive perception of EUFOR among the most influential women’s organisations”¹¹⁹.

In the field, PKOs should brief the humanitarian community about their operational concept of civilian protection. The political as well as military leadership of the operation should carry out similar communication initiatives with local political and administrative authorities. Similarly, the modalities and limits of protection should also be clearly communicated to the humanitarian community and the population. This is the case for instance of the EU operation in Chad (EUFOR Tchad-RCA) which lacks the necessary troops to escort humanitarian convoys and who’s had to acknowledge that "If you take a map and look at the distances, it's clear that EUFOR can never be everywhere, all the time"¹²⁰.

¹¹⁹ *Final Report on Gender Work inside EUFOR RD Congo Op. cit.*

¹²⁰ Moumine Ngarmbassa, “Aid worker’s death shows limits of EU CHAD Force”, Reuters, 2 May 2008, Available on: http://news.yahoo.com/s/nm/20080502/w1_nm/chad_eu_humanitarian_dc

CONCLUSIONS

The growing body of knowledge and practices on the protection of civilians is a welcome development. UNSC resolutions and policy statements, as well as developments in regional bodies founding acts and practices, all contribute to the spreading of a culture conducive to the prevention of violations and the cessation of impunity. Nevertheless such appeals will rapidly become empty words unless they are accompanied by practical and concrete measures to improve protection of civilians¹²¹. This improvement though, should take place within a larger reflection about the complexity of challenges and threats faced by civilians, an awareness of complementary ways in which protection can be enhanced and of the added value of different actors when deciding on and implementing protection strategies. The limits imposed by coercive military action intended to protect civilians but possibly resulting in increased insecurity for them also need to be clearly understood and incorporated in reflections.

The debate on the protection agenda is particularly relevant at the EU level considering the multiplication of EU crisis management initiatives and the precedent established by the military operations in the DRC. This demands the development of an EU understanding of and identification of a concept of operation for how its missions will involve protection of civilians and of the measures required to implement it. The European Parliament and the ACP Parliament are excellently positioned to raise awareness and stir debate on how to put the protection agenda at the centre of the EU ESDP operation mandates. Similarly, the notion of protecting civilians should deepen debates and initiatives for the development of the African Peace and Security architecture. Recommendations provided below could offer the starting point for future developments. These should also consider the specific role of parliaments as providing a bridge between political and civil society's interests with regard to security and protection needs and help strike a balance between member states' and citizens' priorities.

The EU should encourage reflection on the distinction between humanitarian protection and military coercive use of force to protect civilians and on ways to harmonise such measures *in an EU context*. This is all the more important considering the complexity of the demands for protection, the multitude of instruments at the EU's disposal as well as the variety of actors that can intervene to implement either one or the other concept. Such reflection is currently missing within the EU in concrete terms, even though the EU has experiences of both humanitarian and military protection particularly since the development of ESDP. The question of tarnishing impartiality and awareness through intervention in a conflict theatre, as well as of the consequences of being perceived as partial and politically motivated, deserves also serious consideration.

Aiming to be a major global player in civilian protection, it is all the more important for the EU to reflect on its communication and information strategies in relation to the population at the receiving end of its interventions. Whilst it makes sense for the EU to engage only in operations where it has the capacity to contribute to make a difference for civilian safety without incurring in the pitfalls of an overstretched mandate, it does not make the same sense for those that are massacred just a few kilometres away from the EU area of intervention and it is necessary to gauge the benefits versus costs of limited operations in theatres that obviously require a larger mission with a broader mandate.

It is important to recognise specific training needs in relation to the protection of civilians as well as the importance of lessons learned. The EU tries to harmonise its intervention approaches amongst Member States in particular through the provision of joint training activities. The notion of

¹²¹ 4130th Meeting of the United Nations Security Council. Protection of Civilians in Armed Conflict. Address by Dr. Jacob Kellenberg, President of the International Committee of the Red Cross. New York, 19 April 2000. Available at: www.icrc.org/Web/Eng?siteeng0.nsf/html/57JQEK

protection of civilians should become part and parcel of such training and refer also to the body of reflection ongoing at the UN level on the same topic.

Cases of peacekeepers abusing their power and becoming involved in sexual exploitation of civilians on the ground or in corruption practices have been well reported. The response by national contributors in this case is very important and the UN and EU have been slow in exercising pressure on national authorities to adopt the necessary disciplinary measures against such abuses, not least because the UN is in dire need of troop contributors.

Finally, lessons collected in operations with a clear protection mandate such as Artemis and EUFOR RD Congo, should also be elaborated and offer material to enhance the EU's training. This is particularly important if one considers that at the moment the EU trend for intervening favours a 'leading-nation' formula. It is thus important that lessons learned do not remain restricted to the 'leading nation'. In terms of appropriate Rules of Engagement, these are drawn with respect to the UNSC mandate that legitimizes EU intervention but a European doctrine for intervention in humanitarian situations should be developed, particularly drawing on experiences of those EU member states that are most forward looking in this regard, in order to enhance the appropriateness of such ROE.

RECOMMENDATIONS

Internally in peacekeeping operations – training and punitive measures

- 1) Troops should be recruited to participate in PKOs only after ensuring that they have undergone advanced training and selection should include experience in previous peacekeeping operations as well as an assessment of linguistic capacity to relate effectively to the population. The prevention of sexual exploitation and abuse should become a standard issue to be addressed in the training of contributing countries personnel; appropriate funding and compensation mechanisms for victims of peacekeeping personnel abuses should be approved alongside the operations themselves;
- 2) Regional and sub-regional organisations should work towards more standardized training modules and increase bilateral and multilateral training exercises;
- 3) All peacekeeping operations, including those carried out by regional and sub-regional organisations, should be backed up, in their protection efforts, by units specifically tasked with monitoring, investigating and publicly reporting on human rights violations;
- 4) The UN and regional security actors must push for prosecution of peacekeepers' abusive behaviours by their home countries and immediately repatriate those charged with such abuses;

External monitoring of peacekeeping operations

- 5) Each peacekeeping mission should be flanked by an independent investigation unit to investigate cases of alleged sexual abuses by peacekeepers and an adequate system of assistance for victims of such abuses and children born as a result should be set in place;
- 6) A follow up mechanism should be created that presses to ensure that cases are treated appropriately at the national level and justice is done;

Protection of civilians in theatre of conflict by peacekeepers

- 7) Military strategies for PKOs with specific protection mandates should include night patrols and radio communication, the organisation of village defense committees to alert peacekeepers; aerial cover; the inclusion of a Rapid Reaction Force ready to respond to disturbances; use of satellites to monitor and intercept; and the inclusion of stability police as a way to support missions and provide exit strategies for PKOs;
- 8) Communication with the local population is essential and an attitude that encourages clear information and ensures access to all genders should be adopted; this must be extended to other third party forces and humanitarian organisations on the ground;

Political engagement and assessment

- 9) The political willingness to engage in coercive action at headquarters level must be matched with a willingness by mission and contingent leadership to use such force;
- 10) Effective and continued assessment of the determinants of civilian (in)security should be carried out and the resulting analysis used as the basis for determining protection strategies;

Lessons Learned

- 11) Lessons learned and identification of best practices should be exchanged between regional and subregional as well as UN level peacekeeping responsible bodies;

Follow-up

- 12) At the EU level it would be advisable to carry out a further specific study on the inclusion of protection strategies in the developing EU's military approach to crisis management and including reflections on the experience earned at the EU level in humanitarian intervention. This should form the basis for the adoption of a larger "EU protection doctrine" that would include elements of and guidance on legal, humanitarian and military protection.

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